January 1949

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CONFLICT OF LAWS: OPERATION OF FULL FAITH AND CREDIT ON FACTUALLY IDENTICAL CAUSES OF ACTION

Gordon v. Gordon, 36 So.2d 774 (Fla. 1948)

The plaintiff, appellee in this case, instituted a suit for divorce against her husband in a Pennsylvania court, charging among other grounds "indignities to the person." He appeared. Before the case was set for hearing, plaintiff moved to Florida and instituted a similar suit in which she charged, among other grounds, "extreme cruelty." Shortly thereafter she petitioned the Pennsylvania court for leave to dismiss the action, but the petition was denied. Prior to termination of the Florida suit, the final decree in Pennsylvania was entered, ruling adversely to her contentions and denying divorce. She did not appeal. In the Florida suit the defendant had meanwhile appeared, upon being served constructively; and, after the special master had recommended a divorce on the ground of "extreme cruelty," defendant moved to dismiss the complaint. Plaintiff moved the strike, whereupon defendant successfully moved to amend his answer so as to plead the Pennsylvania decree in bar under the full faith and credit clause, 4 a copy of such decree being properly attached. Plaintiff then moved to strike the amendment to defendant's answer. The chancellor granted the motion and entered a decree absolute. The defendant appealed. HELD, the requirement of identity of cause of action, necessary to the accord of full faith and credit to a foreign decree, is here satisfied, since the ground of divorce in the Pennsylvania suit was shown to require the same substantiation as that in the Florida suit, regardless of the mere discrepancy in terminology. Reversed and remanded.

The general and wide applicability of the full faith and credit clause is unquestioned. 2 In order that a judgment of one state be upheld on this basis in another state it must be pleaded and proved 8 with proper authentication. 4 Such a judgment may be refused recognition when

1 U. S. Const. Art. IV, §1.
2 Roche v. MacDonald, 275 U. S. 449 (1928); Durlacher v. Durlacher, 123 F.2d 70 (C. C. A. 9th 1941), cert. denied, 315 U. S. 805 (1942); see Irving Trust Co. v. Kaplan, 155 Fla. 120, 125, 20 So.2d 351, 354 (1944).
4 Sullivan v. McFetridge, 55 N. Y. S.2d 511 (1945); see Irving Trust Co. v. Kap-
it goes off on procedure without a decision on the merits, or is not in final form, or rests on extrinsic fraud as distinct from intrinsic fraud, or has been satisfied since its rendition, or proceeds from a court that lacked jurisdiction. That the jurisdiction of a court, that is, its power to exert judicial authority, may be re-examined later by another court is fundamental in the field of conflict of laws, even though the merits cannot be questioned once jurisdiction is conceded. In addition, in order to establish the applicability of such prior judgment, there must be identity of legal issue and of facts and circumstances, including identity of parties.

This case represents a logical resolution of a particular point in determining the identity of issue. The grounds relied upon in the two different states were differently named, and the Florida ground was broader in scope. In Florida the ground of "extreme cruelty" is divided by the court into two parts, "mental cruelty" and "physical cruelty." The first part corresponds exactly to "indignities to the person" in Pennsylvania, and was relied upon by the Florida chancellor as the ground for authentication is covered by Rev. Stat. §905 (1875), 28 U. S. C. §241 (1940), and Fla. Stat. §92.10 (1941).

* Wyman v. Newhouse, 93 F.2d 313 (C. C. A. 2nd 1937); see Cole v. Cunningham, 133 U. S. 107, 112 (1890).
* Schwegman v. Neff, 218 Ind. 63, 29 N. E.2d 985 (1940); Curtis v. Maryland Baptist Union Ass'n, 176 Md. 430, 5 A.2d 836 (1939); see Hillsborough County v. Memorial Hts. Dev. Co., 114 Fla. 251, 252, 154 So. 188, 189 (1934).
* Burns v. Burns, 153 Fla. 73, 13 So.2d 599 (1943); Henderson v. Henderson, 137 Fla. 770, 189 So. 24 (1939).