

**PHILIPPINE AMERICAN LIFE AND GENERAL INSURANCE COMPANY,
PETITIONER, VS. JUDGE LORE R. VALENCIA-BAGALACSA,
REGIONAL TRIAL COURT OF LIBMANAN, CAMARINES SUR, BRANCH
56, AND EDUARDO...**

G.R. No. 139776. August 01, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court. Petitioner Philippine American Life and General Insurance aCompany prays that the decision of the Court of Appeals promulgated on April 30, 1999 be reversed and set aside and that the Complaint filed against it by private respondents Eduardo Z. Lumaniog, Celso Z. Lumaniog and Ruben Z. Lumaniog before the Regional Trial Court of Libmanan, Camarines Sur, docketed as Civil Case No. L-787 be ordered dismissed on ground of prescription of action.

The facts of the case:

On June 20, 1995, private respondents, as legitimate children and forced heirs of their late father, Faustino Lumaniog, filed with the aforesaid RTC, a complaint for recovery of sum of money against petitioner alleging that: their father was insured by petitioner under Life Insurance Policy No. 1305486 with a face value of P50,000.00; their father died of “coronary thrombosis” on November 25, 1980; on June 22, 1981, they claimed and continuously claimed for all the proceeds and interests under the life insurance policy in the amount of P641,000.00, despite repeated demands for payment and/or settlement of the claim due from petitioner, the last of which is on December 1, 1994, petitioner finally refused or disallowed said claim on February 14, 1995;[1] and so, they filed their complaint on June 20, 1995.

Petitioner filed an Answer with Counterclaim and Motion to Dismiss, contending that: the cause of action of private respondents had prescribed and they are guilty of laches; it had denied private respondents’ claim in a letter dated March 12, 1982, signed by its then Assistant Vice President, Amado Dimalanta, on ground of concealment on the part of the deceased insured Faustino when he asserted in his application for insurance coverage that he had not been treated for indication of “chest pain, palpitation, high blood pressure, rheumatic fever, heart murmur, heart attack or other disorder of the heart or blood vessel” when in fact he was a known hypertensive since 1974; private respondents sent a letter dated May 25, 1983[2] requesting for reconsideration of the denial; in a letter dated July 11, 1983, it reiterated its decision to deny the claim for payment of the proceeds;[3] more than ten (10) years later, or on December 1, 1994, it received a letter from Jose C. Claro, a provincial board member of the province of Camarines Sur, reiterating the early request for reconsideration which it denied in a letter dated February 14, 1995.[4]

Private respondents opposed the motion to dismiss.[5]

On June 7, 1996, the RTC issued an Order which reads:

“After a perusal of the motion to dismiss filed by defendants’ counsel and the objection submitted by plaintiff’s counsel, the Court finds that the matters treated in their respective pleadings are evidentiary in nature, hence, the necessity of a trial on the merits.

“Set therefore the hearing in this case on August 1, 1996 at 8:30 a.m., considering that the calendar of the Court is already filled up until the end of July. Notify parties and counsels.

“SO ORDERED.”[6]

Petitioner’s motion for reconsideration was denied by the RTC in its Order dated December 12, 1997 upholding however in the same Order the claim of private respondents’ counsel that the running of the 10-year period was “stopped” on May 25, 1983 when private respondents requested for a reconsideration of the denial and it was only on February 14, 1995 when petitioner finally decided to deny their claim that the 10-year period began to run.[7]

Petitioner filed a petition for certiorari (docketed as CA-G.R. SP No. 47885) under Rule 65 of the Rules of Court in the Court of Appeals and after the comment of the private respondents and reply of petitioner, the appellate court rendered its Decision, dated April 30, 1999, portions of which read as follows:

“Thus, this Court of the opinion and so holds that the prescriptive period to bring the present action commences to run only on February 14, 1995 (Rollo, pp. 25-26), the date when the petitioner finally rejected the claim of private respondents and not in 1983. The ten year period should instead be counted from the date of rejection by the insurer in this case February 14, 1995 –since this is the time when the cause of action accrues.

“This fact was supported further by the letter of the petitioner to Atty. Claro dated December 20, 1994, stating that they were reviewing the claim and shall advise Atty. Claro of their action regarding his request for reconsideration (Id., p. 53).

“In the case of Summit Guaranty and Insurance Co., Inc. Vs. De Guzman (151 SCRA 389, 397-398), citing the case of Eagle Star Insurance Co., Ltd., et al. vs. Chia Yu, the Supreme Court held that:

‘The plaintiff’s cause of action did not accrue until his claim was finally rejected by the insurance company. This is because, before such final rejection, there was no real necessity for bringing suit.’

“In the same case, the case of ACCFA vs. Alpha Insurance and Surety Co., was likewise cited where the Supreme Court ruled in this wise:

‘Since a ‘cause of action’ requires, as essential elements, not only a legal right of the plaintiff and a correlative of the defendant but also ‘an act or omission of the defendant in violation of said legal right’, the cause of action does not accrue until the party obligated refuses, expressly or impliedly, to comply with its duty.’

“Hence, We find no grave abuse of discretion committed by the court a quo when it issued the Orders dated June 7, 1996 and dated December 12, 1997.

“WHEREFORE, the instant petition for certiorari with prayer for issuance of temporary restraining order and/or preliminary injunction is DENIED DUE COURSE and is accordingly DISMISSED by this Court for lack of merit.

“Costs against the petitioner.

“SO ORDERED.”[8]

Hence, the present petition for review. Petitioner posits the following issues:

“A. Whether or not the complaint filed by private respondents for payment of life insurance proceeds is already barred by prescription of action.

