

OLYMPIA BALTAZAR, IN BEHALF OF HER MINOR SON, ARMENIO SERFINO, PLAINTIFFS AND APPELLANTS, VS. SERGIO SERFINO, DEFENDANT AND APPELLEE.

G.R. No. L-17315. July 31, 1965

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/557acaa8e4ab/>

MAKALINTAL, J.:

Olympia Baltazar, in behalf of her minor son, Armenio Serfino, appeals from the decision of the Court of First Instance of Negros Occidental ordering Sergio Serfino to pay said minor the sum of P15.00 monthly as support from July 1960, when the said decision was rendered.

Armenio was born on December 19, 1943, the son of Olympia Baltazar, a widow, and Sergio Serfino, a married man. Appellants now allege (1) that the amount awarded should have been P50.00; (2) that it should be made payable from the time Armenio was born, except for the period beginning May 1957 to April 1959, during which period he was living with his father, and (3) that appellee should have been ordered to pay attorney's fees in the sum of P1,000.00.

The amount of support, according to Article 296 of the Civil Code, shall be in proportion to the resources or of the giver and to the needs of the recipient. The court found that appellee was earning P365.00 from his rice mill and P720.00 from his ten-hectare parcel of land, the yearly produce of which was 120 cavans of palay, valued at P6.00 per cavan. The court thus concluded that his average annual income was P1,085.00 and used this as basis in computing the amount of support due to Armenio, taking into consideration that appellee was also supporting a wife and three legitimate children. In his answer, however, appellee admits that he has another source of income namely, a tailoring shop, which he says is not very profitable, although the evidence shows that in 1958 he realized P573.50 in gross receipts therefrom. It further appears that appellee has a house and lot in Kabankalan, Negros Occidental, and consequently does not have to pay rent for his family's residence.

Upon the foregoing facts we believe that the amount of P15.00 awarded by the lower court should be increased to P25.00. As to when payment thereof should begin, the law says that the obligation to give support shall be demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date it is extrajudicially demanded (Article 298, Civil Code). In this case payment should begin June 1959, for it was then that appellants made the extrajudicial demand on appellee.

Where the duty to support is admitted, but in spite of demands the duty is not complied with and the person to be supported has to resort to the court for the enforcement of his right, then the person obliged to give support must pay reasonable attorney's fees (*Mercado vs. Ostrand*, 37 Phil. 179; *Fanlo de Peyer vs. Peyer*, 77 Phil. 366). In actions for legal support, even in the absence of stipulation, attorney's fees are recoverable (Art. 6, Article 2308, Civil Code). In our opinion the sum of P300.00 is a reasonable amount for this purpose.

The judgment appealed from is modified, and defendant-appellee is sentenced to pay Armenio Serfino the sum of P25.00 monthly from June 1959 and the sum of P300.00 as attorney's fees, with costs.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Paredes, Dizon, Regala, Bengzon, J. P. and Zaldivar, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.