Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GOVERNMENT SERVICE INSURANCE SYSTEM,	**G.R. No. 199780**
Petitioner,	Present:
- versus -	CARPIO, *J., Chairperson,* BRION, DEL CASTILLO, MENDOZA, and LEONEN, *JJ.*
JOSE M. CAPACITE,	Promulgated:
Respondent.	SEP 24 2014

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DECISION

BRION, *J.*:

This is an appeal under Rule 43 of the Rules of Court of the decision[1] dated August 4, 2011 and the resolution[2] dated November 24, 2011 of the Court of Appeals (*CA*) in CA-GR SP No. 116030. The appealed decision reversed and set aside the Decision dated June 29, 2010 of the Employees' Compensation Commission (*ECC*), which denied the claim for compensation benefits under Presidential Decree No. 626 (*PD 626*)[3] filed by Jose M. Capacite (*Jose*).

The Antecedent Facts

Elma Capacite (*Elma*) was an employee in the Department of Agrarian Reform (*DAR*) – Eastern Samar Provincial Office, Borongan, Eastern Samar, who successively held the following positions between the

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1 *Rollo*, pp. 34-40, penned by then CA Associate Justice Bienvenido L. Reyes (now a Member of this Court), concurred in by then CA Associate Justice Estela M. Perlas-Bernabe (now also a Member of this Court) and Justice Elihu A. Ybanez.

2 Id. at 32-33.

3 Further Amending Certain Articles of Presidential Decree No. 442 Entitled "Labor Code of the Philippines."

periods of November 8, 1982 to July 15, 2009: Junior Statistician, Bookkeeper, Bookkeeper II, and finally as Accountant I.[4]

On May 11, 2009, due to persistent cough coupled with abdominal pain, Elma was admitted at the Bethany Hospital. The pathology examination showed that she was suffering from *"Adenocarcinoma, moderately differentiated, probably cecal origin with metastases to mesenteric lymph node and seeding of the peritoneal surface."*[5]

On July 16, 2009, Elma died due to *"**Respiratory Failure secondary to Metastatic Cancer to the lungs**; Bowel cancer with Hepatic and Intraperitoneal Seeding and Ovarian cancer."*[6]

On May 13, 2009, Elma's surviving spouse, Jose, filed a claim for ECC death benefits before the Government Service Insurance System (*GSIS*) Catbalogan Branch Office, alleging that Elma's stressful working condition caused the cancer that eventually led to her death.[7]

On August 18, 2009, the GSIS denied Jose's claim. The GSIS opined that Jose had failed to present direct evidence to prove a causal connection between Elma's illness and her work in order for the claimant to be entitled to the ECC death benefits.[8]

Jose appealed the GSIS decision to the ECC. On June 29, 2010, the ECC denied Jose's claim for death benefits.[9] The ECC held that colorectal cancer is not listed as an occupational and compensable disease under Annex "A" of the Amended Rules on Employee's Compensation.[10] Although its item 17 provides that *"[c]ancer of the lungs, liver and brain shall be compensable,"* the rules required *"that it had been incurred by employees working as **vinyl chloride workers, or plastic workers.**"*[11]

Jose appealed the ECC ruling to the CA under Rule 43 of the Rules of Court. On August 4, 2011, the CA granted the petition and reversed the ECC findings. *Without discussing the nature of Elma's employment*, the CA ruled that she had "adenocarcinoma of the lungs" or "lung cancer," which is a respiratory disease listed under Annex "A" of the Amended Rules on Employee's Compensation, entitling her heirs to death benefits even if she had not been a *"vinyl chloride worker, or plastic worker."*

The CA further ruled that Jose was no longer required to provide evidence that would directly connect the deceased's illness with her working conditions; that it was enough that the nature of her employment contributed

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4 *Rollo*, p. 34.
5 Id. at 35.
6 Id.
7 Id.
8 Id.
9 Id.
10 Id. at 37.
11 Approved under ECC Resolution No. 247-A, dated April 13, 1977.

to the development of the disease. As a bookkeeper, **the CA assumed that Elma had been exposed to voluminous dusty records and other harmful substances that aggravated her respiratory disease.**

GSIS filed a motion for reconsideration which the CA denied in its resolution dated November 24, 2011. The GSIS now comes before us for a final review.

The Issues

GSIS raises the following assignment of errors:

I.

THE CA ERRED IN RULING THAT METASTASIZED TO THE LUNGS IS AN AILMENT AKIN TO RESPIRATORY DISEASE UNDER ANNEX "A" OF P.D. NO. 626, AS AMENDED, OR THAT SUCH DISEASE IS WORK-RELATED.

II.

THE CA ERRED IN APPLYING THE LIBERAL INTERPRETATION OF THE RULES SINCE THE LIMITED RESOURCES DERIVED FROM ECC CONTRIBUTIONS SHOULD ONLY BE APPLIED TO LEGITIMATE CLAIMS FOR COMPENSATION BENEFITS.

