

NACKLE C. AYOUB, Appellant, v. **PIERRE MATTAR** and **IFFIT KHOURY**,
Appellees.

APPEAL FROM THE CIRCUIT COURT FOR THE SIXTH JUDICIAL
CIRCUIT, MONTSERRADO COUNTY.

Heard: October 18, 1993. Decided: February 18, 1994.

1. A husband is permitted to file an action against a person who injures his domestic relations, and the injuries include, but not limited to, seduction of wife, adultery, taking away, confining or detaining the wife.
2. Domestic Relations is defined as that branch or discipline of the law which deals with matters of the household or family including divorce, separation, custody, support and adoption.
3. An action for injury to domestic relations must be filed within one year from the date the right to relief accrued to the time the action is interposed.
4. A divorce, judicial separation or annulment of marriage does not preclude an action for alienation of affections or criminal conversation.

The appellant filed an action of damages for injures to domestic relations against Pierre Mattar and his wife. The appellees interposed an answer, contending that such action cannot be maintained after the dissolution of the matrimonial relationship, and that since the appellant and his wife are no longer married, said action cannot be filed. The trial judge ruled in favor of appellees. The Supreme Court *reversed*, holding that such action can be maintained in the absence of a matrimonial relationship, provided that it is instituted within one year from the date the right to relief accrues to the time the action is interposed.

Roger K Martin appeared for the plaintiff/appellant. *Toye C. Barnard* appeared for defendants/appellees.

MR. CHIEF JUSTICE BULL delivered the opinion of the Court

From the facts in the records certified before us, Nackle C. Ayoub and Iffit Khoury were married on the 3r d day of June A.D. 1979 in the City of Hadath, Lebanon.

On September 1, 1986, Nackle C. Ayoub filed an action of damages for injury to domestic relations against Pierre Mattar and his wife. We deem it expedient to quote

hereunder paragraphs two and three of plaintiff's complaint, and to summarize the defenses in paragraphs two and three of defendant's answer, which are the essential elements of the action:

"2. That in the month of January through May, A. D. 1995, codefendant Pierre Mattar induced and seduced co-defendant Iffit Khoury through the amorous and amoral approaches of the former to the extent that the latter had to abandon the bed and board of plaintiff, and said co-defendant Iffit Khoury, from the month of April, A.D. 1989, up to the filing of this complaint, is living and cohabiting under the same roof with co-defendant Pierre Mattar to the great mental anguish and suffering of plaintiff and two (2) minor children begotten in wedlock.

3. Plaintiff further complaining against the defendant named herein above, says that said plaintiff has exhausted all efforts to have the defendant regain sanity and see reason by having co-defendant Iffit Khoury resume her conjugal vows, duties and relations and to have co-defendant Pierre Mattar refrain and desist from the pursuit of the above illicit affairs, but that all such peaceful undertakings by plaintiff have proved fruitless and of no avail to the extent that plaintiff is now held in ridicule not only by defendants themselves, but by the community at large, both Lebanese and Liberian, for which mental anguish, suffering., humiliation, embarrassment, loss of affection, damages will lie"

In their answer to the above complaint, Pierre Mattar and Iffit Khoury put forth these defenses:

a. That plaintiff Nackle C. Ayoub failed to show any basic reason for filing this action for injury to domestic relations because there was no injury to domestic relations existing between plaintiff Nackle C. Ayoub and co-defendant Iffit Khoury, at the time the action was filed on September 1., 1986.

b. That while the defendants admit that Nackle C. Ayoub and co-defendant Iffit Khoury were married in 1979, they were divorced on the 21' day of June 1985 during the June Term of the Sixth Judicial Circuit, Civil Law Court, Montserrado County, and a bill of divorcement was issued to plaintiff on the 24th day of June, A.D. 1985.

From the above averments in the complaint and the defenses contained in the answer, it appears that the basic issue in the case borders around the fact that a suit for injury to domestic relations may not be maintained where the husband and wife

have divorced and are no longer living together, or regarded by law as husband and wife.

Judge Hall W. Badio of the Civil Law Court who heard and decided the law issues in this case placed emphasis upon the non-existence of domestic relations between plaintiff Nackle C. Ayoub and his wife, co-defendant Iffit Khoury, and it was upon this legal theory that the judge dismissed plaintiff's action for injury to domestic relations.

Under the law, a husband is permitted to file a civil action against any person who injures his domestic relations. The Domestic Relations Law clearly defines what constitutes injury to domestic relations. Among these injuries are: seduction of wife, taking away, confining or detaining the wife, adultery, etc, etc. Domestic Relations Law, Rev. Code 9: 13.1.

