

ELENA CONTRERAS, PLAINTIFF AND APPELLANT, VS. CESAR J. MACARAIG, DEFENDANT AND APPELLEE.

G.R. No. L-29138. May 29, 1970

Ponente: DIZON, J.

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DIZON, J.:

Appeal taken by Elena Contreras from a decision of the Juvenile and Domestic Relations Court of Manila in Civil Case No. 00138 dismissing her complaint upon the ground that the same was filed more than one year from and after the date on which she had become cognizant of the cause for legal separation.

The following facts found by the trial court are not in dispute:

"Plaintiff and defendant were married on March 16, 1952 in the Catholic Church of Quia-po, Manila. Out of their marriage, three children were born: Eusebio C. Macaraig, on January 11, 1953; Victoria C. Macaraig, on March 26, 1956; and Alexander C. Macaraig, on August 4, 1958. All the children are in the care of plaintiff wife.

"Sometime in 1958, the couple acquired rights, as lessee and purchaser under a conditional sale agreement, to own a house and lot, known as Lot 4, Block 8 of the Philam-life Homes in Quezon City which they transferred in favor of their three children on October 29, 1958 (Exh. F). Installment payments are being made by plaintiff's father. The spouses own no other conjugal property.

"Immediately before the election of 1961, defendant was employed as manager of the printing establishment owned by plaintiff's father known as the MICO Offset. In that capacity, defendant met and came to know Lily Ann Alcala, who placed orders with MICO Offset for propaganda materials for Mr. Sergio Osmena, who was then a Vice-Presidential candidate. After the elections of 1961, defendant re-signed from MICO Offset to be a special agent at Malacanang. He began to be away often and to come home very late. Upon plaintiff's inquiry, defendant explained that he was out on a series of confidential missions.

"In September, 1962, Avelino Lubos, driver of the family car, told plaintiff that defendant was living in Singalong with Lily Ann Alcala. When defendant, the following October, returned to the conjugal home, plaintiff refrained from verifying Lubos' report from defendant in her desire not to anger nor drive defendant away. Although plaintiff, in April 1963, also received rumors that defendant was seen with a woman who was on the family way on Dasmariñas St., she was so happy that defendant again return to the family home in May, 1963 that she once more desisted from discussing the matter with him because she did not wish to precipitate a quarrel and drive him away. All this while, defendant, if and whenever he returned to the family fold, would only stay for two or three days but would be gone for a period of about a month.

"After plaintiff received reports that Lily Ann Alcala had given birth to a baby, she sent Mrs. Felicisima Antioquia, her father's employee, to verify the reports. The latter was driven by Lubos to the house in Singalong and between 5:00 and 6:00 o'clock that afternoon, she saw defendant was carrying a baby in his arms. Mrs. Antioquia then went to the parish priest of Singalong where she inquired about the child of Cesar Macaraig and Lily Ann Alcala and she was given a copy of the baptismal certificate of Maria Vivien Mageline Macaraig (Exh. G) which she gave to plaintiff sometime in October, 1963.

"Plaintiff then entreated her father-in-law, Lucilo Macaraig, to intercede with defendant and to convince him to return to his family. Mr. Macaraig, after talking to his son and seeking him with the latter's child told plaintiff that he could not do anything.

"In November, 1963, plaintiff requested the cooperation of defendant's older sister, Mrs. Enriqueta Majul, and the latter obliged and arranged a meeting at her home in Buendia between plaintiff and Lily Ann Alcala. Lily Ann said she was willing to give up defendant as she had no desire to be accused criminally but it was defendant who refused to break re-lationship with her.

"In the early part of December, 1963, plaintiff, accompanied by her two children, Victoria and Alexander, and by Mrs. Leticia Lagronio went to talk to defendant at his place of work on España Extension in front of Quezon Institute. They repaired to Victo-ria Peak, a nearby restaurant, where plain-tiff pleaded with defendant to give up Lily Ann Alcala and to return to the conjugal home, assuring him that she was willing to forgive him. Defendant informed plaintiff that he could no longer leave Lily Ann and refused to return to his legitimate family.

"On December 14, 1963, plaintiff insti-tuted the present action for legal separation. When defendant did not interpose any answer after he was served summons, the case was re-ferred to the Office of the City Fiscal of Manila pursuant to the provisions of Article 101 of the Civil Code. After a report was received from Asst. Fiscal Primitivo M. Pena-randa that he believed that there was no col-lusion present, plaintiff was allowed to pre-sent her evidence. Defendant has never ap-peared in this case."

The reasons relied upon by the trial court in dis-missing the complaint are set forth in the appealed de-cision as follows:

"Under the facts established by plain-tiff's evidence, although the infidelity of the husband is apparent, yet the case will have to be dismissed. Article 102 provides that an action for legal separation cannot be instituted except within one year after plain-tiff 'became cognizant of the cause'. In the absence of a clear-cut decision of the Supreme Court as to the exact import of the term 'cog-nizant', the practical application of said Article can be attended with difficulty. For one thing; that rules might be different in case of adultery, which is an act, and for concubinage, which may be a situation or a relationship.