GSIS primarily argues that Elma's illness is not work-related. It is neither listed under Annex "A" of the Amended Rules on Employee's Compensation, nor was it caused by her working conditions. GSIS asserts that the liberal attitude to grant benefits should not be used to defeat the mandate of the GSIS to provide meaningful protection to all government employees who are actually working under hazardous circumstances.

The Court's Ruling

We find the petition meritorious.

PD 626, as amended, defines **compensable sickness** as "any illness definitely accepted as an occupational disease listed by the Commission, **or** any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by the working conditions." Of particular significance in this definition is the use of the conjunction *"or,"* which indicates alternative situations.

Based on this definition, we ruled in *GSIS v. Vicencio*[12] that for sickness and the resulting death of an employee to be compensable, the claimant must show either: (1) that it is a result of an occupational disease listed under Annex "A" of the Amended Rules on Employees' Compensation

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[12] G.R. No. 176832, May 21, 2009, 588 SCRA 138, 146.

with the conditions set therein satisfied; or (2) if not so listed, that the risk of contracting the disease was increased by the working conditions.

While item 17, Annex "A" of the Amended Rules of Employee's Compensation considers lung cancer to be a compensable occupational disease, it likewise provides that the employee should be employed as a vinyl chloride worker or a plastic worker. In this case, however, Elma did not work in an environment involving the manufacture of chlorine or plastic, for her lung cancer to be considered an occupational disease.[13] There was, therefore, no basis for the CA to simply categorize her illness as an occupational disease without first establishing the nature of Elma's work. Both the law and the implementing rules clearly state that the given alternative conditions must be satisfied for a disease to be compensable.

No proof exists showing that Elma's lung cancer was induced or aggravated by her working conditions

We also do not find that Elma's cause of death was work-connected. As we earlier pointed out, entitlement to death benefits depends on whether the employee's disease is listed as an occupational disease or, if not so listed, whether the risk of contracting the disease has been increased by the employee's working conditions.

In reversing the ECC and granting the claim for death benefits, the CA relied on the case of *GSIS v. Vicencio*,[14] which particularly states:

> Granting, however, that the only cause of Judge Vicencio's death is lung cancer, we are still one with the CA in its finding that the working conditions of the late Judge Vicencio contributed to the development of his lung cancer.
>
> It is true that under Annex "A" of the Amended Rules on Employees' Compensation, lung cancer is occupational only with respect to vinyl chloride workers and plastic workers. However, this will not bar a claim for benefits under the law if the complainant can adduce substantial evidence that the risk of contracting the illness is increased or aggravated by the working conditions to which the employee is exposed to.
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> It is well-settled that the degree of proof required under P.D. No. 626 is merely substantial evidence, which means, "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." What the law requires is a reasonable work-connection and not a direct causal relation. ***It is enough that the hypothesis on which the workman's claim is based is probable. Medical opinion to the contrary can be disregarded especially where there is some basis in the facts for inferring a work-connection. Probability, not certainty, is the touchstone. It is not required that the employment be the sole factor in the growth, development or acceleration of a claimant's illness to entitle***

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[13] Under item 17 of Annex "A," *cancer of the lungs, liver and brain"* shall be compensable, but only when it had been incurred by employees working as *"vinyl chloride workers, or plastic workers."*

[14] *Supra* note 12.

> ***him to the benefits provided for. It is enough that his employment contributed, even if to a small degree, to the development of the disease.*** [Emphasis ours]
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> x x x x

We hold that the CA's application of the *Vicencio* ruling is misplaced. The correct implementing rule under PD 626 or Section 1(b), Rule III of the Amended Rules on Employee's Compensation in fact provides that:

> **Section 1. Grounds.**
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> x x x x
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> (b) 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" of these Rules with the conditions set therein satisfied, ***otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions.*** [Emphasis ours]

The CA failed to consider that what moved the Court to grant death benefits to the heirs of Judge Vicencio was the proof that the judge had been in contact with voluminous and dusty records. The Court also took judicial notice of the *dilapidated conditions* of Judge Vicencio's workplace:

> The late Judge Vicencio was a frontline officer in the administration of justice, being the most visible living representation of this country's legal and judicial system. It is undisputed that throughout his noble career from Fiscal to Metropolitan Trial Court Judge, and, finally, to RTC Judge, his work ***dealt with stressful daily work hours, and constant and long-term contact with voluminous and dusty records. We also take judicial notice that Judge Vicencio's workplace at the Manila City Hall had long been a place with sub-standard offices of judges and prosecutors overflowing with records of cases covered up in dust and are poorly ventilated. All these, taken together, necessarily contributed to the development of his lung illness."*** [Emphasis ours]

In contrast with the present case, Jose merely alleged that throughout Elma's 27-year service at the DAR, she had a very demanding job; that she rose from the ranks as a Junior Statistician, until she reached the position of Accountant I. Jose also explained that Elma had to examine various financial statements for accuracy; perform complex accounting reports; and prepare financial statements. She also had to constantly render overtime work, even during weekends, in order to study, analyze, balance, formulate and finalize reports. All these involved prolonged sitting, exposure to cold room temperature at the office, physical effort and mental exertion, making her highly susceptible to physical and mental fatigue, stress and strain.[15]

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[15] *Rollo*, pp. 50-51.

