



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ROSEMARIE ESMARIALINO,
Petitioner,

G.R. No. 192352

Present:

- versus -

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

EMPLOYEES' COMPENSATION
COMMISSION, SOCIAL
SECURITY SYSTEM and
JIMENEZ PROTECTIVE and
SECURITY AGENCY,
Respondents.

Promulgated:

JUL 23 2014

X-----X

RESOLUTION

REYES, J.:

For review is the Decision¹ rendered on November 10, 2009 and Resolution² issued on May 20, 2010 by the Court of Appeals (CA) in CA-G.R. SP No. 103521. The CA affirmed the Decision³ of the Employees' Compensation Commission (ECC), which denied Rosemarie Esmarialino's (Rosemarie) claim for death benefits under Presidential Decree No. 626, as amended, otherwise known as the Employees' Compensation Law.

As aptly summed up by the CA, the facts of the case are as follows:

¹ Penned by Associate Justice Rosalinda Asuncion-Vicente, with Associate Justices Normandie B. Pizarro and Ricardo R. Rosario, concurring; *rollo*, pp. 104-110.

² Id. at 118-119.

³ Id. at 40-46.

1

[Rosemarie's] husband, Edwin C. Esmarialino (Edwin), with SS No. 33-1555504, worked as a Security Guard for Jimenez Protective and Security Agency since May, 1993. For the years 2002, 2003 and 2004, Edwin was assigned [at] the Mercury Drug Store-Gagalangin Branch.

In May, 2004, Edwin was diagnosed through biopsy with *Acute Myelogenous Leukemia* at the Chinese General Hospital. In September, 2004, Edwin was also admitted at the Jose Reyes Memorial Hospital because of persistent *petechial rash*, *malaise* and *anorexia*. In October, 2004, he was again hospitalized at the Chinese General Hospital. On March 20, 2005, he succumbed to *Sepsis secondary to Pneumonia*. Edwin's death certificate indicates that the immediate cause of his death is *Cardiopulmonary Arrest*. Antecedent cause is *Sepsis secondary to Pneumonia* and the underlying cause of which is *Pneumonia*. Other significant condition contributing to his death is *Acute Myelogenous Leukemia*.

Edwin made his last premium contribution in May, 2004. On account of his ailment, Edwin was granted the following medical benefits under the SSS law: a) SSS Temporary Total Disability (TTD) benefits of 120 days effective September 19, 2004; b) SSS Permanent Partial Disability (PPD) benefits of twenty-three (23) months effective February 11, 2005; and c) SSS Death with Funeral Benefits effective March 20, 2005 granted to his beneficiaries.

The SSS, however, denied the claim for EC death benefits on the ground that "there is no causal relationship between *Acute Myelogenous Leukemia* to the member's job as a security guard."

[Rosemarie] appealed the SSS decision to the [ECC]. The ECC likewise dismissed the claim, rationalizing as follows:

"The Commission agrees with the decision of the [SSS] in denying the claim of [Rosemarie]. There is no clear proof of the existence of a causal relationship between the illness which caused the member's demise and his occupation as Security Guard under Jimenez Protective and Security Agency. There is no showing of an occupational exposure which can increase the risk of developing *leukemia*. *Pneumonia*, a pulmonary infection, is a part of the natural course of this illness as explained below:

"Fever, splenomegaly, hepatomegaly, lymphadenomegaly, sternal tenderness and evidence of infection and hemorrhage are often at diagnosis." [Harrison's Principles of Internal Medicine: Acute Myeloid Leukemia (Clinical Presentation), 16th Ed., Vol. 1, pp. 633].

"It also bears stressing that the conditions laid down by P.D. 626, as amended, for the claimed illnesses to be compensable were not satisfied in the case at bar. x x x."⁴
(Citations omitted)

To challenge the ECC's denial of her claims, Rosemarie filed before the CA a petition for review under Rule 43 of the Rules of Court. Rosemarie ascribed grave error on the part of the ECC when it concluded that leukemia, which significantly contributed to Edwin Esmarialino's (Edwin) death, had no causal relation with the work of a security guard. Rosemarie argued that Edwin's employment regularly required him to take either straight 12 or 24 hours of duty, with only a 24-hour rest period on the last day of each month. Edwin was thus constantly sleep-deprived and his immune system became weak. Eventually, he succumbed to leukemia. The Social Security System (SSS) and the ECC, on the other, averred that Rosemarie failed to offer substantial evidence to prove that Edwin's working conditions increased the risk of contracting leukemia.⁵

On November 10, 2009, the CA rendered the herein assailed Decision affirming the ECC's ruling. The CA declared:

Under the Rules Implementing PD 626, for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A", otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.

