

102 Phil. 919

[G. R. No. L-10874. January 28, 1958]

RUFINO D. ANDRES, PLAINTIFF AND APPELLANT, VS. THE CROWN LIFE INSURANCE COMPANY, DEFENDANT AND APPELLEE.

D E C I S I O N

REYES, J.B.L., J.:

On April 20, 1952, Rufino D. Andres filed a complaint in the Court of First Instance of Ilocos Norte against the Crown Life Insurance Company for the recovery of the amount of P5,000, as the face value of a joint 20-year 920 endowment insurance policy issued in favor of the plaintiff Rufino D. Andres and his wife Severa G. Andres on the 13th of February, 1950, by said insurance company. On June 7, 1951, Rufino Andres presented his death claim as survivor-beneficiary of the deceased Severa G. Andres, who died May 3, 1951. Payment having been denied by the insurance company on April 20, 1952, this case was instituted.

Defendant Company filed its answer in due time disclaiming liability and setting forth the special defense that the aforementioned policy had already lapsed. Later, on March 25, 1954, the parties submitted the case for decision by the lower court upon a stipulation of facts, fully quoted hereunder:

1. "That on October 20, 1949, plaintiff and Severa G. Andres filed an application for insurance No. 536,423, which are hereto marked as common Exhibits "1" and "1-A", respectively;
2. That on February 13, 1950, defendant issued Crown Life Policy No. 536,423 for the sum of P5,000, in the name of Rufino D. Andres, plaintiff, and Severa G. Andres, which is hereto marked as common Exhibit "2";
3. That the premiums are to be paid as called for in the policy Exhibit "2", semi-annually, and the amount of P165.15 for the first semester beginning November 25, 1949 to May 25, 1950 was paid on November 25, 1949, which is hereby marked as common Exhibit "3", and the premium likewise in the sum of P165.15 for the second semester

beginning May 25, 1950 to November 25, 1950, was paid on June 24, 1950, as evidenced by common Exhibit "3-A"; and the premium for the third semester beginning November 25, 1950 to May 25, 1951 was not paid;

4. That on January 6, 1951, the defendant, thru Mr. I. B. Melendres, wrote to Mr. and Mrs. Rufino D. Andres advising them that the said Policy No. 536,423 lapsed on December 25, 1950 and the amount overdue was P165.15, giving them a period of sixty (60) days from the date of lapse to file an application for reinstatement, which letter is made as common Exhibit "4";
5. That on February 12, 1951, the said Mr. I. B. Melendres, branch secretary of the defendant, wrote Mr. and Mrs. Rufino D. Andres, telling the latter that Policy No. 536,423 was no longer in force and it lapsed on December 25, 1950, which letter is herewith made as common Exhibit "5";
6. That in the month of February, 1951, plaintiff executed a Statement of Health which is at the same time an Application for Reinstatement of the aforesaid policy, which application is herewith made as common Exhibit "6" (Note: Exhibit "6" is the reverse side of Exhibit "4"). and Severa G. Andres also executed in the month of February, 1951, an Application for Reinstatement, which Application for Reinstatement is made as common Exhibit "7";
7. That on February 20, 1951, plaintiff wrote a letter to the defendant and enclosed therewith a money order for P100, which letter was received by the defendant on February 26, 1951, wherein it is stated that the balance unpaid is the sum of P65.15, which letter is hereby made as common Exhibit "8";
8. That on April 14, 1951, the said Mr. I. B. Melendres, as branch secretary for the defendant; wrote plaintiff advising him that the Home Office has approved the reinstatement of the lapsed policy, subject to the payment of P65.15 due on November, 1950 premium, a duplicate original copy of the said letter is hereby made as common Exhibit "9";
9. That on April 27, 1951, said Mr. I. B. Melendres, branch secretary, again wrote the plaintiff requesting the remittance of the balance of P65.15 due on the semi-annual premium for November, 1950, and upon receipt of the said amount, there will be sent to him the Certificate of Reinstatement of the policy, a duplicate original copy of said letter is hereto made as common Exhibit "10";
10. That on May 5, 1951, plaintiff sent a letter to the defendant and enclosed therewith a Money Order in the amount of P65.00 for the balance due on the Crown Life Policy No. 536,423, which letter has been received in the office of the defendant on May 11, 1951, which letter is herewith made as common Exhibit "11";

