

ANUNCIACION BOBILES, PLAINTIFF-APPELLANT, VS. LEANDER ALMIÑE, ET AL., DEFENDANT-APPELLEES.

G.R. No. L-11750. May 28, 1958

Ponente: BENGZON, J.

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BENGZON, J.:

Involving about P2,000.00 only, this suit is here because appellant announced in the court below her intention to raise points or questions of law before this Court.

She sued Leander Almiñe and his parents seeking to recover damages for his breach of promise of marriage. She alleged that relying on his pledges of sincere love and of matrimony, she allowed the said Leander the privileges of a husband, as a result of which she gave birth to a baby boy, but without any reason whatsoever, he refused to fulfill his promise; and that his parents in various ways helped him accomplish his deceitful purposes, yet they would not make compensation for his wrongful behaviour. Hence, she asked for damages which she specified, and for other relief.

Witnesses testified, and documentary evidence -mainly the letters of defendant Leander - was introduced. However, the judge presiding the court of first instance of Masbate held that although carnal relations had been proven, the evidence showed no n promise on the part of the defendant Leander Almiñe to marry the herein plaintiff." Consequently, he dismissed the case and this appeal followed.

The letters and the transcript of the stenographic notes are attached to the record before us. The plaintiff's brief insists that the testimonial and documentary evidence sufficiently established a promise of marriage. Indeed, the love-letter Exh. A says in part:

"In my vision I hold you and me kneeling and praying before priest infront of the altar swearing to be true to each other until death separates us."

Yet the question whether promises had been made is one of fact, for the Court of Appeals to decide in view of the amount involved.

There is of course the rule (Sec. 3, Rule 42) that where the appellant states in his notice of appeal that it "is based purely on questions of law", no other question shall be allowed, such statement being construed as a waiver of all questions of fact.[1]Herein plaintiff's notice of appeal said she was "appealing the decision" to the Supreme Court "on points or questions of law." This statement could mean either "appeal purely on questions of law" or "appeal mainly on questions of law." It could also imply the plaintiff's impression that whenever questions of law are raised, the appeal should be carried directly to the Supreme Court - even if questions of fact are also involved.

As this is a pauper's litigation[2] and as appellee objected not to the consideration of the factual issue raised by appellant, we deem it more consistent with the interests of justice not to preclude revision of the evidence.

Wherefore, the record will be referred to the Court of Appeals for adjudication according to law.

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

[1]Millar v. Nadres, 74 Phil. 307; Portes v. Pabellon, 47 Of. Gaz. 655; etc. cited in Moran, Rules of Court 1957 Ed. Vol. I p. 673.

[2]Wherein "courts must be vigilant" for the protection of the indigent party. Art. 24 New Civil Code. Anunciation Bobiles, plaintiff-appellant vs. Leander Almiñe, et al, defendants-appellees.

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