2013 IL App (1st) 130616-U

FOURTH DIVISION
November 27, 2013

No. 1-13-0616

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

In re Marriage of NELIDA CISNEROS RANGEL,	)	Appeal from the Circuit Court of Cook County.
Petitioner-Appellant,	)	
v.	)	No. 68 D 10739
SAMUEL CISNEROS,	)	Honorable Jeanne Cleveland Bernstein,
Respondent-Appellee.	)	Judge Presiding.

PRESIDING JUSTICE HOWSE delivered the judgment of the court.
Justices Lavin and Epstein concurred in the judgment.

ORDER

¶ 1 *HELD*: The trial court's finding that petitioner's claims for unpaid child support is reversed as not all payments are barred under the statute of limitations; the trial court's finding that petitioner's claims for unpaid maintenance are barred in their entirety by the statute of limitations and *laches* is affirmed.

¶ 2 Petitioner Nelida Cisneros Rangel (Nelida) and Respondent

Samuel Cisneros (Samuel) were married on January 31, 1965. Together they had one child, Gilberto Cisneros (Gilberto), on August 13, 1966. On January 27, 1970, a judgment for the dissolution of marriage (Judgment) was entered. Pursuant to the Judgment, Samuel was to pay $20 per week in alimony (maintenance) and $15 per week in child support until Gilberto reached the age of majority.

¶ 3 On September 30, 2011, Nelida filed a petition for rule to show cause for indirect civil contempt due to Samuel's failure to pay child support or maintenance since 1970.

¶ 4 On November 20, 2012, the trial court denied Nelida's petition for rule to show cause, finding in a written order that her claim for child support was barred by the statute of limitations and her claim for maintenance was barred by the statute of limitations and *laches*. Nelida appeals the court's November 20, 2012 order, arguing that her claims were not barred by the statute of limitations or *laches*. For the reasons that follow, we reverse the trial court's finding that Nelida's claims for unpaid child support were entirely barred by the statute of limitations, and affirm the trial court's finding that Nelida's claims for maintenance were barred by the doctrine of *laches*.

¶ 5 BACKGROUND

¶ 6 Nelida and Samuel were married on January 31, 1965. The

parties had a child together, Gilberto, on August 13, 1966. Nelida filed her complaint for divorce on June 19, 1965. On August 2, 1968, the court entered an order for temporary child support in the amount of $35 a week, reserving the issue of alimony. On January 9, 1970, counsel for Nelida and Nelida represented to the court that the temporary order entered on August 2, 1968 was for support in the amount of $35 per week, split $20 and $15 for alimony and child support. On January 27, 1970, the court entered a judgment for the dissolution of marriage (Judgment), ordering Samuel to pay Nelida $20 per week in alimony (maintenance) and $15 per week in child support. On February 5, 1970, Nelida filed a petition for rule to show cause, which was continued to February 26, 1970 and then abandoned.

¶ 7 On September 30, 2011, Nelida filed a *pro se* petition for rule to show cause claiming that Samuel had not paid child support or maintenance since 1970. On October 17, 2011, Samuel was served with the rule to show cause in Texas.[1] In response, on November 10, 2011, Samuel filed a Motion to Terminate Maintenance and a Notice for Demand of Bill of Particulars. On January 19, 2012, Nelida filed a response to the Bill of Particulars that alleged that she "has never re-married or

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[1] Samuel resided in Illinois at all times until 1989, when he moved to Texas.

cohabitated with a boyfriend throughout the last forty years." On February 23, 2012, Samuel filed affirmative defenses to Nelida's Petition for Rule to Show Cause, which included allegations of *laches* and cohabitation. On September 18, 2012, the court requested that both parties file a memorandum of law relating to the following five issues: (1) whether the oral or written prove up applies, (2) *laches* as it applies to both maintenance and child support, (3) interest on maintenance and child support payments, (4) Nelida's Rule to Show Cause, and (5) attorney fees.

¶ 8 Samuel's memorandum of law contained an affidavit of Samuel that included statements that Nelida had resided with a Mr. Deffino from 1968 to 1970, and that she also resided with a Mr. Jose after the divorce. The affidavit states that Gilberto was also aware of these instances of cohabitation. The affidavit further states that Samuel had bought his son Gilberto a car in 1983.

