

SOCORRO MATUBIS, PLAINTIFF AND APPELLANT, VS. ZOILO PRAXEDES, DEFENDANT AND APPELLEE.

G.R. No. 11766. October 25, 1960

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11766/>

PAREDES, J.:

Alleging abandonment and concubinage, plaintiff Socorro Matubis, filed with the Court of First Instance of Camarines Sur, on April 24, 1956, a complaint for Legal Separation and change of surname against her husband defendant Zoilo Praxedes.

The allegations of the complaint were denied by defendant spouse, who interposed the defense that it was plaintiff who left the conjugal home.

During the trial, wherein the plaintiff alone introduced oral as well as documentary evidence, the following facts were established:

Plaintiff and defendant were legally married on January 10, 1943, at Iriga, Camarines Sur. For failure to agree on how they should live as husband and wife, the couple, on May 30, 1944, agreed to live separately from each other, which status remained unchanged until the present. On April 3, 1948, plaintiff and defendant entered into an agreement (Exhibit B), the significant portions of which are hereunder reproduced.

"* * * (a) That both of us relinquish our right over the other as legal husband and wife.

(b) That both of us is free to get any mate and live with as husband and wife without any interference by any of us, nor either of us can prosecute the other for adultery or Concubinage or any other crime or suit arising from our separation.

(c) That I, the wife, is no longer entitled for any support from my husband or any benefits he may receive thereafter, nor I the husband is not entitled for anything from my wife.

(d) That neither of us can claim anything from the other from the time we verbally separated, that is from May 30, 1944 to the present when we made our verbal separation into writing."

In January, 1955, defendant began cohabiting with one Asuncion Rebulado and on September 1, 1955, said Asuncion gave birth to a child who was recorded as the child of said defendant (Exh. C). It was shown also that defendant and Asuncion depicted themselves as husband and wife and were generally reputed as such in the community.

After the trial, without the defendant adducing any evidence, the court a quo rendered judgment holding that the acts of defendant constituted concubinage, a ground for legal separation. It, however, dismissed the complaint by stating:

"While this legal ground exists, the suit must be dismissed for two reasons, viz.:

Under Art. 102 of the new Civil Code, an action for legal separation cannot be filed except within one year from and after the date on which the plaintiff became cognizant of the cause and within five years from and after the date when the cause occurred. The plaintiff became aware of the illegal cohabitation of her husband with Asuncion Rebulado in January, 1955. The complaint was filed on April 24, 1956. The present action was, therefore, filed out of time and for that reason the action is barred.

Article 100 of the new Civil Code provides that the legal separation may be claimed only by the innocent spouse, provided there has been no condonation of or consent to the adultery or concubinage. As shown in Exhibit B, the plaintiff has consented to the commission of concubinage by her husband. Her consent is clear from the following stipulations:

'(b) That both of us is free to get any mate and live with as husband and wife without any interference by any of us, nor either of us can prosecute the other for adultery or concubinage or any other crime or suit arising from our separation.' (Exh. B).

This stipulation is an unbridled license she gave her husband to commit concubinage. Having consented to the concubinage, the plaintiff cannot claim legal separation."

The above decision is now before us for review, plaintiff-appellant claiming that it was error for the lower court to have considered that the period to bring the action has already elapsed and that there was consent on the part of the plaintiff to the concubinage. The proposition, therefore, calls for the interpretation of the provisions of the law upon which the lower court based its judgment of dismissal.

Article 102 of the new Civil Code provides:

"An action for legal separation cannot be filed except within one year from and after the date on which the plaintiff became cognizant of the cause and within five years from and after the date when such cause occurred."

The complaint was filed outside the periods provided for by the above Article. By the very admission of plaintiff, she came to know the ground (concubinage) for the legal separation in January, 1955. She instituted the complaint only on April 24, 1956. It is to be noted that appellant did not even press this matter in her brief.

The very wording of the agreement Exhibit B, gives no room for interpretation other than that given by the trial judge. Counsel in his brief submits that the agreement is divided into two parts. The first part having to do with the act of living separately which he claims to be legal, and the second part-that which becomes a license to commit the ground for legal separation, which is admittedly illegal. We do not share appellant's view. Condonation and consent on the part of plaintiff are necessarily the import of paragraph 6(b) of the agreement. The condonation and consent here are not only implied but expressed. The law (Art. 100 Civil Code), specifically provides that legal separation may be claimed only by the innocent spouse, provided there has been no condonation of or consent to the adultery or concubinage. Having condoned and/or consented in writing, the plaintiff is now undeserving of the court's sympathy (*People vs. Schnecken-burger*, 73 Phil., 413). Plaintiff's counsel even agrees that the complaint should be dismissed. He claims, however, that the grounds for the dismissal should not be those stated in the decision of the lower court, "but on the ground that plaintiff and defendant have already been legally separated from each other, but without the marital bond having been affected, long before the effectivity of the new Civil Code" (appellant's brief, pp. 7-8). Again, we cannot subscribe to counsel's contention, because it is contrary to the evidence.

Conformably with the foregoing, we find that the decision appealed from is in accordance with the evidence and the law on the matter. The same is hereby affirmed, with costs.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Gutierrez David. JJ., concur.

Judgment affirmed.

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.