

AGUSTIN MERCADO, PETITIONER, VS. JAMES A. OSTRAND, JUDGE OF FIRST INSTANCE OF MANILA, AND VALENTINA RUIZ, RESPONDENTS.

G.R. No. 13291. November 20, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

This is an original action commenced in the Supreme Court to obtain the writ of certiorari against the Court of First Instance of the city of Manila.

The only question presented by the petition and answer is whether a judge of the Court of First Instance has jurisdiction, in an action by the wife against her husband for support and maintenance, to render a judgment requiring the husband, in addition to a judgment for a reasonable sum for the support and maintenance of the wife, an amount sufficient to cover costs and attorney's fees.

The fact that the petitioner, Agustin Mercado, and the respondent, Valentina Ruiz, are husband and wife is not denied. That an action had been commenced by the said wife against the said husband for maintenance and support is admitted. That during the pendency of that action, on the 8th day of September, 1917, the Honorable James A. Ostrand, judge, rendered a judgment against the said husband requiring him to pay to the wife the sum of P100 for the purpose of covering judicial costs and attorney's fees is the fact of which complaint is made in the present petition. That the husband, under the conditions mentioned in the complaint, is under the legal obligation of supporting his wife is not denied. That being true, it would seem to be perfectly reasonable and just and within the sound discretion of the court if the husband makes it necessary for the wife to resort to the courts for the purpose of enforcing said legal obligation, that then and in that case he should be required to pay the expenses necessarily incurred by her for the purpose of enforcing her legal rights. Judicial costs and a reasonable amount for attorney's fees are necessary results of litigation. Admitting the premises that the husband, under the facts stated in the complaint, is under a legal obligation to support his wife, he is also under the legal obligation to pay such expenses as may become necessary for the wife to enforce her legal rights. No question is raised with reference to the reasonableness or unreasonableness of the amount allowed by the lower court for costs and attorney's fees. We have heretofore decided an analogous question in the case of *Lanzuela Santos vs. Sweeney* (4 Phil. Rep., 79).

There is nothing in the record which shows that the lower court in any way exceeded its jurisdiction or abused the sound discretion imposed upon him. The remedy prayed for is, therefore, hereby denied, with costs. So ordered.

Arellano, C, Torres, Carson, Araullo, Street, and Malcolm, JJ., concur.

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