

PABLO VILORIA, PLAINTIFF-APPELLANT, VS. MONICA LIGOT, DEFENDANT-APPELLEE.

G.R. No. L-15185. April 28, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On May 28, 1957, plaintiff brought an action against defendant before the Court of First Instance of Ilocos Norte for breach of marital obligation and recovery of sums of money representing the value of certain personal effects.

On June 11, 1957, defendant filed a motion to dismiss on the ground that there was another action pending between the same parties for the same cause. After plaintiff has submitted his written opposition, the court sustained the motion and dismissed the complaint, whereupon plaintiff took the case to the Court of Appeals. The case was however certified to us on the ground that only questions of law are involved.

It is contended that the court a quo erred in dismissing the complaint on the ground that there is another action pending between the same parties for the same cause for the reason that the two cases do not involve the same facts and issues even if they involve the same parties.

This contention has no merit. A cursory reading of the complaints filed in the two cases would readily reveal that they involve the same causes of action. Thus, in Civil Case No. 2569, the instant case, the complaint contains the following important allegations:

"3. That the defendant on or about the 15th day of September, 1955, left the conjugal dwelling surreptitiously and without just cause after the plaintiff proposes to her that they should temporarily reside at Solsona, Ilocos Norte, to work in the farms and to hand the money of the plaintiff which he gave to her for safekeepings;

"4. That since the said defendant left the conjugal dwelling she did never return and refused and still refuses to follow the domicile of the plaintiff without just cause;"

In Civil Case No. 2385, which was pending between the same parties when the instant case was filed, the complaint likewise contains the following important allegations:

"4. That on or about the 15th day of September, 1955, the defendant, without any justifiable cause or reason, abandoned the plaintiffs and left them in their conjugal dwelling without leaving them any money or provisions for their support and maintenance;

"5. That since that time on, the defendant has never returned to his wife and children nor has he ever sent provisions or money for the use and support of his abandoned family and refuses and continues to refuse to go back to them, thereby leaving the plaintiffs in total hardship and misery of living;"

As it would appear, in one case, Monica Ligot charges her husband, Pablo Vilorio, with abandonment committed against her and her minor children on September 15, 1955, while in the other case the same husband charges his wife also with abandonment committed against him on the same occasion, with the only difference that the husband merely inverted the situation by imputing the commission of the same act to his wife though the truth

was, as claimed in the first case, it was he who abandoned the conjugal dwelling leaving behind his wife and his two children without support and protection.

The reliefs prayed for in both cases are also essentially the same. In one case, Monica Ligot and her children pray for maintenance and support, alimony pendente lite, accounting and delivery of conjugal funds and properties, moral damages and attorney's fees. In the other, Pablo Vilorio prays for an order to compel his wife to live with him, for an accounting and delivery of the conjugal funds and properties, moral damages and attorney's fees.

From the foregoing, it is obvious that in the two cases there is identity of parties, issues and reliefs, and so the second case has no reason to exist. The lower court, therefore, did not err in dismissing the same.

It is worthy to note that Pablo Vilorio filed the complaint in the present case almost one year after his wife had filed the previous one, and he did so despite the fact that he could set up as a defense in the previous case the charges he is now imputing to his wife in the second. Why he took the instant case he was declared in default. He must have filed the instant case to circumvent the order of the court and avoid the legal consequences that may flow from his shortcoming.

Wherefore, the order appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J.B.L., Endencia, Barrera, and Gutierrez David, JJ., concur,

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