

CONCORDIA M. DE LEON, PETITIONER, VS. EMPLOYEES COMPENSATION COMMISSION AND GOVERNMENT SERVICE INSURANCE SYSTEM (PHILIPPINE GENERAL HOSPITAL) RESPONDENTS.

G.R. No. L-46474. November 14, 1988

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f11c811b573d/>

FELICIANO, J.:

In this Petition for Review, Concordia M. de Leon seeks reversal of a Decision of the Employees' Compensation Commission ("ECC") which affirmed the Decision of the Government Service Insurance System ("GSIS") denying her claim for income benefits under P.D. No. 626. This claim is based upon the death of petitioner's daughter, Caridad M. de Leon.

Caridad M. de Leon started her employment in the government as a Nurse of the Philippine General Hospital ("PGH") on 16 November 1952. As the years went by, she was successively promoted from Nurse to Head Nurse, to Senior Nurse, to Nurse Instructor II, to Nurse Instructor IV, and finally to Assistant Professor II of Nursing, the position she was holding when she retired from the government service on 31 January 1976. Three days later, on 3 February 1976, Caridad M. de Leon died, at the age of 45 years and after more than twenty-three (23) years of service to the government.

Approximately fifteen (15) years before Caridad retired, on 16 September 1968, she underwent a modified radical mastectomy, left breast, at the PGH for ductal carcinoma. About four (4) years later, on 8 May 1972, Caridad underwent bilateral cophorectomy for recurrence of breast cancer. Her medical record states that "since December 7, 1974, patient has been in and out of the hospital for breast cancer metastasis to the lung and to the bones and finally to the brain." [1] Her terminal hospital confinement was from 5 January 1976 to 3 February 1976, when she expired.

Petitioner, as surviving parent of Caridad, filed on 8 June 1976 a claim for income benefit with respondent GSIS, under No. 626. On 10 May 1976, petitioner's claim was denied by respondent GSIS, upon the grounds that breast cancer with lung metastasis was not an occupational disease and that Caridad's illness was not "causally related to her duties and conditions of work," and that in any case petitioner had not adduced sufficient evidence establishing "that the cause of death was the direct result of [Caridad's] occupation or employment." [2]

Petitioner's Motion for Reconsideration having been denied by the GSIS, she filed an appeal with the ECC which appeal was docketed as ECC Case No. 0301.

On 15 June 1977, the ECC rendered a Decision in ECC Case No. 0301, affirming respondent GSIS' Decision of 10 May 1976 and dismissing petitioner's claim for income benefits.

In the instant Petition for Review, the critical issue relates to the applicable law insofar as petitioner's claim for benefits is concerned.

There is no dispute that Caridad M. de Leon passed away on 3 February 1976 when the Labor Code (P.D. No. 442, as amended by, among others, P.D. No. 626) was already in effect. Under Article 208 of the Labor Code, Title II of Book IV entitled "Employees' Compensation and State Insurance Fund" is applicable "only to injury, sickness, disability or death occurring on or after January 1, 1975." In the present case, while Caridad M. de Leon expired after the Labor Code had taken effect, the illness of which she eventually died had begun long before the effectivity of the Labor Code, that is, when the governing law was Act No. 3428, as amended, known as the Workmen's Compensation Act. Her illness must have begun sometime before her mastectomy for ductal carcinoma on 16 September 1968. Therefore, we believe and so hold that, although petitioner's claim was filed after the effectivity of the Labor Code on 1 January 1975 and although petitioner expressly invoked the Labor Code, the governing law in the instant case is not the Labor Code but the old Workmen's Compensation Act, Act No. 3428, as amended and it is by this law that petitioner's rights and remedies are to be measured and evaluated,[3] and we treat petitioner's claim as a claim for benefits under that law.

We come to the second issue to be resolved in this case -- i.e., whether or not the illness which caused the death of petitioner's daughter is compensable under the provisions of Act No. 3428, as amended.

As aforesaid, Caridad M. de Leon's carcinoma of the breast first occurred after her employment at the PGH had begun. It is not disputed that her carcinoma was aggravated, i.e., metastasized, during her employment at the PGH. It follows that petitioner is entitled to the presumption of compensability which, under the provisions of Act No. 3428, as amended, arises under the above-mentioned circumstances.[4] Because Caridad M. de Leon's illness is statutorily presumed to be compensable, her employer the Government had the burden of controverting and overcoming such presumption with competent evidence showing that Caridad's illness was not in fact work-connected and had not in fact been aggravated by the conditions of her employment.

