

VICTORIA GARCIA, PLAINTIFF AND APPELLANT, VS. B. MONTAGUE, DEFENDANT AND APPELLEE.*G.R. No. 4810. January 13, 1909*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4810/>**TORRES, J.:**

Victoria Garcia, a resident of Moncada, Tarlac, represented by her lawyer, filed a complaint on the 4th of June, 1907, against B. Montague, alleging that in December, 1904, in view of the asseverations of the latter that he belonged to the Roman Catholic Apostolic Church, and that he would marry the petitioner in accordance with the rites of said church she engaged to become his wife. Believing his assurance that it was customary with Americans first to celebrate a civil marriage and immediately afterwards a religious ceremony, she consented to the celebration of the civil marriage between them, which took place on the 9th of February, 1905. She then demanded the immediate performance of the religious ceremony as had been previously agreed upon. The defendant, however, after giving evasive answers, finally acknowledged that he did not belong to the Roman Catholic Church, and in doing so expressed himself in terms which were offensive to her honor and dignity, adding that the Roman Church neither had, nor ever would have, any authority over him. He had told her that he was a Catholic for the purpose of obtaining her consent to the civil marriage, but that he had never intended to solemnize it according to the rites of the Catholic Church as he had promised; that the plaintiff, considering that her consent to the civil marriage had been obtained by means of deceit, informed the defendant that she did not consider herself married to him, and that, therefore, she would refuse to live with him and abandon the home of her parents, and in effect she refused to accompany him as his wife; that since that time two years have elapsed, and the defendant still refuses to consummate the promised ceremony in accordance with the rites of the Catholic Church; that she has lived with her parents for the said two years without ever having gone to the house of the defendant, and that during that space of time the plaintiff has not been maintained by the defendant either directly or indirectly; therefore, in view of the fact that her consent was obtained by means of deceit, she prayed, in accordance with the provisions of General Orders, No. 68, that the said marriage be declared null and void, together with such further legal remedies as may be proper in equity and justice, with costs against the defendant.

In the affidavit attached to the foregoing complaint it appears that the defendant, B. Montague, consented and gave his permission by means thereof to the filing of the complaint by the plaintiff's lawyer on behalf of the plaintiff with the Court of First Instance of the Province of Pampanga, instead of that of Tarlac, and that the trial be held in the said court of Pampanga; this consent was ratified by the defendant Montague before the notary public of Batangas on May 2, 1907.

The defendant was summoned on the 15th of June following, and on the 8th of July he presented his answer, setting forth that he admitted the allegations contained in paragraphs 1 and 2 of the complaint but denied each and every one of the others; he therefore prayed the court to dismiss the complaint with costs.

The defendant not having appeared on the 5th of August, 1907, the day appointed for the trial, as agreed upon by the contending parties, the plaintiff moved that the trial be held in the absence of the defendant who, in a letter

which was offered in evidence by the plaintiff, as Exhibit A, stated that he would not be able to appear in court on the said 5th day of August; thereupon the court below ordered the trial to be held as prayed for by the plaintiff, who, on her part, duly offered oral and documentary evidence. The court entered judgment on the 26th of November, 1907, absolving the defendant from the complaint with the costs against the plaintiff.

From this judgment the plaintiff excepted, and by another writing dated December 14, moved for the reopening of the case and reversal of the judgment appealed from for reasons of accident or fraud which ordinary prudence could not have avoided, for which reasons the petitioner had suffered in her rights, and because the evidence did not sufficiently warrant the decision of the lower court, which decision was furthermore contrary to law. An affidavit was attached to this writing wherein the plaintiff, Victoria Garcia, stated under oath that, on the 28th of July, 1907, before the trial took place, the defendant informed her that he would make no opposition to her complaint, and that her own testimony would be sufficient proof in the same manner as a similar case brought before the Court of First Instance of Leyte, a copy of whose decision was offered in evidence as Exhibit B at the trial held on the 5th of August of the previous year; believing that said proof was sufficient she had made no efforts to obtain the testimony of other witnesses; hence, in a new trial she would be able to establish new facts by the testimony of witnesses, such as that the defendant had assured her that he was a Catholic, and that the religious ceremony would immediately follow the civil marriage, inasmuch as she could prove said facts by means of her father, Manuel Garcia, and Diego Gloria, a witness of her wedding, and the defendant himself, Montague, whose statements were certified to by a notary public residing in San Fernando, Pampanga, on the 11th of December, 1907.

On the 19th of December, 1907, the defendant stated in writing that he had been informed of the petitions presented by the plaintiff to the court below praying for the reversal of the judgment entered in the case, and for the reopening thereof, and also of the proposed exception to the said judgment; that being agreeable to said requests he prayed the court to be pleased to grant the plaintiffs petitions. By an order of March 12, 1908, the court below overruled the motion for the reopening of the case and held that the judgment rendered therein was sufficiently justified by the evidence; from said decision the petitioner excepted and presented in due course the corresponding bill of exceptions.

The question involved in this case is the annulment of a marriage celebrated between the contending parties on the 9th of February, 1905, before the justice of the peace of Batangas, by reason of the consent of the plaintiff having been obtained by means of fraud or deceit; to this end the plaintiff bases her claim on the provisions of paragraph 4 of section 10, General Orders, No. 68, of the 18th of December, 1899.

Marriage is a contract entered into in the manner and with the solemnities established by the said General Orders, No. 68, as far as its civil effects are concerned, and in order that it may be valid and efficient the consent of the contracting parties, among other requisites, is essential. (Art. 1261, Civil Code.) Consent given through error, violence, intimidation, or deceit shall be void. (Art. 1265.) There is deceit when, by words or insidious machinations on the part of one of the contracting parties, the other is induced to execute a contract which without them he would not have entered into. (Art. 1269.)

In order that the courts may make the declaration of nullity claimed by the plaintiff by reason of fraud or deceit, it is indispensable that it be shown in a satisfactory manner, that the defendant gained her consent to the marriage by means of fraud or deceit, that is, that the fraudulent representations of B. Montague actually induced her to contract marriage in the firm belief that they were true.

The court below found that the evidence adduced in the proceedings was insufficient to prove that the fraudulent statements were made by the defendant, and the record offers no legal reason whatever to authorize the belief that

the provisions of section 273 of the Code of Civil Procedure have been violated in the consideration of the evidence adduced.

The question involved herein being the annulment of a marriage, held with the formalities of law and before a justice of the peace, the acquiescence of the contracting party, to whom fraudulent conduct is attributed, is not sufficient; it is necessary that from the trial it appear fully proven that the plaintiff who claims the annulment gave her consent as a result of the fraud or deceit practiced on her, and which directly induced her to contract marriage with the person who availed himself of such fraudulent means in order to persuade her to celebrate an act which was of such far-reaching effects in her life, and which caused a change in her status.

As to the jurisdiction of the Court of First Instance of Pampanga, even though this point was not discussed in the court below, it is certain that the defendant, B. Montague, agreed to and acquiesced in the plaintiff's solicitation to have the matter brought before the Court of First Instance of Pampanga, notwithstanding the fact that he resided in the Province of Batangas; for this reason the judge of Pampanga was able to hear and decide this litigation.

In view of the foregoing and considering that the judgment appealed from is in accordance with the law and the merits of the case, it is our opinion that the same should be and it is hereby affirmed, with the costs against the appellant. So ordered.

Arellano, C. J., Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.

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.