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Civil Practice—Declaratory Judgments

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THE COURT OF APPEALS, 1953 TERM

Declaratory Judgments

“The general purpose of a declaratory judgment is to determine or stabilize an uncertain or disputed jural relation. . . .”⁴¹ The declaratory judgment is a category of relief which is in the realm of judicial discretion.⁴² The determination of the matrimonial status of parties is an approved ground for declaratory relief.⁴³ Where such relief is unnecessary, however, it will not be granted.⁴⁴

In *Garvin v. Garvin*,⁴⁵ which was decided by the Court of Appeals in the past term, the plaintiff wife, having previously obtained a decree of separation which necessarily entailed a finding of an existing marriage between the parties, was denied a judgment which would once again declare the existence of that marriage. Before final judgment in the separation proceeding the defendant, in defiance of an injunction which forbade the prosecution of divorce proceedings by him in any other jurisdiction,⁴⁶ had obtained a divorce in the Virgin Islands. Subsequently he went through a marriage ceremony with another woman and returned to live with her in New York. The court sustained the defendant's challenge to the complaint on the ground that the action was unnecessary in view of the previous declaration of the marital status, although the defendant was now acting utterly in disregard of that declaration.

Evidence-Estoppel

The Vehicle and Traffic Law provides that an automobile dealer may allow the use of his dealer license plates by the vendee of a vehicle for five days after the sale provided the vendee makes a proper application for registration of the vehicle within twenty-four hours after he purchases.⁴⁷ If the vendee fails to make proper and timely application the dealer may be held liable for damage caused by the vehicle while being operated with his plates.⁴⁸ This liability is based on the theory that the presence of license plates on a vehicle is *prima facie* evidence of ownership by the registrant of those plates,⁴⁹ and that the registrant

41. 7 CARMODY-WAIT, NEW YORK PRACTICE 206 (1952).

42. C. P. A. § 473; *James v. Alderton Dock Yards*, 256 N. Y. 298, 176 N. E. 401 (1931).

43. *Bauman v. Bauman*, 250 N. Y. 382, 165 N. E. 819 (1929).

44. *Somberg v. Somberg*, 263 N. Y. 1, 188 N. E. 137 (1933).

45. 306 N. Y. 118, 116 N. E. 2d 73 (1953).

46. *Garvin v. Garvin*, 302 N. Y. 96, 96 N. E. 2d 721 (1951).

47. VEHICLE AND TRAFFIC LAW § 63.

48. *Reese v. Reamore*, 292 N. Y. 292, 55 N. E. 2d 35 (1944).

49. *Ferris v. Sterling*, 214 N. Y. 249, 108 N. E. 406 (1915).