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## *Digest of* RECENT DECISIONS of the Philippine Supreme Court

[In this column is presented a digest of current cases of general interest to practitioners. These decisions have not yet been published in the Official Gazette, and many of them, especially those rendered in division, will not so appear because not selected for official report.]

**EVIDENCE—ADMISSIBILITY** — *John Landahl vs. Gregorio Buendia, G. R. No. 38196, August 28, 1934.*— This action was begun by the plaintiff and appellee against the defendant and appellant to contest the title and possession of a house built on a registered land. Plaintiff's claim was founded on mortgage deed executed in his favor in 1927 by the original owner, Primitivo Garay, of the house, as security for a monetary obligation contracted by the latter and a third person. Upon failure to secure payment of such obligation, plaintiff, in May 1928, foreclosed the mortgage and bought the house at a public auction held in May 1929, by order of the court. Defendant, on the other hand, claimed title to the house on the ground that Primitivo Garay sold the same to Melquiades Guevarra in February 1929, and the latter in turn sold it to the defendant in October 1930. After trial, the court below adjudicated the house to the plaintiff.

Appellant contends that, as section 261 of the Code of Civil Procedure provides that the final record of a foreclosure proceedings should be set forth, in brief, the petition

and other pleadings, judgment, orders, the proceedings under the order of sale, and the decree confirming the same, and the name of the purchaser, with a description of the estate by him purchased, and that a certified copy of such record should be recorded in the office of the register of deeds for the province in which the estate is situated, the best evidence of such final record should be a transcript thereof as certified by the register of deeds. Although this contention sounds plausible, the section relied upon by counsel relates merely to the procedure for securing the registration of the title acquired in a foreclosure suit, and that, while a certified transcript of such final record would be admissible in evidence, the law does not preclude other equally admissible evidence. The pertinent evidence presented by appellee in this case consisted, among others, of copies of the complaint, amended complaint, final decision, writ of execution, returns of writ of attachment, and notice of sale, all of which are certified by the clerk of court. This evidence is clearly admissible under section 299 of the Code of Civil Procedure which pro-

vides that written acts or records of tribunals are public writings, and that a copy of such public writings, duly certified to be a true copy thereof, is admissible in evidence in like cases and in like effect as the original writing. (In division of three, per Santos, J.; Street and Hull, JJ., concurring.) *Briefed by* RAFAEL CAÑIZA.

CIVIL LAW—DATE OF PAYMENT OF OBLIGATION SECURED BY MORTGAGE IS COMPUTED NOT FROM THE DATE ON WHICH THE MORTGAGE WAS REGISTERED, BUT FROM THE MOMENT OF THE CREATION OF THE PRINCIPAL OBLIGATION.—*Philippine Education Co., Inc. vs. Homobono Aguilting et al., G. R. No. 40447, August 1, 1934.*—The defendant Homobono Aguilting, a merchant, bought on trust from the plaintiff various article payable within 60 days from the date of the invoices. Gregorio Aguilting was his solidary surety. This latter executed in favor of plaintiff a mortgage upon his land to secure the payment of the debts of Homobono in a sum not to exceed ₱10,000 (Ex. B). This instrument was not registered until January 21, 1932. This suit of foreclosure to recover a total indebtedness of Homobono in the amount of ₱7,688.90 was brought on February 4, 1932. On this date the sixty days allowed to Homobono within which to make payment had already expired. Tr. Ct. found that since the sixty days had not yet expired from the date of the registration of the mortgage, this action is premature. The questions in this case are: From what time shall the date of payment be computed? Is this action premature? *Held:* The period of payment must be counted not from the date of the registration of the mortgage, but from the date of the creation of the debt secured. It must be noted that when this suit was brought, the period of

sixty days within which to make payment of the principal debt had already expired. A mortgage presupposes always the existence of a principal obligation; in fact, it presupposes the existence of two contracts. The obligation secured exists independently of the mortgage. Upon its maturity the mortgage may be foreclosed although it has been inscribed at a later date or since its inscription the period fixed for the payment of the primary debt has not transpired. The reason is that the period of payment does not qualify or affect the mortgage but the debt or the principal obligation. Judgment reversed. (In division of three, per Imperial, J., Butte and Goddard, JJ., concurring.) *Briefed by* M. G. SOLIMAN.