¶ 9 After reviewing the briefs and after hearing live testimony from Samuel, Nelida and Samuel's sister, the trial court judge made the following findings of fact in a written order:

> "A. A Rule to Show Cause was issued against Respondent on February 24, 2012 to show why he should not be held in indirect

civil contempt for failing to pay child support and maintenance to Petitioner. Petitioner's Petition for Rule to Show Cause for Indirect Civil Contempt was continued time after time and a hearing finally occurred on November 16, 2012;

B. Petitioner was in open court on January 9, 1970 and she failed to inform the Court about the temporary order which reserved maintenance;

C. Petitioner collected public aid while GILBERTO CISNEROS, born on August 13, 1966, was a minor child. Petitioner failed to seek the assistance of Health and Family Services to collect her child support and maintenance when the child was a minor;

D. The Court has had an opportunity to assess the demeanor and testimony of the parties and Respondent's sister. Petitioner is not a credible witness;

E. Respondent testified that he did not pay child support or maintenance to Petitioner subsequent to 1971;

> F. The trial court's other findings of fact in the transcript are hereby incorporated by reference as though fully stated herein."

Based upon those findings of fact, the court discharged Petitioner's Rule to Show Cause pursuant to the statute of limitations and the doctrine of *laches*. Specifically, the court found: "Petitioner's claim for child support is barred pursuant to the statute of limitations"; "Petitioner's claim for maintenance is barred pursuant to the statute of limitations"; "This is a strong case to apply the doctrine of laches"; "Petitioner is further barred from receiving maintenance pursuant to the doctrine of laches"; "The statute of limitations did not toll when Respondent left the State of Illinois"; "Petitioner's Attorney's Fees are denied"; and "This is a final order." Further, in making this ruling, the trial court judge made the following oral remarks on the record:

> "THE COURT: Yes. And it's also - - I mean part of the laches is that he can't do discovery. It's so late he can't get any of the evidence that he might have available to him. I note that neither one of you brought the son to testify, which I thought was

> pretty notable, and there is just no way to know what the truth of the matter is without having some discovery done, and it's too late to do that, and she certainly was not -- she was dilatory in her efforts. I don't think he was ever not findable."

¶ 10 On December 20, 2012, Nelida filed a Notice of Appeal seeking to reverse the trial court's November 20, 2012 order claiming that neither the statute of limitations nor *laches* bars her claims for maintenance and child support. For the reasons that follow, we reverse the trial court's finding that Nelida's claims for unpaid child support were entirely barred by the statute of limitations, and affirm the trial court's finding that Nelida's claims for maintenance were barred by the doctrine of *laches*.

¶ 11 ANALYSIS

¶ 12 Nelida first argues that the trial court erred in determining her claims for child support and maintenance payments dating back to 1970 were barred by the statute of limitations. The applicability of a statute of limitations to a given case presents a question of law to be reviewed *de novo. Travelers Casualty & Surety Co. v. Bowman,* 229 Ill. 2d 461, 468 (2008). When dealing with money obligations that are payable in

installments, which was the case here, a separate cause of action accrues on, and the statute of limitations begins to run as each installment becomes due. *In re Marriage of Kramer*, 253 Ill. App. 3d 923, 928 (1993); *Light v. Light*, 12 Ill. 2d 502, 506 (1957).[2]

¶ 13 I. Tolling

¶ 14 One of Nelida's claims with respect to the statute of limitations is that the statute of limitations was tolled in 1989 when Samuel left Illinois and moved to Texas.

¶ 15 While section 13-208(a) of the Code of Civil Procedure (the Code) allows a statute of limitations to toll when the person against whom the claim is made is out of the state, see 735 ILCS 5/13-208(a) (West 2008), the following subsection provides that there are certain exclusions to this rule when a person cannot be considered "out of the state" for purposes of the tolling statute:

> "(b) For purposes of subsection (a) of this Section, no person shall be considered to be out of the State or to have departed from the State or to reside outside of the State during any period when he or she is

[2] Samuel argues that the principle that money obligations payable in installments represent separate causes of action was not the law until Public Act 85-2 became effective. However, this principle has been adopted by our courts since before 1957. See *Light*, 12 Ill. 2d at 506.

