

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND THE ESTATE OF THE LATE JUAN B. DANS, REPRESENTED BY CANDIDA G. DANS, AND THE DBP MORTGAGE REDEMPTION IN...

G.R. No. 109937. March 21, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court to reverse and set aside the decision of the Court of Appeals in CA-G.R CV No. 26434 and its resolution denying reconsideration thereof.

We affirm the decision of the Court of Appeals with modification.

I

In May 1987, Juan B. Dans, together with his wife Candida, his son and daughter-in-law, applied for a loan of P500,000.00 with the Development Bank of the Philippines (DBP), Basilan Branch. As the principal mortgagor, Dans, then 76 years of age, was advised by DBP to obtain a mortgage redemption insurance (MRI) with the DBP Mortgage Redemption Insurance Pool (DBP MRI Pool).

A loan, in the reduced amount of P300,000.00, was approved by DBP on August 4, 1987 and released on August 11, 1987. From the proceeds of the loan, DBP deducted the amount of P1,476.00 as payment for the MRI premium. On August 15, 1987, Dans accomplished and submitted the "MRI Application for Insurance" and the "Health Statement for DBP MRI Pool."

On August 20, 1987, the MRI premium of Dans, less the DBP service fee of 10 percent, was credited by DBP to the savings account of the DBP MRI Pool. Accordingly, the DBP MRI Pool was advised of the credit.

On September 3, 1987, Dans died of cardiac arrest. The DBP, upon notice, relayed this information to the DBP MRI Pool. On September 23, 1987, the DBP MRI Pool notified DBP that Dans was not eligible for MRI coverage, being over the acceptance age limit of 60 years at the time of application.

On October 21, 1987, DBP apprised Candida Dans of the disapproval of her late husband's MRI application. The DBP offered to refund the premium of P1,476.00 which the deceased had paid, but Candida Dans refused to accept the same, demanding payment of the face value of the MRI or an amount equivalent to the loan. She, likewise, refused to accept an ex gratia settlement of P30,000.00, which the DBP later offered.

On February 10, 1989, respondent Estate, through Candida Dans as administratrix, filed a complaint with the Regional Trial Court, Branch I, Basilan, against DBP and the insurance pool for "Collection of Sum of Money with Damages." Respondent Estate alleged that Dans became insured by the DBP MRI Pool when DBP, with full knowledge of Dans' age at the time of application, required him to apply for MRI, and later collected the

insurance premium thereon. Respondent Estate therefore prayed: (1) that the sum of P139,500.00, which it paid under protest for the loan, be reimbursed; (2) that the mortgage debt of the deceased be declared fully paid; and (3) that damages be awarded.

The DBP and the DBP MRI Pool separately filed their answers, with the former asserting a cross-claim against the latter.

At the pre-trial, DBP and the DBP MRI Pool admitted all the documents and exhibits submitted by respondent Estate. As a result of these admissions, the trial court narrowed down the issues and, without opposition from the parties, found the case ripe for summary judgment. Consequently, the trial court ordered the parties to submit their respective position papers and documentary evidence, which may serve as basis for the judgment.

On March 10, 1990, the trial court rendered a decision in favor of respondent Estate and against DBP. The DBP MRI Pool, however, was absolved from liability, after the trial court found no privity of contract between it and the deceased. The trial court declared DBP in estoppel for having led Dans into applying for MRI and actually collecting the premium and the service fee, despite knowledge of his age ineligibility. The dispositive portion of the decision reads as follows:

"WHEREFORE, in view of the foregoing consideration and in the furtherance of justice and equity, the Court finds judgment for the plaintiff and against Defendant DBP, ordering the latter:

1. To return and reimburse plaintiff the amount of P139,500.00 plus legal rate of interest as amortization payment paid under protest;
2. To consider the mortgage loan of P300,000.00 including all interest accumulated or otherwise to have been settled, satisfied or set-off by virtue of the insurance coverage of the late Juan B. Dans;
3. To pay plaintiff the amount of P10,000.00 as attorney's fees;
4. To pay plaintiff in the amount of P10,000.00 as costs of litigation and other expenses, and other relief just and equitable.

The Counterclaims of Defendants DBP and DBP?MRI POOL are hereby dismissed. The Cross-claim of Defendant DBP is likewise dismissed" (Rollo, p. 79).

The DBP appealed to the Court of Appeals. In a decision dated September 7, 1992, the appellate court affirmed in toto the decision of the trial court. The DBP's motion for reconsideration was denied in a resolution dated April 20, 1993.

Hence, this recourse.

II

When Dans applied for MRI, he filled up and personally signed a "Health Statement for DBP MRI Pool" (Exh. "5-Bank") with the following declaration:

"I hereby declare and agree that all the statements and answers contained herein are true, complete and correct to the best of my knowledge and belief and form part of my application for insurance. It is understood and agreed that no insurance coverage shall be effected unless and until this application is approved and the full premium is paid during my continued good health" (Records, p. 40).

Under the aforementioned provisions, the MRI coverage shall take effect: (1) when the application shall be approved by the insurance pool; and (2) when the full premium is paid during the continued good health of the

applicant. These two conditions, being joined conjunctively, must concur.

Undisputably, the power to approve MRI applications is lodged with the DBP MRI Pool. The pool, however, did not approve the application of Dans. There is also no showing that it accepted the sum of P1,476.00, which DBP credited to its account with full knowledge that it was payment for Dans's premium. There was, as a result, no perfected contract of insurance; hence, the DBP MRI Pool cannot be held liable on a contract that does not exist.

