

LUCINA BAITO, PLAINTIFF AND APPELLANT, VS. ANATALIO SARMIENTO, DEFENDANT AND APPELLEE.

G.R. No. L-13105. August 25, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

Failing to secure a reconsideration of the order entered by the Court of First Instance of Samar that dismissed her complaint for support on the ground that it has no jurisdiction, the amount demanded as support being only p720, the plaintiff Lucina Baito appeals from the order, contending that the Court has jurisdiction over the action she brought against her husband Anatalio Sarmiento.

The only question then to determine is: which court has jurisdiction over an action for support if the amount claimed or demanded as support is only P720, or not more than P2,000 (now P5,000).

The appellant contends that regardless of the amount claimed or demanded jurisdiction is vested exclusively in Courts of First Instance, because an action for support is not capable of pecuniary estimation. On the other hand, the appellee maintains that as the demand for support is only P720 and not more than P2,000 (now P5,000), a justice of the peace or municipal court has jurisdiction over the case.

An action for support does not only involve the determination of the amount to be given as support, but also the relation of the parties, the right to support created by the relation, the needs of the claimant, the financial resources of the person from whom support is sought, all of which are not capable of pecuniary estimation. For this reason, an action for support falls within the original jurisdiction of Courts of First Instance under section 44(a) of Republic Act No. 296, as amended by Republic Act No. 2613.

The order appealed from is set aside and the case is remanded to the Court from whence it came for further proceedings in accord with law, without pronouncement as to costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur.

CONCURRING OPINION

REYES, J. B. L., J.:

I concur not only for the reasons stated in the majority opinion but also for the additional reason that the complaint being one to recover future support as well as past support overdue, the amount involved is not capable of pecuniary estimation at this time, because it depends on the lifetime of the parties and many other factors and circumstances not appearing in the complaint.

Concepcion, J., concurs.

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