subject to the jurisdiction of the courts of this State with respect to that cause of action pursuant to Sections 2-208 and 2-209 of this Act, Section 10-301 of 'The Illinois Vehicle Code',[] Section 5.25 of the 'Business Corporation Act of 1983',[] or any other statute authorizing service of process which would subject that person to the jurisdiction of the courts of this State. If a person files an action in a court of this State and attempts to secure service of process upon a defendant pursuant to a statute referred to in the preceding sentence, but does not obtain service of process upon such defendant, such defendant shall not be considered to be subject to the jurisdiction of the courts of this State at the time such action was filed, for purposes of the preceding sentence of this section. This subsection (b) of Section 13-208 of this Act shall apply only to actions commenced after October 1, 1973." 735 ILCS 5/13-208(b) (West 2008).

Sections 2-209(a)(5) & (a)(9), referenced above, state:

> "(a) Any person, whether or not a citizen or resident of this State, who in person or through an agent does any of the acts hereinafter enumerated, thereby submits such person, and, if an individual, his or her personal representative, to the jurisdiction of the courts of this State as to any cause of action arising from the doing of any of such acts:
>
> * * *
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> (5) With respect to actions of dissolution of marriage, declaration of invalidity of marriage and legal separation, the maintenance in this State of a matrimonial domicile at the time this cause of action arose or the commission in this State of any act giving rise to the cause of action;
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> * * *
>
> (9) The failure to support a child, spouse or former spouse who has continued to reside in this State since the person either

> formerly resided with them in this State or directed them to reside in this State[]" 735 ILCS 5/2-209(a)(5) & (a)(9) (West 2008).

Clearly, based upon the reading of section 13-208(b) in conjunction with sections 2-209(a)(5) & (a)(9), Samuel could not be considered "out of the State" for purposes of tolling and, therefore, the statute of limitations did not toll for Nelida's child support and maintenance claims when Samuel left the State of Illinois in 1989.[3]

¶ 16 II. Statute of Limitations

¶ 17 Because we find that the statute of limitations was not tolled when Samuel left the state in 1989, we now determine whether the statute of limitations barred Nelida's claims for

[3] Nelida argues that *Haughton v. Haughton*, 76 Ill. 2d 439 (1979) is applicable in this case. However, *Haughton* is distinguishable from this case because the petitioner in *Haughton* was registering for a foreign judgment in the state of Illinois. *See id.* Here, petitioner is seeking to revive and enforce an Illinois judgment.

Nelida also argues that the statute of limitations should be tolled pursuant to the portion of section 13-208(b), which states that when the petitioner "attempts to secure service of process upon a defendant pursuant to a statute referred to in the preceding sentence, but does not obtain service of process upon such defendant, such defendant shall not be considered to be subject to the jurisdiction of the courts of the State at the time the action was filed." 735 ILCS 5/13-208 (West 2008). However, Nelida never attempted service on Samuel "because she did not know where he was residing." She further never attempted to seek assistance to locate Samuel in order to have him served. As such, the above portion of section 13-208(a) is not applicable here.

unpaid child support and maintenance.

¶ 18 Prior to July 1, 1997, a petition to revive a judgment for child support and maintenance (alimony) was governed by section 13-218 of the Code. See 735 ILCS 5/13-218 (West 2008). Section 13-218 states: "[a] petition to revive a judgment, as provided by Section 2-1601 of this code, may be filed no later than 20 years next after the date of entry of such judgment." 735 ILCS 5/13-218 (West 2008). On July 1, 1997, section 12-108 of the Code was enacted, which amended the statute of limitations for revival actions for child support. In pertinent part, section 12-108(a) states: "Except as herein provided, no judgment shall be enforced after the expiration of 7 years from the time the same is rendered, except upon the revival of the same by a proceeding provided by Section 2-1601 of this Act[] ***. Child support judgments, including those arising by operation of law, may be enforced at any time." 735 ILCS 5/12-108(a) (West 2008). Because the July 1, 1997 amendment effectively establishes different limitations periods for claims of child support and claims of maintenance, we will address each claim separately below.

