

2 Phil. 293

[G.R. No. 1056. May 16, 1903]

**AGUEDA BENEDICTO, PLAINTIFF AND APPELLEE, VS. ESTEBAN DE LA RAMA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

LADD, J.:

Under section 144 of the Code of Civil Procedure the filing of a bill of exceptions operates as a stay of execution. In this case, therefore, the order made by the trial court in the judgment for the payment of alimony for the period from the institution of the action to the date of such judgment was suspended by the filing of the defendant's bill of exceptions. The trial court might undoubtedly, under section 144, have provided that execution should not be stayed as to the order for the payment of alimony, but it did not do so. The whole matter rested in the discretion of the trial court, We have no jurisdiction to take any action in the premises.

Nor have we any jurisdiction to grant alimony pending the appeal. The trial court might have made an order in such terms as to cover the entire period till final judgment, but did not do so. We can not revise its action, except as far as it is brought before us for revision in the ordinary manner, by bill of exceptions.

The right of a wife to the payment of alimony from her husband stands upon no different footing from any other right created by the law or arising from contract or otherwise, and is to be enforced by appropriate proceedings commenced in the court having original jurisdiction. Our jurisdiction in such cases is appellate merely. (See *Rieilly vs. Reilly*, 60 Cal., 624.)

The motion must be denied.

Arellano, C. J., Torres, Willard, Mapa, and McDonough, JJ., concur.

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