

**AFIFE ABDO CHEYBAN GORAYEB, PLAINTIFF AND APPELLEE, VS.
NADJIB TANNUS HASHIM, DEFENDANT AND APPELLANT.**

G.R. No. 22125. December 22, 1924

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an action by a wife against her husband for a separate maintenance allowance. The complaint alleges, in substance, that the plaintiff is legally married to the defendant; that the defendant refuses to receive her in his house and to support her; and that she has no property of her own and no means of support. She therefore prays that the defendant be ordered to pay her the sum of P1,000 a month for her maintenance.

The defendant in his amended answer denies generally the allegations of the complaint and sets up as special defenses that the plaintiff, without his consent, abandoned him in April, 1914, and that she has since committed adultery with her cousin.

The trial court found that the parties have been legally married; that the marriage has not been dissolved; and that the defendant is legally bound to support the plaintiff; and therefore ordered the defendant to pay her a permanent maintenance allowance of P500 a month. From this judgment the defendant appeals to this court.

The special defenses set up in the defendant's answer have not been sufficiently established and the evidence leaves no doubt as to the facts that the parties are legally married and that the plaintiff is entitled to a maintenance allowance. With reference to the amount of the maintenance allowance awarded by the court below, it may be observed that inasmuch as in respect to modifications, a judgment rendered in a suit for separate maintenance is not regarded as final and may be modified at any time for sufficient reasons upon application to the court having original jurisdiction, the appellate courts will, as a rule, not interfere with the findings and conclusions of the lower courts in regard to such allowances. Upon the evidence before us, we cannot say that in this case the allowance is so excessive as to call for our interference.

The judgment appealed from is therefore affirmed, with the costs against the appellant. So ordered.

Street, Malcolm, Avanceña, Villamor, Johns, and Romualdez, JJ., concur.

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