The rule is that the party who alleges an affirmative fact has the burden of proving it because mere allegation of the fact is not evidence of it.[16] Proof of direct causal connection is not, however, indispensably required. The law merely requires substantial evidence – such relevant evidence as a reasonable mind might accept as adequate to support a conclusion that the claimant's employment contributed, even if to a small degree, to the development of the disease.[17] Thus, there is no requirement that the employment be the sole factor in the growth, development or acceleration of a claimant's illness for the latter to be entitled to the benefits provided for.[18] However, it is important to note that ***adequate proof*** must be presented to substantiate the claim for death benefits.

In *Dator v. Employees' Compensation Commission,*[19] we emphasized that the deceased employee had been proven to have been exposed to dusty substances and unsanitary conditions:

> Until now the cause of cancer is not known. Despite this fact, however, the Employees' Compensation Commission has listed some kinds of cancer as compensable. There is no reason why cancer of the lungs should not be considered as a compensable disease. The deceased worked as a librarian for about 15 years. ***During all that period she was exposed to dusty books and other deleterious substances in the library under unsanitary conditions.*** [Emphasis ours]

In *Raro v. Employees' Compensation Commission,*[20] we stated that medical science cannot, as yet, positively identify the causes of various types of cancer. It is a disease that strikes people in general. The nature of a person's employment appears to have no relevance. Cancer can strike a lowly paid laborer, or a highly paid executive, or one who works on land, in water, or in the bowels of the earth. It makes no difference whether the victim is employed or unemployed, a white collar employee or a blue collar worker, a housekeeper, an urban dweller or the resident of a rural area.

By way of exception, certain cancers have reasonably been traced to or considered as strongly induced by specific causes. For example, heavy doses of radiation (as in Chernobyl, USSR), cigarette smoke over a long period for lung cancer, certain chemicals for specific cancers, and asbestos dust, among others, are generally accepted as increasing the risks of

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16 *Luxuria Homes, Inc. v. Court of Appeals,* G.R. No. 125986, January 28, 1999, 302 SCRA 315, 325; *Coronel v. Court of Appeals*, G.R. No. 103577, October 7, 1996, 263 SCRA 15, 35.

17 *Supra* note 12, at 146, *citing La O v. Employees' Compensation Commission*, G.R. No. L-50918, May 17, 1980, 97 SCRA 780, 790.

18 *Salalima v. Employees' Compensation Commission,* G.R. No. 146360, May 20, 2004, 428 SCRA 715, 722-723, *citing Salmone v. Employees' Compensation Commission and Social Security System,* G.R. No. 142392, 26 September 2000, 341 SCRA 150.

19 197 Phil. 590, 593 (1982).

20 G.R. No. L-58445, April 27, 1989.

contracting specific cancers. In the absence of such clear and established empirical evidence, the law requires proof of causation or aggravation.

Aside from Jose's general allegations proving the stressful duties of his late wife, no reasonable proof exists to support the claim that her respiratory disease, which is similar to lung cancer, was aggravated by her working conditions. The records do not support the contention that she had been exposed to voluminous and dusty records, nor do they provide any definite picture of her working environment.

We cannot, under this evidentiary situation, grant death compensation benefits solely on the assumption that she might have been exposed to deleterious substances while working as bookkeeper and accountant. We cannot likewise award compensation benefits on the basis of stress and fatigue, which are general consequences of working in practically all kinds of human activity; otherwise, we would unreasonably open the floodgates of compensability and render the purposes of a system like GSIS meaningless.

Insurance trust fund should only be applied to legitimate claims for compensation benefits

While PD 626, as amended, is a social legislation whose primary purpose is to provide meaningful protection to the working class against the hazards of disability, illness, and other contingencies resulting in loss of income, it was not enacted to cover all ailments of workingmen. The law discarded, among others, the concepts of "presumption of compensability" and "aggravation" and substituted a system based on social security principles. 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.[21]

The new employee compensation program now directs that all covered employers throughout the country be required by law to contribute fixed and regular premiums or contributions to a trust fund for their employees. Benefits are paid from this trust fund. ***If diseases not intended by the law to be compensated are inadvertently or recklessly included, the integrity of the trust fund would be endangered.*** In this sense, 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 up to for compensation whenever covered accidents, salary and deaths occur.[22]

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21 Id.

22 Id.

As an agency charged by law to manage and administer the limited trust fund of the government officials and employees, the GSIS has the difficult task of insuring all legitimate claims. Suffice it to say that a misplaced compassion for victims of diseases or injuries would prejudice the very same workers and their beneficiaries in times of need.

In sum, for insufficiency of evidence of causation or aggravation, we cannot grant Jose's claim for compensation benefits.

WHEREFORE, premises considered, we hereby **GRANT** the petition. The decision and the resolution of the Court of Appeals in CA-GR SP No. 116030 are hereby **REVERSED** and **SET ASIDE**. The ECC decision dated June 29, 2010 is hereby **REINSTATED**. No costs.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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