Stated otherwise, if an ailment or sickness is not listed as an occupational disease, the claimant must prove that the risk of contracting the illness suffered was increased by his or her working conditions. The degree of proof required is substantial evidence or that amount of relevant evidence which a reasonable mind might accept as adequate to justify the conclusion.

Leukemia is considered as an occupational disease if the nature of employment involved exposure to X-rays, ionizing particles of radium or other radioactive substances or other forms of radiant energy, or it is contracted by operating room personnel due to exposure to anesthetics.

X X X X

[Rosemarie] claims that Edwin's weakened immune system brought about by **sleep loss due to his round-the-clock hour duty as a security guard**, contributed largely to his illness. In other words, the risk of contracting acute myelogenous leukemia was increased by Edwin's work or working conditions.

X X X X

The causes of leukemia are the following:

⁵

Id. at 106-107.

1. Acute Myeloid Leukemia

- Chromosomal or hereditary abnormalities such as Down Syndrome and Klinefelter's Syndrome

- Drugs like chloramphenicol, phenylbutazone and chloroquine; anti[-]cancer drugs like procarbazine, melphalan and etoposide

- Chemical and Occupational exposure like exposure to benzene which is used as a solvent in the chemical, plastic, rubber and drug industries. Smoking and exposure to petroleum products, paint, embalming fluids, ethylene oxide herbicides, and pesticides have been associated with leukemia.

- Radiation exposure

x x x x

Other than [Rosemarie's] allegation that Edwin suffered sleep deprivation due to his work schedule and which resultantly weakened his immune system, [Rosemarie] has not adduced any single proof, in fact, she claimed, that, as a security guard, Edwin was exposed to cancer-causing chemicals in the place/s where he was assigned. x x x.

Much as we commiserate with [Rosemarie], our sympathy cannot justify an award which is not authorized by law. If diseases not intended by the law to be compensated are inadvertently or recklessly included, the integrity of the State Insurance Fund is endangered. x x x.⁶ (Citations omitted and emphasis in the original)

The CA, through the herein assailed Resolution dated May 20, 2010, likewise denied Rosemarie's motion for reconsideration to the foregoing.

Hence, the instant Petition for Review on *Certiorari*⁷ anchored on the issues of whether or not:

I. the [CA] gravely erred in sustaining the Decision rendered by the [ECC], which denied [Rosemarie's] claim for [Edwin's] death benefits; and

II. the illness which caused the death of [Edwin] is work-related.⁸

⁶ Id. at 107-109.

⁷ Id. at 10-22.

⁸ Id. at 16.

In support of the petition, Rosemarie reiterated the arguments she had advanced in the proceedings below anent Edwin's constant loss of sleep, which weakened his immune system, thus, increasing the latter's risk of contracting leukemia.

In its Comment⁹ to the instant petition, the SSS cited *Debaudin v. SSS*¹⁰ to stress that in the event of a claimant's failure to present competent medical history, records or physician's report substantiating the allegation that there is a reasonable connection between one's work and ailment, no compensation can be given. Awards cannot rest on speculations and presumptions. Further, factual findings of quasi-judicial agencies, like the ECC, the jurisdictions of which are confined to specific matters, should be accorded great weight and even finality. The rule holds true especially in this case where the SSS and ECC's findings were affirmed by the CA.

The ECC likewise filed its Comment¹¹ emphasizing that "[t]here was no showing of an occupational exposure which would increase the risk of developing the claimed ailments."¹² Citing *Government Service Insurance System v. Cuntapay*,¹³ the ECC argued that medical evidence is indispensable, as in the case at bar, where the causal connection between one's work and disease is not apparent to a lay man or readily observable without the conduct of a medical examination. The ECC pointed out that if Rosemarie's claims would be granted, it would be tantamount to compensating every employee's sickness brought about by a weakened immune system to the detriment of the State Insurance Fund.

The Court denies the petition.

It is settled that Rule 45 limits us merely to the review of questions of law raised against the assailed CA decision.¹⁴ The Court is generally bound by the CA's factual findings, except only in some instances, among which is, when the said findings are contrary to those of the trial court or administrative body exercising quasi-judicial functions from which the action originated.¹⁵

⁹ Id. at 133-144.

