

CONSTANCIO P. RUSTIA, PLAINTIFF AND APPELLEE, VS. PETRONA RAMOS, DEFENDANT AND APPELLANT.*G.R. No. 24396. November 24, 1925*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-24396/>**STATEMENT**

Plaintiff alleges that he and the defendant are both citizens and residents of the Philippine Islands. That on June 12, 1924, he married the defendant in the State of Illinois, U. S. A. That the plaintiff then believed that the defendant was single and unmarried and free to marry him, as she fraudulently represented herself to be, when in truth and in fact she was a married woman, and obtained plaintiff's consent by means of fraud. That soon after his marriage to the defendant, plaintiff ascertained that she was a married woman, having previously contracted marriage with another man in the Philippine Islands, and that for such reason the plaintiff from the date of his marriage to the defendant on June 12, 1924, has never lived with her, and has refused to live with her, because she was married before the justice of the peace of Pasay, Province of Rizal, on September 5, 1914, to one Basilio Francisco, who was then a resident of the Philippine Islands, and who is now living, and that the marriage between the defendant and Francisco has never been annulled or dissolved. Plaintiff prays for a decree annulling his marriage contract.

For answer the defendant admits all of the material allegations of the complaint, "that plaintiff and defendant were married as set forth in plaintiff's complaint; the said marriage having been contracted by both parties freely and voluntarily," and as a special defense "alleges that the prior marriage alleged in the complaint was null and void and of no effect, by reason of the fact that it was celebrated without the territorial jurisdiction of the justice of the peace who solemnized the same; and by reason of the further fact that in the celebration of the alleged prior marriage, the requirements of the law in the premises were not complied with in that the contracting parties were not required to declare in the presence of the person solemnizing the marriage that they took each other as husband and wife," and prays that the complaint be dismissed.

Upon such issues the lower court rendered judgment for the plaintiff, from which the defendant appeals, contending:

"1. The lower court erred in holding that defendant was previously married.

"2. The lower court erred in holding that the alleged prior marriage was in force at the time plaintiff and defendant were married.

"3. The lower court erred in annulling the marriage contracted by and between plaintiff and defendant in the Roman Catholic Church of Santa Clara, at Chicago, Illinois."

JOHNS, J.:

In the final analysis, the real question before this court is whether or not the defendant was married to Basilio Francisco before the justice of the peace of Pasay on September 5, 1914.

What is known in the record as Exhibit B is a marriage certificate dated September 5, 1914, signed "Cosme Bustamante, justice of the peace," and by Basilio Francisco and the defendant, and is duly witnessed by Bonifacio Castellon and Emilia Alcantara, and it is printed in both English and Spanish, in which the names and ages of the contracting parties are given, the names of the respective fathers and mothers, their residence, birth place, nationality, and occupation, and in which the justice of the peace certifies to the truth of the foregoing statements, and that Basilio Francisco and the defendant, in the municipality of Pasay, Province of Rizal, "were with their mutual consent lawfully joined together in matrimony by me in the presence of Emilia Alcantara, of Sta. Mesa, 894 Int. 16, and Bonifacio Castellon, of Sta. Mesa, 894 Int. 16, attesting witnesses. And I do further certify that the parties to this marriage are personally known to me (or were satisfactorily identified by the oath of Bonifacio Castellon known to me), and that upon due inquiry by me made, there appeared to be no lawful impediment to the marriage."

As stated, this certificate was signed by the justice of the peace, and by both contracting parties, and in the presence of the witnesses, who signed their respective names as such. It also appears that in large printed letters in both English and Spanish, this certificate was headed or entitled "Marriage Certificate," and that after the ceremony was performed, a true and correct copy of it was delivered to the defendant, who had it in her personal possession until the following day when she delivered it to her aunt. It also appears that at the time the defendant was 23 years of age, and that she was a teacher in one of the normal schools of the Philippine Islands, was well educated, and could read and write in both English and Spanish.