¶ 19 a. Child Support

¶ 20 Section 12-108(a) of the Code makes it clear that child support payments may be enforced "at any time." 735 ILCS 5/12-

108(a) (West 2008). In *In re Marriage of Saputo*, 363 Ill. App. 3d 1011 (2006), the court was presented with an issue similar to the one presented here. See *Id.* In *Saputo*, the petitioner sought to file a "Petition for the Revival of Judgment" contending that the respondent had failed to make any child support payments since the divorce decree was entered in 1966, 38 years earlier. *Id.* at 1012. In response to the "Petition for Revival of Judgment," the respondent filed a motion for involuntary dismissal, claiming that the petitioner's petition for revival was time-barred under section 13-218 of the Code, which only permits revival of judgments within 20 years of the judgment date. *Id.* The court ultimately held that the petitioner was entitled to all child support payments owed because section 13-218 did not apply since there was no longer a need to "revive" child support payments pursuant to section 12-108(a). Specifically, the court reasoned as follows:

> "The language added by the 1997 amendment plainly and unambiguously provides that child support judgments may be enforced at any time, and section 12–108(a) as amended thus excludes child support judgments from those judgments that have a time limit on their enforcement and require revival. ***

Nor do we find that section 13-218 conflicts with section 12-108(a). Section 13-218 is titled 'Revival of judgment' and provides in relevant part as follows:

'Judgments in a circuit court may be revived as provided by Section 2-1601 of this Act, within 20 years next after the date of such judgment and not after * * *.' 735 ILCS 5/13-218 (West 2004).

Section 13-218 by its plain terms places a 20-year limitations period on the revival of judgments. The 1997 amendment to section 12-108(a), however, excepts child support judgments from those judgments that require revival. See 735 ILCS 5/12-108(a) (West 2004). Since actual enforcement of child support judgments may occur 'at any time' pursuant to the amended section 12-108(a), there is no need for revival of these judgments under section 13-218. Compare 735 ILCS 5/12-108(a) and 13-218 (West 2004); see also *First National Bank of Marengo v. Loffelmacher,* 236 Ill. App. 3d 690, 695, 177

Ill. Dec. 299, 603 N.E.2d 80 (1992) (noting that since enforcement of judgments may occur up until the expiration of the seven-year period under section 12-108(a), there is no concomitant need for revival under section 13-218 during that period). This is further evident in looking to section 2-1602 of the Code. 735 ILCS 5/2-1602 (West 2004). Section 2-1602 became effective on August 21, 2002, and sets forth the mechanism for reviving a judgment. The section specifically provides that it 'does not apply to a child support judgment * * *, which need not be revived as provided in this [s]ection and which may be enforced at any time as provided in [s]ection 12-108.' 735 ILCS 5/2-1602(g) (West 2004). It is thus clear that the 1997 amendment to section 12-108(a) excepts child support judgments from the application of section 13-218 and its 20-year limitations period for revival of judgments.

We recognize that [the petitioner] here titled her petition one for revival of

judgment. However, it is apparent from her petition that she was seeking payment pursuant to the 1966 divorce decree ordering weekly child support. In light of our holding that revival is not necessary under section 12–108 because child support judgments may be enforced at any time, we construe her petition as one seeking enforcement of these weekly judgments and conclude that the circuit court erred in finding this petition time-barred under section 13–218 of the Code." *In re Marriage of Saputo*, 363 Ill. App. 3d 1011, 1014-15 (2006). Thus, based upon the holding in *Saputo*, the 1997 enactment of section 12-108(a), it is no longer necessary to "revive" child support judgments, making section 13-218 inapplicable.[4] However, the court in *Saputo* did not decide "whether the 1997 amendment to 12-108(a) applies retroactively so as to enable [the petitioner]

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[4] We realize that in *In re Marriage of Smith*, 347 Ill. App. 3d 395 (2004), the court stated that "Illinois courts have consistently held that an Illinois divorce decree ordering payment of child support is a money judgment subject to the 20-year statute of limitation for the enforcement of judgments contained in section 13-208 of the Code of Civil Procedure." *Id*. at 402. However, the issue presented before the *Smith* court was whether to apply the 20-year statute of limitations contained in section 13-218 or the 5-year statute of limitations in section 13-205, and the application of section 12-108(a) was never raised. More importantly, though, the court held the petitioner in *Smith* could collect the child support owed because she filed her petition within 20 years of the date of the first missed payment. Thus, the applicability of section 12-108(a) was never before the court because there was no need to argue that section 12-108(a) applied since none of the missed payments fell outside the 20-year statute of limitations.

to enforce those child support judgments that had become time-barred under section 13-218 at the time the 1997 amendment to section 12-108(a) became effective on July 1, 1997." *Id.* at 1015. Thus, before applying section 12-108(a) to the child support payments owed in this case, we must determine whether any of the child support payments in this case were time-barred prior to the enactment of the 1997 amendment to section 12-108(a).