We do not believe that the government was successful in discharging the burden of disproving the work-related character of Caridad's illness. The ECC decision quoted from Davis, Christopher's Textbook of Surgery, Saunders Company, P.A. 9th Edition, pp. 424-425:

"It is from the human breast cancer that we have learned most of what we know about the nature of cancer in patients, the inter-relationship of this cancer to the hormonal activity of the individual, and have developed the rationale for several methods of treatment. Inasmuch as we are innocent of any knowledge of the definitive causes of breast cancer, it is preferable to refer the [sic] so-called contributory, or in present language, epidemiologic influences. The failure of the breast to perform its expected physiologic function of lactation has been considered as a predisposing factor in the probability of its becoming the site of cancer. Trauma as a causative or augmentative factor is the basis for an ever increasing number of actions at law in recent years. ... Two factors long recognized and established by careful epidemiologic surveys as increasing the probability of breasts cancer are singleness and hereditary [sic]. Women never married have a 70% higher mortality from the disease than do married females. Though not so dramatic difference [sic], women who are either the daughters or sisters of patients who had breast carcinoma are more prone to develop the neoplasm. Breast cancer may metastasize to any and all organs and it may do so before the primary lesion is detected. Not frequently a distant metastasis is the only present finding. As with any metastatic carcinoma, its microscopic structure may assume such unusual patterns of growth as to give no indication of its site of origin." (Rollo, pp. 34-35.)

The above discussion of the medical etiology of breast cancer is less than satisfactory. This is not surprising. The ECC mistakenly sought to apply the provisions of the Labor Code[5] to petitioner's application for income benefits which application, it should be recalled, had been made under the Labor Code. Since, as pointed out elsewhere by this Court,[6] under the Labor Code there is no presumption of compensability of any illness or disease, and since the Labor Code has placed the burden of proving the work-related nature of an illness upon the claimant or petitioner, the government in the instant case did not seek to show that Caridad M. de Leon's

carcinoma of the breast was not work-related. Indeed, the ECC and the GSIS denied petitioner's claim because they felt petitioner had not sufficiently shown some causal relation between Caridad's carcinoma and the nature and conditions of her employment.

Upon the other hand, the petitioner in the instant case sought to suggest that the conditions under which Caridad M. de Leon had served as a nurse and later as a professor of nursing, may have had some relationship to the emergence of carcinoma in Caridad's breasts. Petitioner pointed out that throughout her twenty-three (23) years of government service, Caridad not only worked at the PGH but also lived there and that she was therefore constantly exposed to micro-organisms and viruses which may have been carried and broadcasted by patients of the PGH. Caridad's work environment included as well the fumes and emanations of drugs and chemicals used in the treatment of the sick and injured at the PGH, exposure to which may have had the effect of lowering her body resistance to carcinoma of the breast.

While the evidence so submitted by petitioner, and the implications sought to be derived therefrom, do not appear adequate to show causality or aggravation, such evidence is useful at least in underscoring the fact that the government was not in the case at bar able to overcome the applicable statutory presumption of compensability and of the work-related character of Caridad M. de Leon's illness.

The conclusion we have above reached is closely supported by *Avendaño vs. Employees' Compensation Commission*,^[7] a case that is practically on all fours with the case at bar. In *Avendaño*, the petitioner claimant was employed as a statistical clerk of the Philippine National Railways. On 5 December 1969, she underwent a radical mastectomy, followed by cobalt therapy at the GSIS General Hospital. Her physician diagnosed her illness as "carcinoma of the breast with metastasis to the spine and skull." On 7 February 1975, she was again hospitalized; the carcinoma had metastasized to her lower extremities. She retired on 1 June 1976, and filed a claim for disability on 13 October 1976. The GSIS and the ECC denied the claim, holding petitioner's illness and disability as non-compensable under the Labor Code and the Amended Rules on Employees' Compensation. On Petition for Review, this Court held that the law applicable in respect of petitioner's illness was the old Workmen's Compensation Law, under the terms of which claimant enjoyed a statutory presumption of compensability. The Court said:

"Time and again, this Court has resolved that when the illness subject of claim supervened in the course of the petitioner's employment prior to the effectivity of the New Labor Code, the provisions of the Workmen's Compensation Act shall govern.