CIVIL LAW—CONTRACT CONSTRUED.—*Gotiaoco Hermanos, Inc., vs. Feliciano Enriquez et al., G. R. No. 40372, August 4, 1934.*—On May 26, 1926 the defendants subscribed in favor of Gotiaoco y Hermanos to a public document (Exh. D) in which was made the following declaration: “\* \* \* Que en consideracion a la suma de Seis Mil Pesos (P6,000.00) que hemos recibido a nuestra entera satisfaccion de los Sres. Gotiaoco y Hermanos, hipotecamos a dichos Sres. Gotiaoco y Hermanos, sus herederos y causahabientes, una parcela de terreno que consta en el certificado original de Titulo No. 8696: \* \* \* y nos obligamos a pagar un interes anual de doce por ciento (12%) al año hasta cuando se pague totalmente la deuda; \* \* \* obligandonos, ademas, a los acreedores hipotecarios a la eviccion y saneamiento del inmueble \* \* \* puesto en garantia para responder de nuestra deuda.” This document was not registered. This action is for the recovery of the said sum of ₱6,000 by the successor to Gotiaoco y Hermanos against the signatories to the

above-quoted document. The defense was to the effect that the ₱6,000 was contracted personally by Gavino Veloso, that the defendants did not receive any share from said amount, and that they signed on such Ex. D only to guarantee payment of the loan extended to Gabino Veloso. Tr. Ct. found that the ₱6,000 stated in document was the personal debt of Gavino Veloso, but adjudged the defendants liable to plaintiff for the interest (12%) annually counting from May 27, 1926 until paid. Both plaintiff and defendants appealed. *Held*: The signatories to Ex. D are under obligation to pay to the plaintiff the sum of ₱6,000. The terms of the document are explicit that the defendants are debtors in the sum of ₱6,000 since they declared that they received said sum to their complete satisfaction, binding themselves to pay interest, and designating it as "nuestra deuda". The fact that this debt was originally contracted personally by Gavino Veloso does not alter their liability. In fact, it may be declared that the contract of loan between Veloso and Gotiaoco y Hermanos was novated by Ex. D, substituting the defendants herein as the debtors in place of Veloso. Consequently, defendants are liable for both the principal of ₱6,000 and interest. (In Banc, Per Avanceña, C. J., Street, Malcolm, Diaz, Vickers, Butte and Goddard, JJ., concurring.) Imperial, J., dissenting: It has been established by a preponderance of evidence that the ₱6,000 was a personal debt of Gavino Veloso and that the defendants merely guaranteed the payment of said debt by means of the mortgage upon the land. Veloso testified at the trial that he owed the said debt of ₱6,000; that he executed a promissory note (Ex. "1") covering this sum, which note was presented against him by the plaintiff in an

insolvency proceedings instituted against him. (Villareal, Santos, and Hull, JJ., concurring in the dissent.) *Briefed by M. G. SOLIMAN.*

PUBLIC SERVICE COMMISSION—  
AMENDMENTS TO COMPLAINTS.—*Laguna Tayabas Bus Co. vs. Agapito Ramos, G. R. Nos. 41299, 41400, 41401, 41402, 41403, August 9, 1934.*—The petitioner in these five cases alleged that the Public Service Commission erred in ruling that the amendments to the original complaints were barred by the statute of limitations, and that consequently the Public Service Commission erred in dismissing the complaints in all of the said five cases. Act No. 3763, section 1, paragraph 2, provides that "violations of the regulations of conditions of certificates of public convenience issued by the Public Service Commission, shall prescribe after two months." It was conceded that the original complaints were filed within the two-month period, but that the amendments to the complaints were filed after the expiration of the two-month period. The question was whether or not the amendments introduced a new or different cause of action making a new or different demand. *Held*: Comparing the original complaints in each of the said five cases in question with the amendments made thereto, the court reached the conclusion that no more was done or intended than to supply missing specifications, and to amplify and give greater precision to the allegations in support of the cause originally presented. Accordingly, it was apparent that error was committed by the Public Service Commission in dismissing the cases. Records remanded to the Public Service Commission for further proceedings. (In second division of five. Malcolm, J.; Villa-Real, Im-

