

HERMINIA Q. KANAPI, PLAINTIFF AND APPELLANT, VS. THE INSULAR LIFE ASSURANCE CO., LTD., DEFENDANT AND APPELLEE.

G.R. No. L-5642. February 25, 1954

Ponente: REYES, J.

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REYES, J.:

This is an action on a life insurance policy.

On August 1, 1948, the defendant insurance company issued a policy on the life of plaintiff's husband, Henry G. Kanapi, whereby defendant undertook to pay to plaintiff as beneficiary, upon the death of the insured, the sum of P5,000 if the death be due to natural causes and an additional P5,000 if the death be due to accidental means,, payment of this additional sum being provided for in the "Accidental Death Benefit Clause" appended to and forming part of the policy but expressly made subject to the exception that the clause would not apply where death resulted from injury "intentionally inflicted by a third party." During the life of the policy, the insured died from a bullet wound inflicted, without provocation, by one Conrado Quemosing, who, as author of the killing, was found guilty of murder and sentenced to prison.

Upon receiving proof of the insured's death, defendant paid plaintiff P5,000, but refused to pay the additional P5,000 claimed under the accidental death benefit clause on ground that, as the insured died from an injury intentionally inflicted by a third party, the clause did not apply. The present action is for the recovery of the additional sum.

Upholding defendant's stand, the lower court dismissed the action, whereupon plaintiff appealed to this Court, and the question for us to determine is whether plaintiff is entitled to the additional P5,000 claimed under the accident benefit clause of the policy.

This clause provides for the payment of the sum upon proof "that the death of the Insured resulted directly from bodily injury affected through external and violent means sustained in an accident * * * and independently of all other causes." But far from proving that the insured died from bodily injury sustained in an accident, the agreed facts are to the effect that the insured was murdered, thus making it indisputable that his death resulted from injury "intentionally inflicted by a third party"; which is one of the exceptions to the accident benefit clause, according to which the benefit shall not apply to death resulting from "(5) Any injury received * * * (e) that has been inflicted intentionally by a third party, either with or without provocation on the part of the Insured, and whether or not the attack or the defense by the third party was caused by a violation of the law by the Insured * * *." There is nothing to the suggestion that the case comes under exception 5(d) or that portion of it which excepts from the benefit any injury received "in any assault provoked by the Insured", it being argued that by express mention of provoked assault an unprovoked one is inferentially excluded. The inference is not admissible because where the injury is inflicted without provocation the case comes within the terms of exception 5(e), which is, therefore, the one that should be applied.

We find the decision appealed from to be in accordance with law and the facts. It is, therefore, affirmed, with

costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo and Bautista Angelo, JJ., concur.

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