¶ 21 When dealing with money obligations that are payable in installments, which was the case here, a separate cause of action accrues on, and the statute of limitations begins to run as each installment becomes due. *Kramer*, 253 Ill. App. 3d at 928; *Light*, 12 Ill. 2d at 506. Here, each weekly installment for child support payments would have began the running of a separate 20-year statute of limitations. As such, any claim for 1970 child support payments would have been barred as of 1990, 1971 payments barred as of 1991, 1972 payments barred as 1992, 1973 payments barred as of 1993, 1974 payments barred as of 1994, 1975 payments barred as of 1995, 1976 payments barred as of 1996, and any payments owed in 1977 up through July 1 would have been barred as of July 1, 1997 (which was when section 12-108(a) was enacted). Thus, any payments owed between January 27, 1970 (the date of entry of the decree) and July 1, 1977 would have been time-barred under the 20-year statute of limitations prior to section 12-

108(a)'s amendment removing any requirement to "revive" child support judgments. Conversely, Nelida's claims for child support payments from July 1, 1977 though August 13, 1984 (the date Gilberto reached the age of majority) were not barred by the 20-year statute of limitations prior to the July 1, 1997 amendment.

¶ 22 As for the child support payments that were due between January 27, 1970 and July 1, 1977 and found to be time-barred under section 13-218, we must determine whether section 12-108(a) could be applied retroactively to revive those time-barred claims.

¶ 23 Subsequent legislation extending the statute of limitations cannot be applied retroactively to revive a time-barred cause of action unless the legislature indicates otherwise. *Kramer*, 253 Ill. App. 3d at 928. Here, there is no indication from the legislature that the amendment made to section 12-108(a) was intended to be applied retroactively, and our courts have routinely held that "[w]here an amendatory act lengthens a limitations period"--a procedural law--"the amendment shall govern all actions not previously barred." *In re Marriage of Davenport*, 388 Ill. App. 3d 988, 993 (2009); *Peterson v. Hinsdale Women's Clinic*, 278 Ill. App. 3d 1007, 1012 (1996). Thus, any child support payments due between January 27, 1970 and July 1, 1977 are barred because section 12-108(a) cannot revive time-

barred claims.

¶ 24 In sum, we find that the statute of limitations barred Nelida from collecting child support payments due from January 27, 1970 through July 1, 1977. However, we find the child support payments which became due from July 1, 1977 until Gilberto reached the age of majority on August 13, 1984 are not time-barred.

¶ 25 b. Maintenance

¶ 26 The trial court held that Nelida's maintenance claims were barred by the statute of limitations and *laches*. Here, the 1970 Judgment ordered Samuel to pay Nelida $20 a week in maintenance support. There was no termination date on maintenance payments in the Judgment, and Samuel never sought to terminate the payments until the filing of his 2011 motion to terminate, which the trial court did not rule on. Accordingly, maintenance payments became due at $20 per week from January 27, 1970 through the present date (and foreseeable future, pending any termination order).

¶ 27 Unlike the child support analysis above, we find that the 1997 amendment to section 12-108(a), did not alter the 20-year statute of limitations period applicable to the revival of maintenance judgments that is found in section 13-218. Rather, the 1997 amendment to section 12-108(a) allowed maintenance

judgments to be enforced within 7 years of such payments becoming due while leaving untouched the requirement that maintenance judgments be revived within 20 years of becoming due.

¶ 28 Section 12-108(a) states: "Except as herein provided, no judgment shall be enforced after the expiration of 7 years from the time the same is rendered, except upon the revival of the same by a proceeding provided by Section 2-1601 of this Act[] ***." 735 ILCS 5/12-108(a) (West 2008).

> "Section 2–1601 of the Code of Civil Procedure formally abolished the common law doctrine of *scire facias* and the legislature codified it. An action to revive a judgment, formerly brought under a writ of *scire facias,* is now brought pursuant to section 13–218 of the Code of Civil Procedure. 735 ILCS 5/13–218 (West 2000). That section provides for the revival of a judgment so long as such proceedings are commenced within 20 years from the date of the entry of the underlying judgment." *James T. Haddon, Ltd. v. Weiss*, 342 Ill. App. 3d 144, 148 (2003).