There is no doubt that the allegations in plaintiff Nackle C. Ayoub's complaint describe acts which are injuries to Ayoub's domestic relations as defined by Section 13.1. In short, the plaintiff is complaining about the alienation of his wife's affections for him. Defendants have, by implication, admitted committing injuries to plaintiff domestic relations. However, these defendants contend that at the time of the filing of this action there was no marital or domestic relations existing between plaintiff Nackle C. Ayoub and co-defendant Iffit Khoury because that relation had been terminated by a decree of the Sixth Judicial Circuit Court of Montserrado County. These allegations in the complaint and the defenses in the answer raise one basic issue which we are called upon to decide in this matter. That issue is the following:

Can a husband who has suffered injury to his domestic relations maintain an action for such injury against his wife after being divorced by her?

Domestic relations is defined as "...that branch or discipline of the law which deals with matters of the household or family including divorce, separation, custody, support and adoption." BLACK'S LAW DICTIONARY 484 (6thed). Clearly, any interference with the household or family that causes injury to family is an injury to domestic relations.

In the instant case, there is no denial that plaintiff Nackle C. Ayoub's wife was induced, seduced and influenced to abandon plaintiff's bed and board by Pierre Mattar in order to live with him. These acts occurred prior to the legal separation of plaintiff Ayoub and his wife Iffit Khoury as husband and wife. The cause of action

which our statute permits under such circumstances accrued to plaintiff Ayoub prior to June 21, 1985. It is interesting that the defendants did not plead the statute of limitations which would bar plaintiff Nackle C. Ayoub from maintaining this suit but, instead, defended plaintiff's complaint upon the non-existence of marital relations at the time the suit was instituted. Judge Badio in deciding the law issues, however, mentioned in passing that if there existed a marital relations between plaintiff Ayoub and co-defendant Iffit Khoury the statute of limitations would bar plaintiff Ayoub from instituting this action, which commenced a little over a year after the injury occurred. Judge Badio missed the basic issue which plaintiff in this action complained of, the injury allegedly committed when plaintiff Ayoub and his wife were married.

The prohibition which the statute of limitations provision imposes against plaintiff instituting an action for injury to domestic relations is that the action must commence before the expiration of one year after the right to sue accrues to plaintiff. There is nothing in the law that demands the existence of marital relations between the parties before an action for injuries to domestic relations can obtain. We have not been able to find any Liberian case law which has decided the specific questions raised in other common law sources to determine this issue which the facts in this case present.

The general rule in common law jurisdictions is that a divorce, judicial separation, or annulment of marriage does not preclude an action for alienation of affections or criminal conversation. 41 AM JUR. 2d., *Husband and Wife*, § 510, page 432.

There is authority for the position that even where the wife cannot during coverture sue a third person for the alienation of her husband's affection, still at common law, there exists in her a right of action in this respect which is merely held in abeyance during coverture by reason of her inability without the joinder of her husband, and that after an absolute divorce which removes this liability, she can maintain an action for the alienation of her husband's affections. 41 AM JUR 2d., *Husband and Wife*, § 510, pages 432-433.

This matter before us indeed involves the issues of alienation of affections as well as seduction of a wife to abandon the bed and board of her husband. The plaintiff in this complaint averred that even up to the filing of this action, his wife, co-defendant Iffit Khoury was still living with Pierre Mattar. It has been held that in an action for alienation of affection, evidence of the association and behavior of plaintiff's wife and the defendant after a divorce was obtained by the wife, is admissible to explain the defendant's conduct before the divorce. Even where the husband fails to set up in a divorce proceedings against him by his wife, known facts of her misconduct with

another man, such husband is not estopped to maintain an action against such man for injury to his domestic relations. 41 AM JUR. 2d., *Husband and Wife*, § 480 page 405.

In the absence of any statutory prohibition to the contrary, it is our opinion that unless the statute of limitations is properly pleaded as a bar to instituting an action for injury to domestic relations, the plaintiff has every right to maintain such action even after a divorce.

Wherefore, in view of the facts and circumstances stated hereinabove, the laws cited herein, and the reasons given by us, it is our opinion that the ruling of the trial judge dismissing this action, should be, and the same is hereby reversed and the case is remanded to the court below with instructions to the judge presiding therein to resume jurisdiction over the case and to rule the case to trial on the facts pleaded by the parties. Costs of these proceedings are to abide the final determination of the case. And it is hereby so ordered.

Reversed and remanded