The liability of DBP is another matter.

It was DBP, as a matter of policy and practice, that required Dans, the borrower, to secure MRI coverage. Instead of allowing Dans to look for his own insurance carrier or some other form of insurance policy, DBP compelled him to apply with the DBP MRI Pool for MRI coverage. When Dans's loan was released on August 11, 1987, DBP already deducted from the proceeds thereof the MRI premium. Four days later, DBP made Dans fill up and sign his application for MRI, as well as his health statement. The DBP later submitted both the application form and health statement to the DBP MRI Pool at the DBP Main Building, Makati, Metro Manila. As service fee, DBP deducted 10 percent of the premium collected by it from Dans.

In dealing with Dans, DBP was wearing two legal hats: the first as a lender, and the second as an insurance agent.

As an insurance agent, DBP made Dans go through the motion of applying for said insurance, thereby leading him and his family to believe that they had already fulfilled all the requirements for the MRI and that the issuance of their policy was forthcoming. Apparently, DBP had full knowledge that Dans's application was never going to be approved. The maximum age for MRI acceptance is 60 years as clearly and specifically provided in Article 1 of the Group Mortgage Redemption Insurance Policy signed in 1984 by all the insurance companies concerned (Exh. "1-Pool").

Under Article 1897 of the Civil Code of the Philippines, "the agent who acts as such is not personally liable to the party with whom he contracts, unless he expressly binds himself or exceeds the limits of his authority without giving such party sufficient notice of his powers."

The DBP is not authorized to accept applications for MRI when its clients are more than 60 years of age (Exh. "1-Pool"). Knowing all the while that Dans was ineligible for MRI coverage because of his advanced age, DBP exceeded the scope of its authority when it accepted Dans's application for MRI by collecting the insurance premium, and deducting its agent's commission and service fee.

The liability of an agent who exceeds the scope of his authority depends upon whether the third person is aware of the limits of the agent's powers. There is no showing that Dans knew of the limitation on DBP's authority to solicit applications for MRI.

If the third person dealing with an agent is unaware of the limits of the authority conferred by the principal on the agent and he (third person) has been deceived by the non-disclosure thereof by the agent, then the latter is liable for damages to him (V Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, p. 422 [1992], citing Sentencia [Cuba] of September 25, 1907). The rule that the agent is liable when he acts without authority is founded upon the supposition that there has been some wrong or omission on his part either in misrepresenting, or in affirming, or concealing the authority under which he assumes to act (Francisco, V., Agency 307 [1952], citing Hall v. Lauderdale, 46 N.Y. 70, 75). Inasmuch as the non-disclosure of the limits of the agency carries with it the implication that a deception was perpetrated on the unsuspecting client, the provisions of Articles 19, 20 and 21 of the Civil Code of the Philippines come into play.

Article 19 provides:

"Every person must, in the exercise of his rights and in the performance of his duties, act with justice give everyone his due and observe honesty and good faith."

Article 20 provides:

"Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same."

Article 21 provides:

"Any person, who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage."

The DBP's liability, however, cannot be for the entire value of the insurance policy. To assume that were it not for DBP's concealment of the limits of its authority, Dans would have secured an MRI from another insurance company, and therefore would have been fully insured by the time he died, is highly speculative. Considering his advanced age, there is no absolute certainty that Dans could obtain an insurance coverage from another company. It must also be noted that Dans died almost immediately, i.e., on the nineteenth day after applying for the MRI, and on the twenty-third day from the date of release of his loan.

One is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved (Civil Code of the Philippines, Art. 2199). Damages, to be recoverable, must not only be capable of proof, but must be actually proved with a reasonable degree of certainty (*Refractories Corporation v. Intermediate Appellate Court*, 176 SCRA 539 [1989]; *Choa Tek Hee v. Philippine Publishing Co.*, 34 Phil. 447 [1916]). Speculative damages are too remote to be included in an accurate estimate of damages (*Sun Life Assurance v. Rueda Hermanos*, 37 Phil. 844 [1918]).

While Dans is not entitled to compensatory damages, he is entitled to moral damages. No proof of pecuniary loss is required in the assessment of said kind of damages (Civil Code of the Philippines, Art. 2216). The same may be recovered in acts referred to in Article 2219 of the Civil Code.

The assessment of moral damages is left to the discretion of the court according to the circumstances of each case (Civil Code of the Philippines, Art. 2216). Considering that DBP had offered to pay P30,000.00 to respondent Estate in ex gratia settlement of its claim and that DBP's non-disclosure of the limits of its authority amounted to a deception to its client, an award of moral damages in the amount of P50,000.00 would be reasonable.

The award of attorney's fees is also just and equitable under the circumstances (Civil Code of the Philippines, Article 2208 [11]).

WHEREFORE, the decision of the Court of Appeals in CA G.R.- CV No. 26434 is MODIFIED and petitioner DBP is ORDERED: (1) to REIMBURSE respondent Estate of Juan B. Dans the amount of P1,476.00 with legal interest from the date of the filing of the complaint until fully paid; and (2) to PAY said Estate the amount of Fifty Thousand Pesos (P50,000.00) as moral damages and the amount of Ten Thousand Pesos (P10,000.00) as attorney's fees. With costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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