Accordingly, because the weekly maintenance payments have not been terminated, and as each weekly maintenance payment was owed

a separate 20-year statute of limitations began to run, see *Kramer*, 253 Ill. App. 3d at 928, pursuant to the language of section 12-108(a), Nelida may *enforce* any maintenance judgments within 7 years of her petition (or any future date pending any termination of maintenance), and pursuant to section 13-218, she may seek to *revive* any maintenance judgments within 20 years of her petition (or any future date pending any termination of maintenance). Given that not all of Nelida's maintenance claims were barred by the statute of limitations, we must next address the trial court's finding that Nelida's maintenence claims were barred by the doctrine of *laches*.

¶ 29 *Laches* is an equitable doctrine that precludes the assertion of a claim by a litigant whose unreasonable delay in raising that claim has prejudiced the opposing party. *Davenport,* 388 Ill. App. 3d at 993. The party asserting *laches* as a defense to a claim must prove two elements: (1) lack of diligence by the party asserting the claim; and (2) injury or prejudice as a result of the delay to the party asserting *laches. Id.* It is only when, considering all the circumstances, it would be inequitable and unjust because of the delay to grant relief to which the complainant would otherwise be entitled that the doctrine will be applied. *In the Matter of the Estate of Bowman*, 140 Ill. App. 3d 976, 979 (1986).

¶ 30 When fixing the period in which rights and claims would be barred by *laches,* equity follows the law, and courts of equity adopt the period of limitations fixed by statute. *Smith*, 347 Ill. App. 3d at 401. Thus, when a claim or right is not barred by a limitations period, *laches* will not apply unless special circumstances make it inequitable to grant the relief requested. *Id*. The decision as to whether to apply *laches* to a given case rests within the sound discretion of the trial court, and we will not disturb that decision absent an abuse of discretion. *Davenport*, 388 Ill. App. 3d at 993. Such an abuse of discretion occurs only where no reasonable person would take the view adopted by the trial court. *In re Marriage of Los*, 136 Ill. App. 3d 26, 30 (1985).

¶ 31 While there is no doubt that Nelida was less than diligent in her attempt to collect maintenance and child support as she waited 40 years to make any effort to collect[5], Samuel must also show that this 40-year delay resulted in injury or prejudice to him. Samuel claims that he was prejudiced by the delay because: (1) Nelida was dishonest to the court about her temporary child

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[5] The record indicates that Samuel lived in Illinois through 1989, that he was in contact with his son and Nelida (albeit briefly), and that between 1971 and 2011, there is no evidence or allegations that Nelida sought any assistance whatsoever to collect the unpaid child support or maintenance, even though such services were available to her.

support order, and (2) he cannot conduct discovery in order to show a defense, specifically that Nelida cohabitated with another man or that Nelida became self sufficient. The trial court agreed with Samuel and found that Samuel's inability to conduct discovery in order to present a defense amounted to prejudice that was sufficient to apply the doctrine of *laches* to Nelida's maintenence claims. In coming to this conclusion, the trial court relied on the fact that the hotel where Nelida was alleged to have been cohabitating with another man had been demolished, the fact that Nelida no longer had any financial documents that would show cohabitation, and the fact that the whereabouts and identity of several witnesses were unknown (namely, the men Nelida allegedly cohabitated with). Although there was no reason given as to why Gilberto Cisneros could not testify regarding any of Samuel's potential defenses, the trial court, based upon all the evidence, found that the doctrine of *laches* to be warranted here. While we might not have come to the same conclusion as the trial court on this issue, based upon the standard of review, we must affirm the trial court's ruling because we cannot say that no reasonable person would take the view adopted by the trial court. Therefore, there was no abuse of discretion.

¶ 32 CONCLUSION

¶ 33 For the foregoing reasons, we reverse the trial court's

finding that Nelida's child support claims were entirely barred by the statute of limitations and remand this issue for further proceedings consistent with this order, and we affirm the trial court's finding that Nelida's maintenance claims were barred by *laches* as we cannot say that no reasonable person would come to the same conclusion.

¶ 34 Affirmed in part; reversed in part and remanded.