

FEDERICA ABALLE, IN HER BEHALF AND IN BEHALF OF HER MINOR SONS, RODOLFO SANTIAGO AND JUNE JOSE SANTIAGO, PLAINTIFFS AND APPELLANTS, VS. FORTUNATO SANTIAGO, DEFENDANT AND APPELLEE.*G. R. No. L-16307. April 30, 1963*

Ponente: PAREDES, J.

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This is an action for support, successional rights and for moral damages. As gathered from the long testimony of Federica Aballe, she and the defendant Fortunato Santiago, lived together, as husband and wife, in Toboso, Negros Occidental, since 1947, when the defendant was leasing Hda. Fuentes in said municipality and the plaintiff's father was working under him as a laborer. As a consequence of this relation, a baby boy named Rodolfo Santiago was born to her on February 5, 1948, as shown by the baptismal certificate issued by the Parish Priest of Sagay, Negros Occidental (Exh. A). After the birth of her first child, she continued cohabiting with the defendant and on June 4, 1953, another baby boy, named June Jose Santiago, was born to her, as shown by baptismal certificate Exh. B, issued By Fr. Fortich, Parish Priest of San Sebastian Cathedral, Bacolod City. During all this period, the defendant was commuting between Bacolod City and Toboso, and during his absence, he used to send her various notes (Exhs. C through K). After the birth of the second child, plaintiff learned that the defendant was married, so she separated from him and since then she had been staying in Barrio Santo Niño, Bacolod City, in a house that was bought for her by the defendant, sometime in January, 1957. The defendant, on the other hand, denied the whole testimony of the plaintiff and Exhibits A through K. He declared that the minors, Rodolfo and June Jose, surnamed Santiago, were not his children; that the notes (Exhs. C thru K) were not written by him and that he had not acknowledged or done any act tending to acknowledged the two minors, the rights of whom are under consideration, as his illegitimate children.

After due trial, a decision was rendered, the dispositive portion of which states-

"Wherefore the court finds that the plaintiff has not established any evidence to justify the claim for support and successional right under Art. 287 of the Civil Code, as well as the claim for moral damages under Article 21 of the Civil Code, and the complaint is hereby dismissed, without costs.

As paupers, the plaintiffs appealed directly to this Court, and allege that the trial court erred (1) in not holding that "because the material evidence of the plaintiffs-appellants, not being denied by the defendant-appellee, is deemed impliedly admitted by him"; (2) in not awarding moral damages to her, support for the minors and attorney's fees. Defendant-appellee did not file any brief.

Plaintiffs-appellants' theme may be gathered from the arguments, in support of the first assignment of error;

"We contend that the material evidence presented by the plaintiffs-appellants regarding the fact that the plaintiff-appellant Federica Aballe became the common-law wife of the defendant-appellee in 1947 up to and including 1952 (s. n. of Arroyo, pp. 3 & 4); the paternity of the minors Rodolfo Santiago and June Jose

Santiago (s. n. of Arroyo, pp. 4, 5 & 6); Exhibits A thru K; and of the fact that the said minors were supported by the defendant-appellee since their birth until March, 1957 (s. n. of Arroyo, p. 11, Exhs. C to K), not being denied by the defendant-appellee are deemed impliedly admitted by him.* *".

In the first place, in his answer, regarding each and everyone of the 3 causes of action, defendant stated that he had no knowledge sufficient to form a belief as to the truth of the averments contained therein and specifically denied the said three causes of action. Secondly, at the trial, as stated in the decision, the defendant denied all the statements made by plaintiff Federica Aballe, as well as the documentary evidence presented (supra). This being the fact, there is no way of applying the provisions of the rule and the jurisprudence, regarding admission by silence, cited by appellant.

The precariousness of the appellants' position is due to the fact that they appealed directly to this Court, and are deemed to have waived all factual issues, thus submitting the case on questions of law only. The factual findings and conclusions of the lower court perforce will have to be admitted. And his Honor, the trial Judge, dismissed the complaint because the canonical baptismal certificates Exhs. A B, could not help appellants' cause at all, for they do not constitute the authentic document to prove the legitimate filiation of the children (Adriano vs. de Jesus, 23 Phil. 350); Exhs. F—1 and H—1, appears to be envelopes addressed to the defendant, crumpled, soiled and empty, which could have been secured by plaintiff Federica. Aballe from anywhere, without the knowledge and consent of the defendant; Exhibit C thru K, are fragmentary pencil notes on different papers and are without any signature on them, except some illegible initials; Exhibit F contains a writing which reads "darls" meaning "darling" and Exhibit K has a complimentary ending "darling", but no signature appears below them. As found by the trial judge, none of these papers mentions the two minor plaintiffs to be the illegitimate children of the defendant, and no amorous manifestations, pretensions or references between the parties are shown in them; the plaintiff failed to prove that the handwriting on them belonged to the defendant; that the testimony of the plaintiff, uncorroborated as it was, had been denied by the defendant; and notwithstanding her allegation that in 1952, she learned that the defendant was a married man, she did not take immediate action against him; it was only on June 18, 1959 (almost seven years) that she filed her present complaint, after having been given, according to her, a house by the defendant in 1957—all of which had compelled the trial judge to dismiss the complaint, which dismissal, We find to be well-taken. And in view of the fact that the trial court has not committed the first assigned error, further determination of the second alleged error is deemed unnecessary and irrelevant.

The decision appealed from is affirmed, with costs against the plaintiffs-appellants.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes J. B. L., Barrera, Dizon Regala and Makalintal, JJ., concur.

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