

VIRGINIA CALANOC, PETITIONER VS. COURT OF APPEALS AND THE PHILIPPINE AMERICAN LIFE INSURANCE CO., RESPONDENTS.*G.R. No. L-8151. December 16, 1955*

Ponente: BAUTISTA ANGELO, J.

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This suit involves the collection of P2,000 representing the value of a supplemental policy covering accidental death which was secured by one Melencio Basilio from the Philippine American Life Insurance Company. The case originated in the Municipal Court of Manila and judgment being favorable to the plaintiff it was appealed to the court of first instance. The latter court affirmed the judgment but on appeal to the Court of Appeals the judgment was reversed and the case is now before us on a petition for review.

Melencio Basilio was a watchman of the Manila Auto Supply located at the corner of Avenida Rizal and Zurbaran. He secured a life insurance policy from the Philippine American Life Insurance Company in the amount of P2,000 to which was attached a supplementary contract covering death by accident. On January 25, 1951, he died of a gunshot wound on the occasion of a robbery committed in the house of Atty. Ojeda at the corner of Oroquieta and Zurbaran streets. Virginia Calanoc, the widow, was paid the sum of P2,000, face value of the policy, but when she demanded the payment of the additional sum of P2,000 representing the value of the supplemental policy, the company refused alleging, as main defense, that the deceased died because he was murdered by a person who took part in the commission of the robbery and while making an arrest as an officer of the law which contingencies were expressly excluded in the contract and have the effect of exempting the company from liability.

The pertinent facts which need to be considered for the determination of the questions raised are those reproduced in the decision of the Court of Appeals as follows:

"The circumstances surrounding the death of Melencio Basilio show that when he was killed at about seven o'clock in the night of January 25, 1951, he was on duty as watchman of the Manila Auto Supply at the corner of Avenida Rizal and Zurbaran; that it turned out that Atty. Antonio Ojeda who had his residence at the corner of Zurbaran and Oroquieta, a block away from Basilio's station, had come home that night and found that his house was well-lighted, but with the windows closed; that getting suspicious that there were culprits in his house, Atty. Ojeda retreated to look for a policeman and finding Basilio in khaki uniform, asked him to accompany him to the house, with the latter refusing on the ground that he was not a policeman, but suggesting that Atty. Ojeda should ask the traffic policeman on duty at the corner of Rizal Avenue and Zurbaran; that Atty. Ojeda went to the traffic policeman at said corner and reported the matter, asking the policeman to come along with him, to which the policeman agreed; that on the way to the Ojeda residence, the policeman and Atty. Ojeda passed by Basilio and somehow or other invited the latter to come along; that as the three approached the Ojeda residence and stood in front of the main gate which was covered with galvanized iron, the fence itself being partly concrete and partly, adobe stone, a shot was fired; that immediately after the shot, Atty. Ojeda and the policeman sought cover; that the policeman, at the request of Atty. Ojeda, left the premises, to look for reinforcement; that it turned out afterwards that the special watchman Melencio Basilio

was hit in the abdomen, the wound causing his instantaneous death; that the shot must have come from inside the yard of Atty. Ojeda, the bullet passing through a hole waist-high in the galvanized iron gate; that upon inquiry Atty. Ojeda found out that the savings of his children in the amount of P30 in coins kept in his aparador contained in stockings were taken away, the aparador having been ransacked; that a month thereafter the corresponding investigation conducted by the police authorities led to the arrest and prosecution of four persons in Criminal Case No. 15104 of the Court of First Instance of Manila for 'Robbery in an Inhabited House and in Band with Murder'."

It is contended in behalf of the company that Basilio was killed while "making an arrest as an officer of the law" or as a result of an "assault or murder" committed in the place and therefore his death was caused by one of the risks excluded by the supplementary contract which exempts the company from liability. This contention was upheld by the Court of Appeals and, in reaching this conclusion, made the following comment:

"From the foregoing testimonies, we find that the deceased was a watchman of the Manila Auto Supply, and, as such, he was not bound to leave his place and go with Atty. Ojeda and Policeman Magsanoc to see the trouble, or robbery, that occurred in the house of Atty. Ojeda. In fact, according to the finding of the lower court, Atty. Ojeda finding Basilio in uniform asked him to accompany him to his house, but the latter refused on the ground that he was not a policeman and suggested to Atty. Ojeda to ask help from the traffic policeman on duty at the corner of Rizal Avenue and Zurbaran, but after Atty. Ojeda secured the help of the traffic policeman, the deceased went with Ojeda and said traffic policeman to the residence of Ojeda, and while the deceased was standing in front of the main gate of said residence, he was shot and thus died. The death, therefore, of Basilio, although unexpected, was not caused by an accident, being a voluntary and intentional act on the part of the one who robbed, or one of those who robbed, the house of Atty. Ojeda. Hence, it is our considered opinion that the death of Basilio, though unexpected, cannot be considered accidental, for his death occurred because he left his post and joined policeman Magsanoc and Atty. Ojeda to repair to the latter's residence to see what happened thereat. Certainly, when Basilio joined Patrolman Magsanoc and Atty. Ojeda, he should have realized the danger to which he was exposing himself, yet, instead of remaining in his place, he went with Atty. Ojeda and Patrolman Magsanoc to see what was the trouble in Atty. Ojeda's house and thus he was fatally shot." . '

