

GENERAL INSURANCE & SURETY CORPORATION, PETITIONER, VS. NG HUA, RESPONDENT.

G.R. No. 14373. January 30, 1960

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14373/>

BENGZON, J.:

Suit to recover on a fire insurance policy. The insurer presented several defenses in the Manila court of first instance. After trial, it was required to pay.

On appeal to the Court of Appeals, the judgment was affirmed.

This is now a revision on certiorari, upon the insurer's insistence on two of its main defenses: prescription and breach of warranty.

The principal facts on which adjudication may rest are these:

On April 15, 1952, the defendant General Insurance & Surety Corporation issued its Insurance Policy No. 471, insuring against fire, for one year, the stock in trade of the Central Pomade Factory owned by Ng Hua, the insured. The next day, the Pomade Factory building burned, resulting in destruction by fire of the insured properties. Ng Hua claimed indemnity from the insurer. The policy covered damages up to P10,000.00; but after some negotiations and upon suggestion of the Manila Adjustment Company, he reduced the claim to P5,000.00. Nevertheless, the defendant insurer refused to pay for various reasons, namely (a) action was not filed in time; (b) violation of warranty; (c) submission of fraudulent claim; and (d) failure to pay the premium.

The aforesaid Policy No. 471 contains this stipulation printed on the back thereof;

"3. The Insured shall give notice to the company of any insurance or insurances already effected, or which may subsequently be effected, covering any of the property hereby insured, and unless such notice be given and the particulars of such insurance or insurances be stated in or endorsed on this Policy by or on behalf of the Company before the occurrence of any loss or damage, all benefits under this Policy shall be forfeited." (Italics Ours.)

The face of the policy bore the annotation: "Co-Insurance Declared—NIL"

It is undenied that Ng Hua had obtained fire insurance on the same goods, for the same period of time, in the amount of P20,000.00 from General Indemnity Co. However, the Court of Appeals, referring to the annotation and overruling the defense, held there was no violation of the above clause, inasmuch as "co-insurance exists when a condition of the policy requires the insured to bear ratable proportion of the loss when the value of the insured property exceeds the face value of the policy," hence there is no co-insurance here.

Discussion—Undoubtedly, co-insurance exists under the condition described by the appellate court but that is one kind of co-insurance. It is not the only situation where coinsurance exists. Other insurers of the same property against the same hazard are sometimes referred to as co-insurers and the ensuing combination as co-insurance.[1]

And considering the terms of the policy which required the insured to declare other insurances, the statement in question must be deemed to be a statement (warranty) binding on both insurer and insured, that there were no other insurance on the property. Remember it runs "Co-Insurance declared"; emphasis on the last word. If "Co-insurance" means what the Court of Appeals says, the annotation served no purpose. It would even be contrary to the policy itself, which in its clause No. 17 made the insured a co-insurer for the excess of the value of the property over the amount of the policy.

The annotation then, must be deemed to be a warranty that the property was not insured by any other policy. Violation thereof entitles the insurer to rescind. (Sec. 69. Insurance Act) Such misrepresentation is fatal in the light of our views in *Santa Ana vs. Commercial Union Assurance Company, Ltd.*, 55 Phil. 329. The materiality of non-disclosure of other insurance policies is not open to doubt.

Furthermore, even if the annotation were overlooked, the defendant insurer would still be free from liability because there is no question that the policy issued by General Indemnity has not been stated in nor endorsed on Policy No. 471 of defendant. And as stipulated in the above-quoted provisions of such policy "all benefit under this policy shall be forfeited." [2]

To avoid the disastrous effect of the misrepresentation or concealment of the other insurance policy, Ng Hua alleges "actual knowledge" on the part of General Insurance of the fact that he had taken out additional insurance with General Indemnity. He does not say when such knowledge was acquired or imparted. If General Insurance knew before issuing its policy or before the fire, such knowledge might overcome the insurer's defense. [3] However, the Court of Appeals found no evidence of such knowledge. We have read the pages of the stenographic notes cited by Ng Hua and all we gather is evidence of the existence of the insurance with General Indemnity Company. As to knowledge of General Insurance before issuance of its policy or the fire, there was none.

Indeed, this concealment and violation was expressly set up as a special defense in the answer. Yet plaintiff did not, in avoidance, reply nor assert such knowledge. And it is doubtful whether evidence on the point would be admissible under the pleadings. (See Rule 11, sec. 1.)

All the above considerations lead to the conclusion that the defendant insurer successfully established its defense of warranty breach or concealment of the other insurance and/or violation of the provision of the policy above-mentioned.

Having reached this conclusion, we deem it unnecessary to discuss the other defenses.

Wherefore, the judgment under review will be revoked, and the defendant insurer (herein petitioner) acquitted from all the liability under the policy. Costs against respondent. So ordered.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Barrera, JJ., concur.

Gutierrez David, J., took no part.

[1] Where the same person is insured by several insurers separately in respect to the same subject and interest, there is double insurance under our statute (sec. 86, Insurance Law). The situation is also sometimes described in the texts and cases as concurrent insurance, additional or other insurance, or coinsurance. See *Ocean S. S. Co. vs. Aetna Ins. Co.*, 121 Federal Reporter, 882, 887, *Fidelity & Casualty Co. vs. Firemen's Fund*, 100 Pac. (2nd series) 364, 366. Textbooks and treatises in their indexes, list additional insurance, other insurance, and concurrent insurance under "co-insurance." See *Vance on Insurance*; *Couch, Cyclopaedia on Insurance*); *Appelman-Law on*

Insurance. See specially Vance on Insurance 2nd Ed. p. 78 j Oppenheim vs. Firemen's Fund, 138 NW. 777 referred to special conditions in Minnesota.

[2] A policy may declare that a violation of specified provisions thereof shall avoid it. (sec. 70, Insurance Law).

[3] La O vs. Yek Tong Lim Fire & Marine Insurance Co. 55 Phil., 386.

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.