

59-2252. Opening judgment. A party against whom a judgment or decree has been rendered in proceedings to determine the persons entitled to the real property of a decedent, without other service than publication in a newspaper, may at any time within one year after the date of the judgment or decree have it opened or set aside and be let in to defend. Before such judgment or decree is opened or set aside, the respondent shall: (1) Give notice to the adverse party of the respondent's intention to make such application; (2) file a full answer to the petition or other pleading; (3) pay all costs of such proceeding if the court requires them to be paid; and (4) make it appear to the satisfaction of the court, by affidavit, that during the pendency of the proceeding the respondent had no actual notice of it in time to appear in court and make the respondent's defense. The title to any property which is the subject of the judgment or decree sought to be opened or set aside and which in consequence of the judgment or decree has passed to a purchaser in good faith shall not be affected by any proceedings under this section. The adverse party, on the hearing of an application to open or set aside such judgment or decree as provided by this section, shall be allowed to present counter affidavits to show that during the pendency of such proceeding the respondent had notice thereof in time to appear in court and make the respondent's defense.

History: L. 1939, ch. 180, § 228; L. 1985, ch. 191, § 42; July 1.