perial, Butte, Goddard, JJ., concurring.) *Briefed by CELSO MOLINA.*

CRIMINAL LAW—WHAT CONSTITUTES VIOLATION OF ART. 133 OF THE REVISED PENAL CODE.—*P. P. I. vs. Procopio Reyes, et al., G. R. No. 40577, August 23, 1934.*—Appellants were convicted of a violation of Art. 133 of the Revised Penal Code. It appears that between 11 and 12 o'clock on the evening of April 10, 1933, while some people were holding *pubasa* in a barrio chapel, the defendants arrived at the place, carrying bolos and crowbars, and started to construct a barbed wire fence in front of the chapel. The person in charge of the *pubasa* tried to persuade them to refrain from carrying out their plan by reminding them of the fact that it was Holy Week and that it was highly improper to construct a fence at that time of the evening. A verbal altercation followed as a result of which the people became excited and left the place hurriedly in confusion. *Held:* Art. 133 of the Revised Penal Code punishes acts "notoriously offensive to the feelings of the faithful." The construction of a fence, even though irritating and vexatious under the circumstances to those present is not such an act as can be designated as "notoriously offensive to the faithful," as normally such an act would be a matter of complete indifference to those not present, no matter how religious a turn of mind they might be. The disturbance or interruption of any ceremony of a religious character under the old Penal Code was denounced by Art. 571. But this article was omitted from the Revised Penal Code and the offense, if any was committed by the appellants, is denounced in Art. 287 as an "unjust vexation" and punished by *arresto menor* or a fine ranging from 5 to 200 pesos or both. (In

division of five. Hull, J.; Avanceña, Santos, Vickers, Diaz, JJ., concurring.) *Briefed by J. S. GONZALES.*

INJUNCTION—WHEN PROPER IN ACTION FOR POSSESSION OF LANDS.—*Nicolas Santos vs. Lazaro de Leon, G. R. No. 36799, September 13, 1934.*—Both plaintiff and defendant claimed ownership and possession of the land in question. Before trial, a preliminary injunction was issued at the instance of the plaintiff. After trial, the lower court found that said land belonged originally to one of the defendants, Lazaro de Leon, who sold it to defendant Elisa Cruz on July 12, 1928 and the deed of sale was registered on July 16, 1928. Before this sale, however, plaintiff had obtained judgment against Lazaro de Leon on account of which the land in question was levied on execution and sold at public auction on May 23, 1929, to the judgment creditor. No redemption having been effected within the legal period, Santos obtained the corresponding certificate of sale which was registered on June 4, 1930, and on June 21, 1930, he was placed in possession of the property by order of the court. *Held:* The whole controversy centered on the question of jurisdiction of the court below to grant injunctive relief. The Supreme Court, on more than one occasion, has held that injunction will not be granted to take property out of the possession or control of one party and place it in that of another whose title has not been clearly established by law. To shift anew the possession from the plaintiff to the defendants would entail grave consequences for which the tardy and inadequate process of the law would fail to afford full and complete relief. Preliminary injunction issued by the lower court made permanent. (In division of five. San-

tos, J.; Street, Imperial, Butte, Diaz, JJ., concurring.) *Briefed by J. S. GONZALES.*

WRIT OF CERTIORARI—REQUISITES FOR ISSUANCE—APPLICATION MUST BE MADE WITHIN REASONABLE TIME.

—*The Municipality of San Miguel, Province of Leyte, petitioner-appellant vs. Provincial Board of Leyte and Municipality of Alangalang, Province of Leyte, respondent-appellees, G. R. No. 41181, August 9, 1934.*—In 1909, the municipalities of San Miguel and Alangalang were separated by Executive Orders No. 81 of the Governor-General. A dispute arose as to which municipality should exercise jurisdiction over four barrios. On November 23, 1914, the Provincial Board of Leyte settled the dispute by adjudicating said barrios to the municipality of Alangalang. On August 31, 1932, the municipality of San Miguel filed this certiorari proceeding in the Court of First Instance of Leyte to have the action of the provincial board reviewed. Denied, hence this appeal. *Held:* Eighteen years after the provincial board adjudicated the barrios to the municipality of Alangalang is certainly not a reasonable time within which to file an application for certiorari. In the case of *Cortes vs. Court of First Instance of Capiz*, 32 Phil. Rep. 214, the Supreme Court denied a petition for mandamus presented two years after the decision of the trial judge refusing to sign the bill of exceptions holding that the delay "should not be more than the longest period allowed in the lower court to take action. \* \* \* Laches in making an application for the writ of mandamus affords sufficient cause for its denial." "In the absence of special statutory provisions, it is well settled that before the court will grant the writ, it must appear not only that the inferior tribunal has com-

mitted some error of law, but also that the error has caused substantial harm and that the petitioner has been guilty of no laches in seeking his remedy (5 R. C. L. 255)." Judgment affirmed. (In division of five, per Goddard, J.; Malcolm, Villa-Real, Imperial and Butte, JJ., concurring.) *Briefed by A. P. COBACHA.*