11. That on May 15, 1951, said Mr. I. B. Melendres wrote a letter to Mr. and Mrs. Rufino D. Andres, enclosing an Official Receipt for the receipt of P165.15, which Official Receipt is hereby made as common Exhibit "12", and also enclosed therewith a Certificate of Reinstatement dated April 2, 1951, which is herewith made as common Exhibit "13", and the duplicate original copy of the aforesaid letter dated May 15, 1951 is herewith made as common Exhibit "14", and premium notice addressed to Mr. and Mrs. Rufino D. Andres, wherein it is shown that the semi-annual premium in the sum of P165.15 on the said policy would be due on May 15, 1951, which premium notice is herewith made as common Exhibit "14-A";
12. That on June 7, 1951, plaintiff presented his Death Claim as survivor-beneficiary of the deceased Severa G. Andres which has been received in the office of the defendant on June 11, 1951, which letter is herewith made as common Exhibit "15", and there were therein enclosed in the said letter an affidavit dated June 6, 1951 of the plaintiff, which is herewith made as common Exhibit "15-A", and a Certificate of Death dated May 29, 1951, issued by the Local Civil Registrar of the municipality of Sarrat, wherein it is shown that Mrs. Severa G. Andres died on May 3, 1951 of dystocia, second degree, contracted pelvis, which Certificate of Death is herewith made as common Exhibit "15-B", and a medical certificate of Dr. R. de la Cuesta, senior resident physician of the Ilocos Norte Provincial Hospital, dated May 20, 1951, showing the cause of death of the said deceased, Mrs. Severa G. Andres, which medical certificate is herewith made as common Exhibit "15-C";
13. That on June 30, 1951, Mr. I. B. Melendres wrote to plaintiff stating defendant's reasons for its refusal to pay the death claim of the plaintiff which letter is herewith made as common Exhibit "16", in which there was therein enclosed a Death Claim Discharge to be signed by the plaintiff but the plaintiff refused to sign, which Death Claim Discharge is herewith made as common Exhibit "16-A";
14. That on November 23, 1951, the said Mr. I. B. Melendres wrote plaintiff enclosing therewith a National City Bank of New York Check No. D-115356 for P165.00 payable to plaintiff, dated June 21, 1951, an original duplicate copy of which is herewith made as common Exhibit "17";
15. That on December 1, 1951, the plaintiff wrote defendant company and enclosed therewith the aforesaid National City Bank of New York Check No. D-115356 dated June 21, 1951, which letter is herewith made as Common Exhibit "18", and the check returned to the defendant company as Exhibit "18-A";
16. That with the approval of this stipulation of facts, the parties hereby submit the same and do hereby request the Honorable Court to give them twenty (20) days within

which to file simultaneously their corresponding memoranda and another fifteen (15) days for a reply memorandum.” (Rec. App., pp. 17-22)

On August 5, 1954, Judge Julio Villamor rendered decision absolving the defendant from any liability on the ground that the policy having lapsed, it was not reinstated at the time the plaintiff’s wife died. Not satisfied with the decision, plaintiff appealed to the Court of Appeals, but the appeal was later certified to this Court, for there is no question of fact involved therein.

As has been correctly stated by the lower court, the resolution of the issues in this case centers on whether or not policy No. 536423 (Exhibit “2”) which has been in a state of lapse before May 3, 1951, has been validly and completely reinstated after said date. In other words, was there a perfected contract of reinstatement after the policy lapsed due to non-payment of premiums?

The stipulation of facts and accompanying exhibits render it undisputable that the original policy No. 536423 lapsed for non-payment of premiums on December 26, 1950, upon expiration of the customary 31-day period of grace. The subsequent reinstatement of the policy was provided for in the contract itself in the following terms:

“If this policy lapses, it may be reinstated upon application made within three years from the date of lapse, and upon production of evidence of the good health of the injured (and also of the Beneficiary, if the rate of premium depends upon the age of the Beneficiary), and such other evidence of insurability at the date of application for reinstatement as would then satisfy the Company to issue a new Policy on the same terms as this Policy, and upon payment of all overdue premiums and other indebtedness in respect of this Policy, together with interest at six per cent, compounded annually, and provided also that no change has taken place in such good health and insurability subsequent to the date of such application and before this Policy is reinstated.”

