PLOUGH *v.* PLOUGH.

4-8911 219 S. W. 2d 947

Opinion delivered May 2, 1949.

1. DIVORCE—RESIDENCE.—The statutory requirement of three months "residence" in order to secure a divorce means the same as "domicile," and the intention to remain in this state must be manifested by some overt act.

2. DIVORCE—RESIDENCE.—The bare expression of an intention to remain in this state unaccompanied by voluntary conduct fails to establish the element of permanence that distinguishes "domicile" from mere "presence" within the jurisdiction.

Appeal from Sebastian Chancery Court, Ft. Smith District; *C. M. Wofford,* Chancellor; affirmed.

E. M. Ditmon, for appellant.

GEORGE ROSE SMITH, J. Appellant, a soldier stationed at Camp Chaffee, brought this uncontested action for divorce about two months after his arrival in Arkansas. He admits that his presence in this State is in obedience to army orders and that he may be transferred to a new station at any time. Appellant formerly lived in South Carolina and intends to marry a South Carolina girl if this suit is successful. The appeal is from a dismissal for want of jurisdiction.

We held in *Cassen* v. *Cassen,* 211 Ark. 582, 201 S. W. 2d 585, that our statutory requirement of three months' residence means the same thing as domicile and that the intention to remain in this State must be manifested by overt acts. Here the only testimony of this nature is appellant's statement, "I am figuring on remarrying and making this my home." This bare assertion, unaccompanied by voluntary conduct, fails to establish the element of permanence that distinguishes domicile from simple presence within the jurisdiction.

Affirmed.