MURDER—COMMISSION OF CRIME IN DWELLING OF OFFENDED PARTY AS AGGRAVATING CIRCUMSTANCE—KIND OF PROVOCATION NECESSARY FOR ITS NON-APPLICATION.—*P. P. I. vs. Gelacio Bequiña, defendant-appellant, G. R. No. 41040, August 9, 1934.*—Defendant was convicted of the murder of one Roman L. Lacson with the aggravating circumstance that the crime was committed in the dwelling of the deceased. Defendant contended that such aggravating circumstance should not have been taken into account because it was inherent in the qualifying circumstance of treachery or premeditation and because the offended party provoked the crime by his illicit relations with defendant's wife. Subsection 3 of Article 14 of the Revised Penal Code provides that it is an aggravating circumstance if the act is committed in the dwelling of the offended party, if the latter has not given provocation. *Held:* Although the said aggravating circumstance cannot be taken into consideration if the provocation was given by the offended party yet this is only true when there exists a close relation between the provocation and the commission of the crime in the dwelling of the person giving the provocation. In the present case, the provocation was not given immediately prior to the commission of the crime and had no particular relation to the house of the deceased. It would have been different if the defend-

ant had surprised his wife in the act of adultery with the deceased in the latter's dwelling. There the aggravating circumstance of morada would not exist. Judgment affirmed. (In division per Vickers, J.; Avanceña, C. J., Street, Hull, and Diaz, JJ., concurring.) *Briefed by A. P. COBACHA.*

**MARRIAGE LAW—VALIDITY OF A MARRIAGE ENTERED INTO BY A YOUNG LADY LESS THAN 18 YEARS OF AGE WITHOUT THE CONSENT OF HER PARENTS.**—*Enriqueta Quitco vs. Pablo Gorosin, G. R. No. 40323, September 7, 1934.*—The plaintiff and the defendant are wife and husband respectively. When they took their marriage vow, they gave their ages as 18 and 23 respectively, when in fact, the young lady was only 17 years and 6 months of age, and entered the marriage relation without the consent of her parents. Based on these facts, the theory was that the marriage was annulable. *Held:* The parental consent is necessary as a requirement previous to the issuance of the marriage license by the Local Civil Registrar concerned, but, the marriage license having been issued without such consent, or the marriage solemnized without a license, which is considered only as a formal requirement, the marriage is valid, provided the parties are not under 16 years of age as regards the male and 14 years of age as regards the female, and have given their consent in the manner prescribed in Section 3 of the Marriage Law. (Per Malcolm, J.; Villareal and Goddard, JJ., concur.) *Briefed by LEOVIGILDO V. MONASTERIAL.*

**CIVIL PROCEDURE—SERVICE OF SUMMONS AND RETURN OF SERVICE OF SUMMONS.**—*Pedro Reyes vs. Jesus Paz and the Judge of the Court of First Instance of Camarines Sur,*

*G. R. No. 42137, August 29, 1934.*

—In a former civil case in which the petitioner here was defendant, the following return of service of the summons issued for the appearance of said defendant was filed in said case:

"I have this day served a copy of the within complaint and process upon Chino Tu Chen for the absence of the defendant Chino Pedro Reyes.

(Sgd.) MONICO IMPERIAL  
*Deputy Sheriff*"

*Held:* It is manifest at a glance that this return shows no legal service of summons in compliance with Section 396, paragraph 6, of the Code of Civil Procedure. Therefore, the court acquired no jurisdiction over the defendant and the judgment rendered against the defendant in the said civil case is void. (Per Butte, J.; Malcolm, Villa-real, Imperial and Goddard, JJ., concur.) *Briefed by LEOVIGILDO V. MONASTERIAL.*

**MANDAMUS—POWER OF COURT OVER THE BOARD OF REGENTS OF THE UNIVERSITY OF THE PHILIPPINES.**—*Federico Mangahas vs. Board of Regents of the University of the Philippines, G. R. No. 42148, September 4, 1934.*—Upon the recommendation of the President of the University of the Philippines, the petitioner was appointed by the respondent Board as temporary part-time instructor in English in said institution for a specified time. Later, the Board found out that his employment as a "newspaper man and columnist" was incompatible with his official duties as such instructor and, while the petitioner was already discharging the duties of said position, the Board of Regents revoked his appointment without hearing and notice to petitioner. Petitioner contended that the Board of Regents violated Sec. 6 of the

University Charter calling for an investigation and hearing before removal by the Board of any professor, instructor, or employee of the University. Hence, petition for writ of mandamus against the Board.

