

ADELA SILPAO, IN HER BEHALF AND IN BEHALF OF HER MINOR SON ALFONSO PAGLOMOTAN, PLAINTIFFS AND APPELLANTS, VS. LOPE PAGLOMOTAN, DEFENDANT AND APPELLEE.*G.R. No. L-16460. January 31, 1962*

Ponente: DE LEON, J.

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On June 4, 1959, plaintiffs filed a petition to litigate as pauper, which petition was granted, and a complaint in the Court of First Instance of Negros Occidental against Lope Paglomotan for damages, acknowledgment of adulterous son and support. The complaint alleges in substance that sometime in 1940 up to October 1, 1946, plaintiff Adela Siplao was employed by the defendant as his laundry woman; that sometime during the 1st part of January 1946, the defendant had sexual intercourse with plaintiff Adela Silpao and as a result thereof she become pregnant and gave birth to Alfonso Paglomotan, her co-plaintiff herein, on October 13, 1946; that on October 1, 1946, when she was about to give birth, she left the conjugal home of the defendant on account of shame; that because of their cohabitation which resulted in the birth of Alfonso Paglomotan, she suffered a mesmirched reputation which entitles her to P10,000.00 moral damages; that defendant Lope Paglomotan has refused to pay the said amount even after repeated demands; that under the New Civil Code the defendant is obliged to support plaintiff Alfonso Paglomotan from birth until he reaches the age of majority; that the reasonable amount for support, considering the circumstances of the parties is P100.00 a month; that the amount now due as support money from October 13, 1946 to June 30, 1959 is P15,000.00; and because of defendants refusal to pay the said amount inspite of repeated demands, she has engaged the professional services of counsel for P2,000.00 to prosecute the present case.

In his answer, defendant Lope Paglomotan admits that he is married to Mercedes Borromeo by specifically denies the material allegations of the complaint and alleges that plaintiff Adela Silpao has been living with another man as husband and wife long before October 13, 1946 and with whom she has several children; that plaintiff Alfonso Paglomotan is the child of another person; that Adela Silpao was his employee from 1940 and 1945; that he never had sexual intercourse with Adela Silpao but the latter had been having sexual intercourse with another man and with the brother of herein defendant; that plaintiff left the house of the defendant in 1945; that he never cohabited with the plaintiff; that no demands have ever been made on him for there was no basis for the same; and that Alfonso Paglomotan is not his son. By way of affirmative and special defenses, defendant alleges that plaintiff left his employ in 1945; that during the period of her employment from 1940 to 1945 she was having sexual intercourse with her present husband with whom she has now 6 or 7 children; that during the same period, plaintiff Adela also had sexual intercourse with the brother of defendant; that the defendant is not capable of giving support on account of his limited income which is just sufficient for the needs of his family. It is prayed by the defendant that the complaint be dismissed and that he be granted such relief and remedy to which he may be entitled under the law.

At the trial, during which both testimonial and documentary evidence were presented, Adela Silpao testified in her

own behalf, together with David Lozada and Teodoro Sonalla. For defense, defendant Lope Paglomotan testified in his own behalf. His brother Alfonso Paglomotan (after whom the child appears to have been named) also testified in favor of the defendant.

On November 28, 1959, the trial court, discrediting the evidence presented by the plaintiffs and giving more credence to the theory of the defendant, rendered judgment dismissing the complaint.

Dissatisfied with the decision of the trial court, plaintiffs appealed directly to this court, claiming, in her brief, the following errors:

I

"THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT THE TESTIMONY OF THE WITNESS ALFONSO PAGLOMOTAN, BROTHER OF THE DEFENDANT-APPELLEE, IS BIAS IN FAVOR OF THE LATTER, THEREFORE, SAID TESTIMONY SHOULD NOT BE GIVEN ANY CREDENCE"

II

"THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT THE TESTIMONY OF THE DEFENDANT-APPELLEE, BEING HERE DENIALS OF THE EVIDENCE OF THE PLAINTIFF-APPELLANT ADELA SILPAO, HAS LESS WEIGHT THAN THE POSITIVE TESTIMONY OF THE LATTER."

III

"THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT THE SOLE TESTIMONY OF THE PLAINTIFF-APPELLANT IS SUFFICIENT TO PROVE HER CAUSES OF ACTION."

IV

"THAT THE TRIAL COURT ERRED IN HOLDING THAT THE COMPLAINT OF THE PLAINTIFF-APPELLANT ADELA SILPAO IS MOTIVATED BY POLITICAL REASONS."

V

"THAT THE TRIAL COURT ERRED IN NOT HOLDING THAT PLAINTIFF-APPELLANT ALOFONSO PAGLOMOTAN, BEING THE ADULTEROUS SON OF THE DEFENDANT-APPELLEE, WAS ENTITLED TO SUPPORT FROM THE LATTER"

VI

"THAT THE TRIAL COURT ERRED IN NOT AWARDING ATTORNEY'S FEES TO THE PLAINTIFFS-APPELLANT."

It appearing that the present appeal involves largely questions of facts, since appellants dispute mainly the credibility of the witnesses for defendant-appellee and the appeal calls for a re-evaluation of the testimonial evidence presented at the trial court. We find and so hold that the present appeal comes within the jurisdiction of the Court of Appeals in accordance with the provisions of the Judiciary Act of 1948 as amended by Republic Act No. 2613.

Wherefore, the case is ordered certified to the Court of Appeals for determination in accordance with law.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, Barrera Paredes and Dizon, JJ., concur.

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