As stated by the lower court, the conditions set forth in the policy for reinstatement are the following: (a) application shall be made within three years from the date of lapse; (b) there should be a production of evidence of the good health of the insured; (c) if the rate of premium depends upon the age of the Beneficiary, there should likewise be a production of evidence of his or her good health; (d) there should be presented such other evidence of

insurability at the date of application for reinstatement; (e) there should be no change which has taken place in such good health and insurability subsequent to the date of such application and before the policy is reinstated; and (f) all overdue premiums and other indebtedness in respect of the policy, together with interest at six per cent, compounded annually, should first be paid.

The plaintiff-appellant did not comply with the last condition; for he only paid P100 (on account of the overdue semi-annual premium of P165.15) on 1951, before his wife's death (Stipulation, par. 7); and, despite the Company's reminders on April 14 and 27, he remitted the balance of P65 on May 5, 1951 (received by the Company's agency on May 11), two days after his wife died. On the face of such facts, the Company had the right to treat the contract as lapsed and refuse payment of the policy.

Appellant, however, contends that the condition regarding payment of the premium was waived by the insurance Company by its letters (signed by I. B. Melendres, cashier) Exhibits 4 and 5, wherein the Company manifested to appellant:

"If you can not pay the full amount immediately, send as large an amount as possible and advise us how soon you expect to be able to pay the balance. Every consideration will be given to your request consistent with the Company's regulations" (Exhibit 4)

"If you are unable to cover this amount in full, send us as big an amount as you are able and we will work out an adjustment most beneficial to you." (Exhibit 5)

We see nothing in these expressions that would indicate an intention on the insurer's part to waive the full payment of the overdue premium as prerequisite to the reinstatement of the lapsed policy, considering the well settled rule that a waiver must be clear and positive, and intent to waive shown clearly and convincingly (Fernandez vs. Sebido, 70 Phil. 151, 159; Lang vs. Sheriff* 49 Off. Gaz. 3323, 3329; Jocson vs. Capitol Subdivision, Inc. G. R. L-6573, February 28, 1955). The promise to give plaintiff's case every consideration does not import any decision to renounce the insurer's rights; and as to the "working out of an adjustment most beneficial" to the insured, the proposal is obviously so vague and indefinite as to require further negotiations between the parties, for their criteria might differ as to what would be the most beneficial arrangement.

Upon the other hand, the subsequent letters of the insurance Company (Exhibits 9 and 10) patently indicated that the Company insisted on the full payment of the premium before the policy was reinstated.

“We take this opportunity of advising you that our Home Office has approved the reinstatement of your lapsed policy *subject to the payment of the balance of P65.15 due on your November 1950 premium. Kindly remit this amount in order that you may once more enjoy the benefits of insurance protection*” (Exhibit 9, April 14, 1951).

“*We may now reinstate your policy if you will kindly remit to us the balance of P65.15 due on your semi-annual premium for November, 1950. Please send us his amount by return mail and upon its receipt we will in turn send the Certificate of Reinstatement of your policy, thus rendering it once again in full force and effect,*” (Exhibit 10, April 27, 1951) (Emphasis supplied)

Clearly the Company did not consider the partial payment as sufficient consideration for the reinstatement. Appellant’s failure to remit the balance before the death of his wife operated to deprive him of any right to waive the policy and recover the face value thereof.

This Court, in the case of James McGuire vs. The Manufacturer’s Life Insurance Co. (87 Phil., 370, 48 Off. Gaz. [1], 114), said:

“The stipulation in a life insurance policy giving the insured the privilege to reinstate it upon written application does not give the insured absolute right to such reinstatement by the mere filing of an application. The Company has the right to deny the reinstatement if it is not satined as to the insurability of the insured and if the latter does no pay all overdue premium and all other indebtedness to the Company. After the death of the insured the insurance Company cannot be compelled to entertain an application for reinstatement of the policy because the conditions precedent to reinstatement can no longer be determined and satisfied”.

Wherefore, finding no error in the judgment appealed from, we hereby affirm the same, with costs against appellant. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.

*93 Phil., 661.

Date created: October 14, 2014