**Held:** The petitioner accepted his appointment with the understanding that the appointment should run for the period specified in the President's letter to him notifying him of the appointment, unless sooner revoked by the Board. That such a right of revocation was reserved was indicated in the expression "temporary part-time instructor." Courts have no authority to interfere with the discretion of the Board of Regents in making the appointments of temporary instructors revocable at any time by the Board and taking this particular class of appointments out from the provisions of Sec. 6 (e) of Act 1870. It is not for the court to question the wisdom or propriety of the action of the Board in the case. The petitioner, having failed to make a showing that his substantial right was violated, the petition was therefore denied. (In Banc. Butte, J.; Avanceña, Street, Malcolm, Villa-Real, Santos, Vickers, Imperial, Diaz, JJ., concurring.)

**Dissenting:** The phrase "unless sooner revoked by the Board" did not appear in the resolution of the Board of Regents approving the appointment of petitioner. Either the president exceeded the authority granted by the Board by adding that phrase, or a like phrase is used in notifying all persons appointed to positions in the University. Even if the petitioner accepted his appointment with the express understanding that it should run for the period specified in the president's letter "unless sooner revoked by the Board", he had a right to assume that his appointment would not be revoked in a summary manner

without notice or hearing, and in violation of Subsection (e) of Sec. 6, Act 1870. This section is plain, unequivocal and understandable. It makes no distinction between permanent and temporary part-time appointments. A temporary part-time instructor, such as the herein petitioner, has just as much right to a notice and hearing before removal as the most eminent and learned professor has under this subsection. (Goddard, J.) *Briefed by RODOLFO PALMA.*

**HABEAS CORPUS—JUDGMENT IN HABEAS CORPUS PROCEEDING—EFFECT.**—*Consuelo Cordoba de Queri vs. Miguel Queri, G. R. No. 41069, September 22, 1934.*—Petitioner and respondent, spouses with two children, separated in 1928 through no fault of the wife. On Oct. 9, 1931, upon petition for a writ of habeas corpus by wife, the court turned over the two children to her. (Civil Case No. 40469). Husband did not appeal. A petition for a writ of habeas corpus subsequently filed by husband for the return of the children to him was denied by the court and no appeal was taken. On Sept. 4, 1932, husband filed a petition in the habeas corpus proceeding instituted by wife alleging that the circumstances which warranted the granting of the writ in favor of the mother had changed. The court granted the petition and ordered the mother to deliver the person of one of the minors to the father. **Held:** The judgment must be reversed and the petition dismissed on the ground that the trial court had no jurisdiction to consider said petition or enter the order appealed from. The decision of Oct. 9, 1931, in habeas corpus case No. 40469 became final when the period for appeal therefrom had elapsed. The judgment is not a mere interlocutory order; it is the final order upon a

cause of action. A final judgment in a *habeas corpus* proceeding is just as binding on the parties as the final judgment in any other case. The judge's jurisdiction over the petition is at an end when the judgment in a *habeas corpus* proceeding becomes final. (In division of three. Butte, J.; Malcolm and Villa-Real, JJ., concurring.) *Briefed by RODOLFO PALMA.*

**ROBBERY—THE DOCTRINE OF "FALSUS IN UNO, FALSUS OMNIBUS.—***The People of the Philippine Islands vs. Francisco Huada, G. R. No. 40553, August 17, 1934.*—The accused was convicted of the crime of robbery by cutting through the wall of a dwelling and removing therefrom a trunk containing money and property of the value of P470.45. The complaint was originally filed against the appellant only. A witness who claimed to have seen him and others armed and rifling the trunk having come forward, the fiscal filed a new complaint alleging robbery an armed band. At the trial this witness was shown to be hostile, and his testimony being deemed improbable by the trial court, the same was entirely disregarded and the other defendants discharged. The accused was convicted as the author of the crime, not in a band and not armed. The first contention of the appellant is that this witness having been found by the trial court to be false, under the maxim of "Falsus in uno, falsus in omnibus," all the testimony of the Government must be disregarded, or to express it in another way, that if one witness is false, all other witnesses are false. *Held:* There is no justification in human experience for such a doctrine and, needless to say, the appellant has cited no authority to sustain his present contention. While this Court has at times applied the old Latin maxim above

