

ISIDORE CLAMAN (PLAINTIFF) APPELLANT;
 AND
 MAUD H. CLAMAN (DEFENDANT) RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH
 COLUMBIA

*Appeal—Jurisdiction—Judicial separation—Permanent alimony—Divorce
 —Matrimonial cause—Jurisdiction affirmed by registrar—Appeal
 quashed—Question of costs.*

APPEAL from the decision of the Court of Appeal for British Columbia, affirming the judgment of the trial court and dismissing the appellant's action.

The action is for a declaration that a decree of judicial separation and one for permanent alimony are null and void on the ground that they were made without jurisdiction. These decrees were made in the court in the province having jurisdiction in divorce and matrimonial causes.

Upon the appeal coming in for hearing the Court of Appeal was unanimously of the opinion that it ought not to assume jurisdiction as in this case the decrees which were sought to be interfered with clearly dealt with matrimonial issues.

When the case was called before the Supreme Court of Canada, the court of its own motion having raised the question of its jurisdiction and appellant's counsel alleging he had been taken by surprise, as an order in chambers unappealed from had affirmed the jurisdiction, the hearing was adjourned until counsel had an opportunity of considering the question further. Later on, after argument by counsel, the appeal was quashed; and the respondent was allowed same costs as if she had successfully appealed from the order affirming jurisdiction, but no other costs.

Appeal quashed.

Cassidy K.C. for appellant.

Fisher K.C. and *Clarke* for respondent.

*PRESENT:—Anglin C.J.C. and Idington, Mignault, Newcombe and Rinfret JJ.