“B. Whether or not an extrajudicial demand made after an action has prescribed shall cause the revival of the action.”[9]

Private respondents filed their Comment and petitioners, their Reply.

Before we determine whether the Court of Appeals had committed any reversible error, we must necessarily first ascertain whether or not the RTC committed grave abuse of discretion in issuing the Orders dated June 7, 1996 and December 12, 1997.

Notably, the RTC was initially correct in issuing the Order dated June 7, 1996 when it set the case below for hearing as there are matters in the respective pleadings of the parties “that are evidentiary in nature, hence the necessity of a trial on the merits”[10] , in effect, denying the motion to dismiss, pursuant to the then prevailing Section 3, Rule 16, of the Rules of Court, to wit:

“Sec. 3. Hearing and order. - After hearing the court may deny or grant the motion or allow amendment of pleading, or may defer the hearing and determination of the motion until the trial if the ground alleged therein does not appear to be indubitable.”

before it was amended by the 1997 Rules of Civil Procedure, effective July 1, 1997.[11]

It must be emphasized that petitioner had specifically alleged in the Answer that it had denied private respondents’ claim per its letter dated July 11, 1983.[12] Hence, due process demands that it be given the opportunity to prove that private respondents had received said letter, dated July 11, 1983. Said letter is crucial to petitioner’s defense that the filing of the complaint for recovery of sum of money in June, 1995 is beyond the 10-year prescriptive period[13] .

It is for the above reason that the RTC committed a grave abuse of discretion when, in resolving the motion for reconsideration of petitioner, it arbitrarily ruled in its Order dated December 12, 1997, that the period of ten (10) years had not yet lapsed. It based its finding on a mere explanation of the private respondents’ counsel and not on evidence presented by the parties as to the date when to reckon the prescriptive period. Portions of the Order dated December 12, 1997 read:

“A perusal of the record will likewise reveal that plaintiffs’ counsel explained that the running of the ten (10) year period was stopped on May 25, 1983, upon demand of Celso Lomaniog for the compliance of the contract and reconsideration of the decision. Counsel also wrote the President of the Company on December 1, 1994, asking for reconsideration. The letter was answered by the Assistant Vice President of the Claims Department of Philamlife, with the advise ‘that the company is reviewing the claim.’ On February 14, 1995, Atty. Abis sent a letter to counsel, finally deciding the plaintiffs’ claim. Thus, the period of prescription should commence to run only from February 14, 1995, when Atty. Abis finally decided plaintiffs’ claim.

“It is evident from the foregoing that the ten (10) year period for plaintiffs to claim the insurance proceeds has not yet prescribed. The final determination denying the claim was made only on February 14, 1995. Hence, when the instant case was filed on June 20, 1995, the ten year period has not yet lapsed. Moreover, defendant’s counsel failed to comply with the requirements of the Rules in filing his motion for reconsideration.”[14] (emphasis supplied)

The ruling of the RTC that the cause of action of private respondents had not prescribed, is arbitrary and patently erroneous for not being founded on evidence on record, and therefore, the same is void.[15]

Consequently, while the Court of Appeals did not err in upholding the June 7, 1986 Order of the RTC, it

committed a reversible error when it declared that the RTC did not commit any grave abuse of discretion in issuing the Order dated December 12, 1997.

The appellate court should have granted the petition for certiorari assailing said Order of December 12, 1997. Certiorari is an appropriate remedy to assail an interlocutory order (1) when the tribunal issued such order without or in excess of jurisdiction or with grave abuse of discretion and (2) when the assailed interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief.[16] Said Order was issued with grave abuse of discretion for being patently erroneous and arbitrary, thus, depriving petitioner of due process, as discussed earlier.

WHEREFORE, the petition is partly GRANTED. The assailed decision of the Court of Appeals dated April 30, 1999 insofar only as it upheld the Order dated December 12, 1997 is REVERSED and SET ASIDE. A new judgment is entered reversing and setting aside the Order dated December 12, 1997 of the Regional Trial Court of Libmanan, Camarines Sur (Branch 56) and affirming its Order dated June 20, 1995. Said RTC is directed to proceed with dispatch with Civil Case No. L-787.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Annex “J”, CA rollo, pp. 25-26.

[2] Annex “G”, CA rollo, p. 21.

[3] Annex “H”, CA rollo, p. 22.

[4] Annexes “L” and “J”, CA rollo, pp. 30 and 25, respectively.

[5] Annex “M”, CA rollo, p. 34.

[6] Annex “O”, CA rollo, p. 42.

[7] Annex “A”, CA rollo, p. 12.

[8] CA Decision promulgated on April 30, 1999, pp. 7-8.

[9] Rollo, p. 8.

[10] Annex “O”, CA rollo, p. 42.

[11] The amended Section 3, Rule 16 provides:

“Sec. 3. Resolution of motion. - After the hearing, the court may dismiss the action or claim, deny the motion, or order the amendment of the pleading.

“The court shall not defer the resolution of the motion for the reason that the ground relied upon is not indubitable.

“In every case, the resolution shall state clearly and distinctly the reasons therefor.”

[12] Annex “H”, CA rollo, p.22.

[13] Article 1144 of the Civil Code provides: The following actions must be brought within ten years from the time the right of action accrues: (1) Upon a written contract; (2) Upon an obligation created by law; (3) Upon a judgment.

[14] Annex “A”, CA rollo, p. 12.

[15] Concepcion vs. Court of Appeals, 324 SCRA 85 (2000).

[16] J.L. Bernardo Construction vs. Court of Appeals, 324 SCRA 24, 34 (2000).

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