

PILAR ATILANO, PLAINTIFF AND APPELLEE, VS. CHUA CHING BENG, DEFENDANT AND APPELLANT.

G. R. No. L-11086. March 29, 1958

Ponente: FELIX, J.

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FELIX, J.:

The facts of this case as appearing on record and in the stipulation submitted by the parties and approved by the lower court, are as follows:

Chua Ching Beng and Pilar Atilano were joined in lawful wedlock in Zamboanga City in May of 1951, after which marriage, the couple sailed for Manila and established their residence with the parents of the husband. In October of the same year, at the husband's initiative, they went to Zamboanga City to pay the parents of the wife a visit, and it seems that he was prevailed upon by the wife's parents to return to Manila leaving her behind, with the understanding that she would follow him later, which apparently she failed to do.

On September 30, 1953, Pilar Atilano filed with the Court of First Instance of Zamboanga a complaint for support against her husband, alleging that they had been estranged and living separately since October, 1952, by reason of incessant marital bickerings and quarrels brought about by incompatibility of temperament and above all, by defendant's inability to provide for themselves a home separate from the latter's parents; that she was staying with her parents in Zamboanga City, without employment nor had she any property of her own. She, therefore, prayed that as defendant was under legal obligation to support her, he be ordered to give her a monthly allowance of P200.00 from the date of the filing of the complaint.

Defendant husband filed his answer contending that when they were still residing in Manila, their married life was characterized by harmony and understanding; that when they visited plaintiff's parents in Zamboanga in October, 1952, he was prevailed upon by the latter to allow his wife to stay with them awhile with the understanding that she would follow him later to Manila; that through insidious machinations, plaintiff's parents caused her to be alienated from him resulting in her refusal to return to Manila and live with her husband again; that defendant went back to Zamboanga City to fetch her, but through force and intimidation she was prevented by her parents from going with him; and that her parents also exerted undue pressure and influence upon his wife to file the complaint. Defendant further averred that while he was not evading his obligation to support his wife, he preferred to fulfill said duty by receiving and maintaining her in Manila; that as the husband, defendant had the right to fix the residence of his family, and he would even be willing to establish a conjugal dwelling in Manila separate from that of his parents if that was the plaintiff's desire. Thus, it was prayed that the complaint be dismissed.

In the meantime, plaintiff filed a petition for alimony pendente lite premised on the same facts as stated in her complaint, which was duly opposed by the defendant, and on May 3, 1954, based on stipulation of facts agreed upon by the parties; the court rendered judgment granting the wife a monthly allowance of P75 after finding that the wife's refusal to return to Manila was caused by her aversion to stay with the parents of her husband after she

had experienced some previous in-law troubles; that her demand that they establish their home in Zamboanga could not be met by the husband because of the latter's job in Manila and due also to the husband's fear that his wife would always be under the influence and pressure of the latter's parents. No evidence was, however, adduced to support her allegation of incompatibility of temperament and marital quarrels, and upon receipt of the decision, defendant filed a petition electing to fulfill his obligation as thus fixed by the trial court by receiving and maintaining plaintiff at his residence at Pasay City, which was apart from that of his parents, with the prayer that in the event plaintiff would refuse to receive support under that set-up, that he be declared under no compulsion to remit the allowance to her at Zamboanga City. As it was denied, defendant brought the matter to the Court of Appeals, but this Tribunal certified the case to Us for adjudication pursuant to the provisions of Section 17-6 of Republic Act No. 296. The only question presented for our consideration by this appeal is whether a wife is entitled to receive support from her husband where she refused to live with him on account of some misunderstandings she had with the husband's immediate relatives.

It is clear to Us, and this is borne out by the findings of the court a quo, that plaintiff wife, then 19 years of age, had had the unfortunate experience of finding herself involved in some sort of domestic controversy, with her husband's immediate relatives in the opposite camp, which made her feel that living with them would already be intolerable and unbearable. Most likely, therefore, when they visited her parents, she recounted her plight to them and as the usual reaction of parents in matters of this nature, they picked up and championed the cause of their daughter which resulted in the estrangement of the young couple. Indeed disagreement among in-laws is a problem as old as the world itself, but despite this discouraging facet of married life, there would always be in-laws as long as there are marriages, and the same vicious cycle would be repeated. In the case at bar, which is a clear illustration of this perennial domestic problem, We find that while the wife remains adamant on her stand to effect a separation in fact between her and her husband, the latter has adopted a more conciliatory attitude by acknowledging his obligation to support her and even going to the extent of expressing his willingness to abide by her wish to have a conjugal dwelling apart from his parents, although it appears that he may find it hard to make adequate provisions for their family, for he is allegedly receiving a salary of only P170 a month as salesman in a commercial firm. Defendant does not dispute that our Civil Code imposes on the husband the responsibility of maintaining and supporting his wife and the rest of the family (Art. 111). He insists, however, that under the Civil Code, which provides:

Art. 299. The person obliged to give support may, at his option, fulfill his obligation either by paying the allowance fixed, or by receiving and maintaining in his house the person who has a right to receive support. The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto;

he is given the option to fulfill the said duty either by paying the allowance as fixed by the Court or by receiving and maintaining the person entitled thereto in his house; and that he elects to perform his obligation by the second means allowed him by law.

The aforequoted provision of the law is clear enough to require any further elucidation. In giving the obligor the option to fulfill his duty, it provides for only one occasion when the second alternative could not be availed of, i.e., when there is a moral or legal obstacle thereto. It is true that plaintiff wife charged that they were estranged because of marital troubles and incessant bickerings. While physical ill-treatment may be a ground to compel a husband to provide for a separate maintenance for his wife (*Arroyo vs. Vasquez de Arroyo*, 42 Phil., 54), said allegation was not proved during the trial. Instead, the lower court found that the root-cause of all their differences could be traced to disagreements common, among relatives by affinity. Certainly, We do not think that misunderstanding with in-laws, who may be considered third parties to the marriage, is the moral or legal obstacle that the lawmakers contemplated in the drafting of said provision. The law, in giving the husband authority to fix the conjugal residence (Art. 110), does not prohibit him from establishing the same at the patriarchal home, nor is

it against any recognized norm of morality, especially if he is not fully capable of meeting his obligation as such head of a family without the aid of his elders. But even granting arguendo that it might be "illegal" for him to persist on living with his parents over the objection of his wife, this argument becomes moot in view of defendant's manifestation that he is willing to establish a residence separate from his parents, if plaintiff so desires. We are aware that although the husband and the wife are obliged to live together, observe mutual respect and fidelity and render mutual help and assistance (Art. 109), and that the wife is entitled to be supported, our laws contain no provision compelling the wife to live with her husband where even without legal justification she establishes her residence apart from that provided for by the former, yet and in such event We would see no plausible reason why she should be allowed any support from the husband. It appearing that defendant husband availed of the option granted him by Article 299 of the Civil Code and there being no legal or moral hindrance to the exercise of the second alternative as elected by him, the answer to the question presented by this appeal is certainly obvious.

Wherefore, the decision appealed from, is hereby modified by giving the defendant husband Chua Ching Beng the option of supporting his wife at their conjugal dwelling apart from the home of the parents of the husband. Should plaintiff wife refuse to abide by the terms of this decision, then defendant-appellant shall be considered relieved from the obligation of giving any support to his wife. Without pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, J.J., concur.

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