

FIDELA SALES DE GONZAGA, PLAINTIFF AND APPELLANT, VS. THE CROWN LIFE INSURANCE COMPANY, DEFENDANT AND APPELLEE.

G.R. No. L-4197. March 20, 1952

Ponente: TUASON, J.

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TUASON, J.:

This is one more case wherein the question of the effects of war on a pre-war insurance contracts is presented.

Reduced to their absolute essentials, the facts are that, on September 26, 1939, the Crown Life Insurance Co., whose home office is in Toronto, Canada, issued to Ramon Gonzaga through its branch office in Manila a 20-year endowment policy for P15,000. The insured paid in due time the agreed yearly premium, which was P591.00, for three consecutive years, the last payment having been effected on September 6, 1941. On account of the outbreak of war, no premiums were paid after that date, although the policy was continued in force up to June 12, 1943, under its automatic premium loan clause.

Ramon Gonzaga died on June 27, 1945 from an accident. Unsuccessful in her attempt to collect the amount of the policy, his widow and the beneficiary named in the policy began this suit on December 18, 1947. The defendant set up the defense that the policy had lapsed by non-payment of the stipulated premiums on the stipulated dates. And the trial court in a carefully written decision ruled against the plaintiff.

Since this action was decided by the court below, several cases analogous to this one in its main characteristics have come up before this Court. (Paz Lopez de Constantino vs. Asia Life Insurance Company,[1] G. R. No. L-1669; Agustina Peralta vs. Asia Life Insurance Company,[2] G. R. No. L-1670; James McGuire vs. The Manufacturers Life Insurance Co.,[3] G. R. No. L-3581; National Leather Co., Inc. vs. The United States Life Insurance Co.,[4] G. R. No. L-2668; Victoria Hidalgo Vda. de Carrero, et al., vs. The Manufacturers Life Insurance Co.,[5] G. R. No. L-3032; and West Coast Life Insurance Co. vs. Patricio H. Gubagaras,[6] G. R. No. L-2810.) In Paz Lopez de Constantino vs. Asia Life Insurance Company, G. R. No. L-1669, the leading case, the Court, speaking through Mr. Justice Bengzon, adopted this doctrine:

"The case, therefore, is one in which time is material and of the essence of the contract. Non-payment at the day involves absolute forfeiture if such be the terms of the contract, as is the case here. Courts cannot with safety vary the stipulation of the parties by introducing equities for the relief of the insured against their own negligence."

The aforecited decisions are decisive of the proposition that non-payment of premiums by reason of war puts an end to the contract.

There is, however, one aspect of the case at bar not raised before and upon which the plaintiff rests her case in the alternative.

In its answer, the defendant alleged that "through its General Agents, Hanson, Orth & Stevenson, Inc., it had its offices open in the City of Manila during the Japanese occupation of the Philippines." Taking advantage of this

allegation, and ignoring her own in her complaint—that "for the whole duration of the (war) and from thence to some time thereafter, that is, in October, 1945, * * * defendant closed its business in the Islands, and had absolutely no agency or representative here to represent it, with authority to collect premiums from the Insured,"—the plaintiff asserts that it was the defendant's duty to notify her husband of its postal address during the war, and that its failure to do so excused delinquency in the payment of the premiums. The plaintiff cites the provision of the contract which states that "all premiums subsequent to the first year are payable to the Company's authorized cashier at the place stated in the fourth page hereof, or at such other place instead thereof as may be designated from time to time by notice from the Company mailed to the Insured at his last known post office address."

The evidence on this feature of the case reveals that, the defendant being an enemy corporation, its offices, which were housed at the Chaco Building when the hostilities broke out, were ordered closed by the Japanese Military authorities in January 1942, and the officers of Hanson, Orth & Stevenson, Inc., defendant's general agents, being American citizens, were interned. In addition, on August 25 the Japanese administration issued "Instruction No. 71" by which enemy alien insurance companies were expressly prohibited from doing business.

But before that instruction was promulgated Hanson, Orth & Stevenson had opened in the house of one of their Filipino employees on Gonzales Street in Ermita an office with a skeleton force, all Filipinos, for the purpose of receiving premiums from their policy holders; and notwithstanding the prohibition, that office was not closed.

In the face of the Japanese Military decrees, which found sanctions in international law, the failure of the defendant or its Filipino employees to advise the insured of the defendant's new address did not work as a forfeiture of its right to have the premiums satisfied promptly. While clandestine transactions between the parties during the war might be binding, it was not obligatory on the insurer, and it was well-nigh risky for its employees, to send out notices to its widely scattered policy holders, what with the postal service under the control and administration of the ruthless occupants.

There is no duty where the law forbids; and there is no obligation without corresponding right enjoyed by another. The insured had no right to demand that the defendant maintain an office during the war, and the defendant was not obligated to do so. Had the defendant not opened any office at all during the occupation and stopped receiving premiums absolutely, the plaintiff's position would not have been any better or worse for the closing and suspension of the defendant's business. Had the plaintiff's husband actually tendered his premiums and the defendant's employees rejected them, he could not have insisted on the payment as a matter of right. Stated otherwise, the defendant's opening of an interim office partook of the nature of a privilege to the policy holders to keep their policies operative rather than a duty to them under the contract.

Of this privilege, incidentally, Gonzaga could have taken advantage if he was really intent on preserving his policy. Uncontroverted or admitted is the fact that the defendant's agent, through whom he had been insured, lived in Malabon, Rizal, and was his close acquaintance; and so were some of the defendant's Filipino employees who handled the insurance business of Hanson, Orth & Stevenson during the occupation. And Gonzaga admittedly came to Manila on a visit every now and then, and could have, without difficulty, contacted any of those people.

For another thing, the policy carried a clause providing for its reinstatement under certain conditions within three years from the date of lapse on application of the insured. The present policy lapsed on June 12, 1948, the Company's Manila branch was reopened on May 1, 1945 and resumed regular business through the same general agents at the Wilson Building on Juan Luna Street, Manila, and Ramon Gonzaga died on June 27, 1945. It is undoubted that Gonzaga knew all that. It is not denied that he was an employee in the United States Navy, that the United States Navy had an office in the same Wilson Building, and that he came at least twice a month to that

office for his salary.

Both, in law and in reason, the action was properly dismissed and the appealed decision is hereby affirmed, with costs.

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

[1] 47 Off. Gaz. Supp. 12, p. 428.

[2] 87 Phil. 248

[3] 87 Phil. 370

[4] 87 Phil. 410; 48 Off. Gaz. 142

[5] 87 Phil. 460

[6] Oct. 10, 1950

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