

CECILIO MENDOZA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, AND LUISA DE LA ROSA MENDOZA, RESPONDENTS.

G.R. No. 23102. April 24, 1967

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

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-23102/>

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

Cecilio Mendoza resorts to this Court for a review of the decision of the Court of Appeals in case CA-G.R. No. 30005-R, denying a writ of prohibition and injunction against the orders of the Court of First Instance of Nueva Ecija refusing dismissal of Civil Case No. 3436 of that Court.

We glean from the record that Luisa de la Rosa Mendoza instituted Case No. 3436 against petitioner herein. In the complaint, she averred that she was married to Cecilio Mendoza on 2 September 1953; that they lived together as husband and wife until 14 July 1954, when the husband departed for the United States to further his studies and practice his profession; that since then, defendant Mendoza "without justifiable cause or reason deliberately abandoned and neglected plaintiff and despite repeated demands by plaintiff, defendant has failed and refused, and still fails and refuses, to provide for the maintenance and support of plaintiff," who is alleged to be pregnant, sickly and without any source of revenue, while defendant (now petitioner) is employed in a hospital in the United States earning an average of \$200.00 a month, besides being a part-owner of lands in Muñoz, Nueva Ecija, assessed at P32,330.00 in 1955.

In due course, defendant Cecilio Mendoza moved for dismissal of the complaint for lack of jurisdiction and improper venue. The motion having been denied, he filed an answer with counterclaim, putting in issue the validity of his marriage to plaintiff (Brief, p. 13), and plaintiff (now respondent) Luisa de la Rosa duly replied.

On 3 July 1961 defendant filed a second motion to dismiss, this time predicated on the complaint's failure to state a cause of action, because it contained no allegation that earnest efforts toward a compromise have been made before the filing of the suit, and invoking the provisions of Article 222 of the Civil Code of the Philippines (R. A. No. 386) that provides:

"ART. 222. No suit shall be filed or maintained bet-ween members of the same family unless it should appear that earnest efforts toward a compromise have been made, but that the same have failed, subject to the limitations in article 2035."

The Court of First Instance, having refused to entertain his second motion to dismiss, the defendant petitioned the Court of Appeals for a writ of prohibition with preliminary injunction to stop the Court of First Instance from further proceeding with the case. The Court of Appeals gave due course to his petition and issued the preliminary writ prayed for; but, after hearing and consideration of the merits, it denied the writ of prohibition and dissolved the injunction.

His motion for reconsideration having been denied, Cecilio Mendoza then resorted to this Court, which gave due course to his petition for review.

Petitioner argues that Article 222 of the Civil Code of the Philippines (jam. quot.) requires that before a suit between members of the same family (in this case between husband and wife) is filed or maintained, it must appear that earnest efforts toward a compromise have been made, and the only way to make it so appear when the suit is filed is by a proper averment to that effect in the complaint. Since the law forbids a suit being initiated (filed) or maintained unless such efforts at com-promise appear, the showing that efforts in question were made is a condition precedent to the existence of the cause of action. It fol-lows that the failure of the complaint to plead that plaintiff previously tried in earnest to reach a settlement out of court renders it assailable for lack of cause of action, and it may be so attacked at any stage of the case even on appeal.

While we agree that petitioner's position represents a correct statement of the general rule on the matter, we are nevertheless constrained to hold that the Court of Appeals and the Court of First Instance committed no error in refusing to dismiss the complaint, for on its face, the same involved a claim for future support that under Article 2035 of the Civil Code of the Philippines can not be subject of a valid compromise, and is, therefore, outside the sphere of application of Article 222 of the Code upon which petitioner relies. This appears from the last proviso of said Article 222, already quoted. Even the answer below, in attacking the validity of the marriage of plaintiff-respondent Luisa de la Rosa to defendant-petitioner Cecilio Mendoza, poses a non-compromisable issue.

"ART. 2035. No compromise upon the following questions shall be valid:

"(1) x x x

"(2) The validity of a marriage or a legal separation;

"(3) x x x

"(4) Future support."

Since no valid compromise is possible on these issues, a show-ing of previous efforts to compromise them would be superfluous.

It may be that the complaint asks for both future support and sup-port in arrears, as petitioner contends. But, the possibility of com-promise on the latter does not negate the existence of a valid cause of action for future support, to which Article 222 can not apply.

WHEREFORE, the decision of the Court of Appeals, sustaining that of the court of origin denying dismissal of the complaint, is affirmed. Costs against petitioner.

SO ORDERED.

Concepcion, C.J., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Castro, JJ., concur.
Sanchez, J., did not take part.

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.