X X X X X X X X

Under the Workmen's Compensation Act, as amended, the well-settled rule is that once it is established that the illness supervened during employment, there exists a rebuttable presumption that such illness arose out of the employment or was at least aggravated by it. Consequently, the employer assumed, by force of this presumption, the burden of establishing the contrary by substantial evidence (*Espiritu vs. WCC et al.*, L-42471, 84 SCRA 636 [1978]; *Republic of the Philippines vs. WCC, et al.*, L-43223, 90 SCRA 484 [1979]; *Mesina vs. Republic of the Philippines*, L-43517, 90 SCRA 489 [1979]; *Tambasen vs. WCC, et al.*, L-43627, 90 SCRA [1979]).

In the case at bar, it is undisputed that the disease, cancer of the breast, was contracted by the petitioner sometime in 1959 although clinical manifestations started only in 1969 as per certification of Dr. Epitacio Alcantara, her attending physician. Likewise, it is not controverted that when petitioner entered government service, she was found to be physically and mentally healthy. Unquestionably, the said illness supervened in the course of the petitioner's employment. This being the case, the statutory presumption of compensation applies.

Respondent contends however that the old Workmen's Compensation Act is inapplicable because it has been

repealed by Section 292 of Presidential Decree No. 442, the New Labor Code.

This contention is untenable. Although petitioner filed her claim only on October 13, 1976, after the effectivity of the New Labor Code, it is of no moment since her right accrued as early as 1969 when she was first medically examined and found to be afflicted with cancer, which ailment commenced, as admitted by respondent ECC itself, as early as 1969. Hence, it is a vested right falling under the protective mantle of the Workmen's Compensation Act.

As aptly pointed out by this Court in *Corales vs. ECC*, supra, and reiterated in *Villones vs. ECC*, et al. (L-46200, July 30, 1979) -

'Rights accrued and vested while a statute was in force ordinarily survive its repeal.

The repeal of a statute does not operate to impair or otherwise affect rights which have been vested or accrued while the statute was in force. This rule is applicable alike to rights acquired under contracts and to rights of action to recover damages for torts. Where a new statute continues in force, provisions of an old statute, although in form it repeals them at the moment of its passage, a right of action created by the old statute is thereby destroyed x x (82 CJS 1010).'

As hinted in the case of *Corales vs. ECC*, supra, it is immaterial that the disease remained uncured or resulted in a disability after the effectivity of the New Labor Code, as long as the disease or illness was contracted prior to its effectivity."[8] (*Italics supplied*)

WHEREFORE, the Decision dated 15 June 1977 of respondent ECC in ECC Case No. 0301 is hereby SET ASIDE and the GSIS is hereby DIRECTED to pay petitioner the death benefit that she would be entitled to under the applicable provisions of Act No. 3428 as amended, as well as the medical and surgical expenses including her doctor's bill, claimed by petitioner in the aggregate amount of P5,844.95. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Rollo, p. 39, Annex "C" of Petition.

[2] Rollo, p. 36, Annex "B" of Petition.

[3] *Vda. de Tumolva vs. Employees' Compensation Commission*, 141 SCRA 78 (1986); *Manahan vs. Employees' Compensation Commission*, 104 SCRA 198 (1981); *Balatero vs. Employees' Compensation Commission*, 95 SCRA 608 (1980); and *De Castro, Jr. vs. Republic*, 75 SCRA 372 (1977).

[4] *Vda. de Tumolva vs. Employees' Compensation Commission*, supra; *Ajero vs. Employees' Compensation Commission*, 101 SCRA 868 (1980); and *Aguirre vs. Workmen's Compensation Commission*, 86 SCRA 359 (1978); *Abana vs. Quisumbing*, 22 SCRA 1278 (1968); and *Manila Railroad Company v. Workmen's Compensation Commission*, 11 SCRA 305 (1964).

[5] Article 167 (1) and Article 194; Rule III, Section 1 (b), Amended Rules on Employees' Compensation promulgated by the ECC.

[6] *Casumpang vs. Employees Compensation Commission*, 150 SCRA 20 (1987); *de Jesus vs. Employees Compensation Commission*, 142 SCRA 92 (1986); *Dabatian vs. Government Service Insurance System*, 149 SCRA 123 (1987).

[7] 97 SCRA 464 (1980).

[8] 97 SCRA at 467, 468-469.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.