¹⁰ 560 Phil. 72 (2007).

¹¹ *Rollo*, pp. 121-131.

¹² Id. at 127.

¹³ 576 Phil. 482 (2008).

¹⁴ Please see *Mercado v. AMA Computer College-Parañaque City, Inc.*, G.R. No. 183572, April 13, 2010, 618 SCRA 218, 233, citing *Montoya v. Transmed Manila Corp./Mr. Ellena, et al.*, 613 Phil. 696, 707 (2009).

¹⁵ Please see *AMA Computer College-East Rizal, et al. v. Ignacio*, 608 Phil. 436, 454 (2009).

In the case at bar, the issues are beyond the ambit of a petition filed under Rule 45 of the Rules of Court since they are factual in nature, essentially revolving on the alleged increased risk for Edwin to contract leukemia as a result of hardships incidental to his employment as a security guard. The CA, ECC and SSS uniformly found that Rosemarie cannot be granted death benefits as she had failed to offer substantial evidence to prove her claims. Besides, even if this Court were to exercise leniency and resort to re-evaluating the factual findings below, still, the instant petition is susceptible to denial. The SSS, ECC and CA decisions are amply supported, hence, the Court finds no compelling reason to order their reversal.

In *Benito E. Lorenzo v. Government Service Insurance System (GSIS) and Department of Education (DepEd)*,¹⁶ a case involving a teacher, who likewise died of leukemia, the Court ruled that:

[T]he coverage of leukemia as an occupational disease relates to one's employment as an operating room personnel ordinarily exposed to anesthetics. x x x There was no showing that her work involved frequent and sufficient exposure to substances established as occupational risk factors of the disease. x x x.

x x x x

x x x Petitioner failed to show that the progression of the disease was brought about largely by the conditions in [x x x's] work. Not even a medical history or records was presented to support petitioner's claim.

x x x x

x x x [A] bare allegation [is] no different from a mere speculation. As we held in *Raro v. Employees Compensation Commission*:

The law, as it now stands requires the claimant to prove a positive thing – the illness was caused by employment and the risk of contracting the disease is increased by the working conditions. To say that since the proof is not available, therefore, the trust fund has the obligation to pay is contrary to the legal requirement that proof must be adduced. The existence of otherwise non-existent proof cannot be presumed.

It is well to stress that the principles of “presumption of compensability” and “aggravation” found in the old Workmen's Compensation Act is expressly discarded under the present compensation scheme. As illustrated in the said *Raro* case, the new principle being applied is a system based on social security principle; thus, the introduction of “proof of increased risk.” As further declared therein:

¹⁶

G.R. No. 188385, October 2, 2013.

The present system is also administered by social insurance agencies – the Government Service Insurance System and Social Security System – under the Employees Compensation Commission. The intent was to restore a sensible equilibrium between the employer's obligation to pay workmen's compensation and the employee's right to receive reparation for work-connected death or disability.

x x x x

Compassion for the victims of diseases not covered by the law ignores the need to show a greater concern for the trust fund to which the tens of millions of workers and their families look to for compensation whenever covered accidents, diseases and deaths occur.¹⁷ (Citations omitted)

It is worth noting that in an attempt to prove that Edwin's employment increased his chances of contracting leukemia, Rosemarie presented copies of her husband's daily time records.¹⁸ However, even if the Court were to co-relate these to the medical abstract¹⁹ submitted by Rosemarie, there is nothing in the documents from which the Court can infer or conclude that indeed, Edwin's risk of contracting leukemia increased by reason of his work conditions.

WHEREFORE, in view of the foregoing, the instant petition is **DENIED**. The Decision and Resolution of the Court of Appeals dated November 10, 2009 and May 20, 2010, respectively, in CA-G.R. SP No. 103521, are **AFFIRMED**.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice


¹⁷ Id.

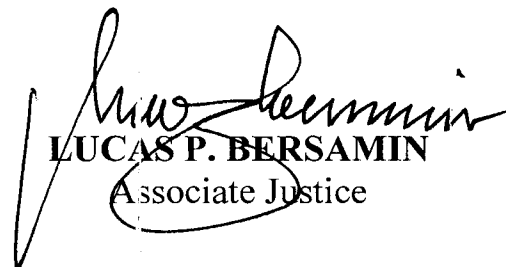
¹⁸ *Rollo*, pp. 55-71.

¹⁹ Id. at 51-52.

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice

h