

100 Phil. 295

[G.R. No. L-9484. October 31, 1956]

**APOLINARIA MALOPING, PLAINTIFF AND APPELLANT, VS. TEOFILO COBA,
DEFENDANT AND APPELLEE..**

D E C I S I O N

LABRADOR, J.:

This is an appeal made directly to this Court against a judgment of the Court of First Instance of Rizal.

The record discloses that in August, 1947 plaintiff, a widow, and defendant, a widower, began to live together as husband and wife without benefit of marriage. As defendant was not satisfied with the manner in which plaintiff treated his children, he decided to separate from her. The separation was effected amicably, and a house and lot acquired during their joint life sold and the proceeds divided equally between them, and a corresponding deed of partition executed by them. Evidently, plaintiff was not satisfied with the separation because in 1953, she brought this action, alleging, as a first cause of action, that she had rendered services as housekeeper and laundry woman to defendant at a salary of P40.00 a month and that defendant had not paid her her salaries amounting to P900.00 ; and, as a second cause of action, that defendant had promised and agreed to marry her but failed to live up to his promise, causing her moral damages in the amount of P1,000.

The defendant filed an answer, and with respect to plaintiff's first cause of action he alleged that he has no knowledge or information to form a belief as to the truth of the averments contained therein. However, by way of special defense, he alleged that the allegations of the first cause of action of plaintiffs complaint are inconsistent with those of the second cause and that admitting the allegations of said first cause to be true, still plaintiff would be indebted to him in the sum of P60,00. As to the second cause of action, defendant alleged in said special defense that the separation was caused by plaintiff's harsh treatment of his children, and that the action was brought merely to put the defendant to public ridicule and

contempt.

When the case was called for hearing, plaintiff submitted the case for judgment on the pleadings, while defendant submitted his deposition and the separation and partition agreements he and plaintiff had executed. No testimony was ever taken. Thereafter the court rendered judgment dismissing the complaint and ordering plaintiff to pay defendant P200.00 as damages.

On this appeal plaintiff claims that defendant's answer does not deny the facts alleged in the first cause of action and is sham or frivolous, tendering no issue. So she contends that he should be deemed, to have admitted all the allegations of the complaint. Admitting that defendant's answer does not specifically deny the allegations of the first cause of action as required by the Rules, specific denial of said allegations are actually made in the special defense wherein it is alleged that the allegations in the first cause of action are inconsistent with those in the second cause (how can plaintiff be a salaried housekeeper if she lived with defendant as a wife.) And the written agreements of separation and partition set forth also amount to a denial of the supposed contract for the rendition of personal services for a designated salary.

The dismissal of the action is affirmed, but the award of P200 as damages in favor of defendant is hereby reversed, there being no ground or basis therefor. Without costs. Judgment modified.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia and Felix, JJ., concur.