We dissent from the above findings of the Court of Appeals. For one thing, Basilio was a watchman of the Manila Auto Supply which was a block away from the house of Atty. Ojeda where something auspicious was happening which caused the latter to ask for help. While at first he declined the invitation of Atty. Ojeda to go with him to his residence to inquire into what was going on because he was not a regular policeman he later agreed to come along when prompted by the traffic policeman, and upon approaching the gate of the residence he was shot and died. The circumstance that he was a mere watchman and had no duty to heed the call of Atty. Ojeda should not be taken as a capricious desire on his part to expose his life to danger considering the fact that the place he was in duty-bound to guard was only a block away. In volunteering to extend help under the situation, he might have thought, rightly or wrongly, that to know the truth was in the interest of his employer it being a matter that affects the security of the neighborhood. No doubt there was some risk coming to him in pursuing that errand, but that risk always existed it being inherent in the position he was holding. He cannot therefore be blamed solely for doing what he believed was in keeping with his duty as a watchman and as a citizen. And he cannot be considered as making an arrest as an officer of the law, as contended, simply because he went with the traffic policeman, for certainly he did not go there for that purpose nor was he asked to do so by the policeman.

Much less can it be pretended that Basilio died in the course of an assault or murder considering the very nature of these crimes. In the first place, there is no proof that the death of Basilio is the result of either crime for the record is barren of any circumstance showing how the fatal shot was fired. Perhaps this may be clarified in the criminal case now pending in court as regards the incident but before that is done anything that might be said on the point

would be a mere conjecture. Nor can it be said that the killing was intentional for there is the possibility that the malefactor had fired the shot merely to scare away the people around for his own protection and not necessarily to kill or hit the victim. In any event, while the act may not exempt the triggerman from liability for the damage done, the fact remains that the happening was a pure accident on the part of the victim. The victim could have been, either the policeman; or Atty. Ojeda for it cannot be pretended that the malefactor aimed' at the deceased precisely because he wanted to take his life.

We take note that these defenses are included among the risks excluded in the supplementary contract which enumerates the cases which may exempt the company from liability. While as a general rule "the parties may limit the coverage of the policy to certain particular accidents and risks or causes of loss, and may expressly except other risks or causes of loss therefrom" (45 C.J.S. 781-782), however, it is to be desired that the terms and phraseology of the exception clause be clearly expressed so as to be within the easy grasp and understanding of the insured, for if the terms are doubtful or obscure the same, must of necessity be interpreted or resolved against the one who has caused the obscurity. (Article 1377, new Civil Code) And so it has been generally held that the "terms in an insurance policy, which are ambiguous, equivocal, or uncertain * * * are to be construed, strictly and most strongly against the insurer, and liberally in favor of the insured so as to effect the dominant purpose of indemnity or payment to the insured, especially where a forfeiture is involved" (29 Am. Jur., 181), and the reason for this rule is that the "insured usually has no voice in the selection or arrangement of the words employed and that the language of the contract is selected with great care and deliberation by experts and legal advisers employed by, and acting exclusively in the interest of, the insurance company." (44 C. J. S., p. 1174.)

"Insurance is, in its nature, complex and difficult for the layman to understand. Policies are prepared by experts who know and can anticipate the bearing and possible complications of every contingency. So long as insurance companies insist upon the use of ambiguous, intricate and technical provisions, which conceal rather than frankly disclose, their own intentions, the courts must, in fairness to those who purchase insurance, construe every ambiguity in favor of the insured." (Algoe vs. Pacific Mut. L. Ins. Co., 91 Wash. 324, LRA 1917A, 1237.)

"An insurer should not be allowed, by the use of obscure, phrases and exceptions, to defeat the very purpose for which the policy was procured." (Moore vs. Aetna Life Insurance Co., LRA 1915D, 264.)

We are therefore persuaded to conclude that the circumstances unfolded in the present case do not warrant the finding that the death of the unfortunate victim comes within the purview of the exception clause of the supplementary policy and, hence, do not exempt the company from liability.

Wherefore, reversing the decision appealed from, we hereby order the company to pay petitioner-appellant the amount of P2,000, with legal interest from January 26, 1951 until fully paid, with costs.

Paras, C.J., Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Labrador, .Concepcion, and Reyes, J.B.L., JJ., concur.

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