quoted, it does so only in rare cases and where the testimony is so material on the case that it creates the impression that the witness is of a character that cannot be believed with any safety. We are constantly having this doctrine presented whenever ingenuity can develop the slightest inconsistency or when a witness is contradicted by a witness of the other party. In such cases the maxim has no application. Judgment affirmed. (In division of five, per Hull, J.; Avanceña, Santos, Vickers, and Diaz, JJ., concurring.) *Briefed by CRISOSTOMO F. PARIÑAS.*

**ESTAFÁ—CAN THERE BE ESTAFÁ WHERE AN AGENT SELLING ON COMMISSION GIVES SECURITY FOR THE PERFORMANCE OF THE AGENT'S DUTY.—***The People of the Philippine Islands vs. Leocadia Aguinaldo, G. R. No. 40536, August 4, 1934.*—Defendant-appellant was convicted *cf. estafa*. It appears that on the 15th of April, 1932, appellant secured from the offended party various pieces of jewelry of the value of P263.00 which she was to sell on commission. At the time of the delivery of the jewelry, a document in dialect was executed by the parties, by virtue of which the house of the appellant was to stand as security in case the offended party suffer from any loss. Notwithstanding repeated demands, appellant has not returned the jewelry or paid for it. It is contended by the appellant that where an agent selling on commission gives security for the performance of the agent's duty *estafa* cannot be charged. *Held:* This contention is of no value and has been disposed of in the case of *People vs. Leachon*, Official Gazette, Volume 30, page 3311. Judgment modified. (In division of three, per Hull, J.; Street and Santos, JJ., concurring.) *Briefed by CRISOSTOMO F. PARIÑAS.*

**SUPPORT—WHEN THE OBLIGATION OF HUSBAND TO WIFE CEASES.**—*Concordia Dayrit, plaintiff-appellant vs. Valentin Darwin, defendant-appellee, G. R. No. 40579, September 29, 1934.*—The plaintiff and defendant were married but due to family dissensions, they separated. The wife now brings this action for a monthly allowance of ₱100 for herself and her four sons under her custody. The lower court denied the allowance prayed for on the ground that the wife counts on sufficient income and property to support herself and her four sons. *Held:* It is true that by article 143 of the Civil Code, the spouses by reason of marriage are obliged to support each other mutually. Yet when he who claims support is able to exercise a trade, profession or industry, or has bettered his fortune that it is no longer necessary to give support, the obligation to give support ceases by express declaration of article 152 of the Civil Code. Judgment affirmed. (In second division of three, per Imperial, J., Goddard and Butte, JJ., concurring). *Briefed by FELIPE M. ESCARILLA.*

**WORKMEN'S COMPENSATION ACT—DEPENDENCE AS PROVIDED IN ACT CONSTRUED.**—*Vicenta Caspillo, plaintiff-appellee vs. Cadwallader-Gibson Lumber Company, defendant-appellant, G. R. No. 41861, September 26, 1934.*—This is an appeal from a judgment ordering the payment of

compensation to the plaintiff, as heir of her son who died while in the service of the defendant. The defendant assigned four errors, the second of which reads: "The trial court erred in holding that the plaintiff succeeded in establishing her dependence upon the deceased son Jose Servillon for support." *Held:* While it may be true that the plaintiff, who was seventy-one years of age when she testified in this case, did not receive a monthly pension from the deceased, during the time he was working for the defendant, there is no doubt that she did receive some money from him. A person may be a dependent of an employee within the purview of the Workmen's Compensation Law although the dependence is only partial. To be an "actual dependent," it is not necessary that the plaintiff should have been entirely dependent on the deceased. The dependency within the terms of the Act does not mean "absolute dependency for the necessities of life", but rather that the plaintiff "looked to and relied on the contributions, in whole or in part, as a means of supporting and maintaining" herself in accordance with her station in life. A person may be dependent although able to maintain himself without any assistance from the decedent. Judgment affirmed. (In second division of three, per Goddard, J., Imperial and Butte, JJ., concurring). *Briefed by FELIPE M. ESCARRILLA.*