The justice of the peace before whom the marriage took place testified that at the time and place named in the certificate, all of the parties appeared before him at his office in Pasay, and that he there duly performed the marriage ceremony in question.

The defendant contends that she was never married to Basilio Francisco, and that all she did or agreed to do was to enter into a contract of marriage at some future date, and that she thought and understood that she was signing a contract of that nature and for that purpose. This contention flatly contradicts her personal signature on the marriage certificate and all of the recitals therein made, and the verbal testimony of the justice of the peace, who, as far as the record shows, is an impartial witness.

This marriage certificate is dated September 5, 1914, is in writing and has all of the formalities of a marriage certificate, and after the ceremony was performed, a copy of it was delivered to the defendant who, as a matured educated person, must have known its nature, contents and legal effect.

The trial court who saw and heard the witnesses testify in a well written opinion found as a fact that the marriage of September 5, 1914, was valid, and in legal effect that the defendant knew that it was a marriage ceremony, and that the certificate delivered to her was a marriage certificate.

Relying upon a legal presumption, the attorneys for the appellant contend that "the lower court erred in holding that the alleged prior marriage was in force at the time plaintiff and defendant were married," and cite *Son Cui vs. Guepangco* (22 Phil., 216); *Ruling Case Law*, vol. 18, p. 417; 40 *Oklahoma*, 101; 135 *Pac.*, 1143[1]; and *Chancey vs. Whinnery* (147 *Pac.*, 1036), and it must be conceded that both *Ruling Case Law* and the *Oklahoma* decisions apparently support appellant's contention.

In the United States every state has its own divorce law. In some, divorces are granted on a number of different grounds, and in others, the grounds are very limited, and it is very doubtful whether any state in the United States has a divorce law like the one in the Philippine Islands. For such reasons, any authority from the United States is not in point.

The decision in *Son Cui vs. Guepangco*, supra, is founded upon a very different state of facts. There, the main question was to determine "whether or not said three plaintiffs are the legitimate children of Tan Tungco; for if legitimate, their interests would be greater than they otherwise would." Here, the question involved is between parties to the second marriage, and which it is sought to annul upon the ground of fraud.

It is a matter of record that the husband in the former marriage was personally present in the trial of this case in the lower court. Hence, the only question here is whether or not after a period of ten years, there is a legal presumption that the parties to the first marriage were divorced at the time of the second marriage.

It is true that the second marriage took place in Chicago, Illinois, in the United States, but it also appears that at the time of the second marriage, both the plaintiff and the defendant were actual residents of the Philippine Islands, and that neither of them ever had any other residence, and that at least during the trial of the case in the lower court, the former husband was a resident of the Philippine Islands.

Under the law in the Philippines, adultery is the only ground upon which a divorce can be obtained, and even then, it can only be obtained one year after a conviction for that crime. Hence, we have this situation. Adultery is a crime, and a divorce can only be obtained here upon the ground of adultery. A defendant is presumed to be innocent until he is proven guilty, and to sustain a conviction, the evidence must show that he is guilty beyond a reasonable doubt. This legal presumption is much stronger than any presumption "that the former marriage has been legally dissolved." That is to say, that the legal presumption that a person would commit the crime of adultery, for which he must be proven guilty beyond a reasonable doubt, is a condition precedent to obtaining a divorce here, and it is much stronger and more forcible than the legal presumption that a "former marriage has been legally dissolved." Hence, under the law in the Philippine Islands and upon the facts shown in the record, the burden of proof was upon the defendant to show that her marriage of September 5, 1914, was legally dissolved at the time of her marriage with the plaintiff. Upon that question, she has relied upon the legal presumption above stated, and there is no evidence whatever in the record tending to show that her former marriage was legally dissolved.

The judgment of the lower court is affirmed, with costs. So ordered.

Avanceña, C. J., Street, Ostrand, Villa-Real, JJ., concur.

Malcolm and Villamor, JJ., concur in the result.

Romualdez, J., concurs from the stand point of the civil law.

[1] *Haile vs. Hale*.

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