"In respect of concubinage, the word 'cog-nizant' may not connote the date when proof thereof sufficient to establish the cause before a court of law is possessed. Otherwise, the one-year period would be meaningless for practical purposes because all a wife would have to do would be to claim that the neces-sary proof was secured only within one year before the filing of the complaint. On the other hand, it should be hard to concede that what the law envisages (and, in a way, encourages) is the filing of a complaint within one year after the innocent spouses has re-ceived information of the other's infidelity, howsoever baseless the report might be.

"The Court believes that the correct rule lies between the two extremes. At the time a wife acquired information, which can be reasonably relied upon as true, that her husband is living in concubinage with another woman, the one-year period should be deemed to have started even if the wife shall not then be in pos-session of proof sufficient to establish the concubinage before a court of law. The one-year period may be viewed, inter alia, as an allotted time within which proof should be secured. It is in the light of this rule that the Court will determine whether or not plaintiff's action for legal separation has prescribed.

"After her husband resigned from MICO Offset to be a special agent in Malacanan, subsequent to the elections of 1961, he would seldom come home. He allayed plaintiff's suspicions with the explanation that he had been away on confidential missions'. However, in September, 1962, Avelino Lubos, plaintiff's driver, reported to plaintiff that defendant was living in Singalong with Lily Ann Alcala. As a matter of fact, it was also Lubos who brought Mrs. F. Antioquia (when plaintiff had asked to verify the re-ports) to the house in Singalong where she saw defendant, Lily Ann and the baby.

"The requirement of the law that a complaint for legal separation be filed within one year after the date plaintiff became cognizant of the cause is not of prescriptive nature, but is of the essence of the cause of action. It is consonant with the philosophy that marriage is an inviolable social institution so that the law provides strict requirements before it will allow a disruption of its status.

"In the instant action, the Court has to find that plaintiff became cognizant of defendant's infidelity in September, 1962. Plaintiff made successive attempts to induce the husband to amend his erring ways but failed. Her desire to bring defendant back to the connubial fold and to preserve family solidarity deterred her from taking timely legal action."

The only question to be resolved is whether the period of one year provided for in Article 102 of the Civil Code should be counted, as far as the instant case is concerned, from September 1962 or from December 1963. Computing the period of one year from the former date, it is clear that plaintiff's complaint filed on December 14, 1963 came a little too late, while the reverse would be true if said period is deemed to have commenced only in the month of December 1963.

The period of "five years from and after the date when such cause occurred" is not here involved.

Upon the undisputed facts it seems clear that, in the month of September 1962, whatever knowledge appellant had acquired regarding the infidelity of her husband, that is, of the fact that he was then living in Singalong with Lily Ann Alcala, was only through the information given to her by Avelino Lubos, driver of the family car. Much as such hearsay information had pained and anguished her, she apparently thought it best - and no reasonable person may justifiably blame her for it - not to go deeper into the matter herself because in all probability even up to that time, notwithstanding her husband's obvious neglect of his entire family, appellant still cherished the hope however forlorn - of his coming back home to them. In-deed, when her husband returned to the conjugal home the following October, she purposely refrained from bringing up the matter of his marital infidelity "in her desire not to anger nor drive defendant away" - quoting the very words of the trial court. True, appellant likewise heard in April 1963 rumors that her husband was seen with a woman on the family way on Dasmariñas street, but failed again to either bring up the matter with her husband or make attempts to verify the truth of said rumors, but this was due, as the lower court itself believed, because "she was so happy that defendant again returned to the family home in May 1963 that she once more desisted from discussing the matter with him because she did not wish to precipitate a quarrel and drive him away". As a matter of fact, notwithstanding all these painful informations - which would not have been legal-ly sufficient to make a case for legal separation - appel-lant still made brave if desperate attempts to persuade her husband to come back home. In the words of the lower court, she "entreated her father-in-law, Lucilo Macaraig, to in-tercede with defendant and to convince him to return to his family" and also "requested the cooperation of defendant's older sister, Mrs. Enriqueta Majul" for the same purpose, but all that was of no avail. Her husband remained obdurate.

After a careful review of the record, We are persuaded that, in the eyes of the law, the only time when appellant really became cognizant of the infidelity of her husband was in the early part of December 1963 when, quoting from the appealed decision, the following happened -

"In the early part of December, 1963, plaintiff, accompanied by her two children, Victoria and Alexander, and by Mrs. Leticia Lagronio went to talk to defendant at his place of work on España Extension in front of Quezon Institute. They repaired to Victo-ria Peak, a nearby restaurant, where plain-tiff pleaded with defendant to give up Lily Ann Alcala and to return to the conjugal home, assuring him that she was willing to forgive him. Defendant informed plaintiff that he could no longer leave Lily Ann and refused to return to his legitimate family."

From all the foregoing We conclude that it was only on the occasion mentioned in the preceding paragraph when

her husband admitted to her that he was living with and would no longer leave Lily Ann to return to his legitimate family that appellant must be deemed to be under obligation to decide whether to sue or not to sue for legal separation, and it was only then that the legal period of one year must be deemed to have commenced.

WHEREFORE, the decision appealed from is set aside and another is hereby rendered holding that appellant is entitled to legal separation as prayed for in her complaint; and the case is hereby remanded to the lower court for appropriate proceedings in accordance with law.

Concepcion, C.J., in the result.

Reyes, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

Castro, J., on official leave.

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