

GOVERNMENT SERVICE INSURANCE SYSTEM, CEBU CITY BRANCH, PETITIONER, VS. MILAGROS O. MONTESCLAROS, RESPONDENT.

G.R. No. 146494. July 14, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari of the Decision[1] dated 13 December 2000 of the Court of Appeals in CA-G.R. CV No. 48784. The Court of Appeals affirmed the Decision[2] of the Regional Trial Court, Branch 21, Cebu City (“trial court”), which held that Milagros Orbiso Montesclaros is entitled to survivorship pension.

The Facts

Sangguniang Bayan member Nicolas Montesclaros (“Nicolas”) married Milagros Orbiso (“Milagros”) on 10 July 1983.[3] Nicolas was a 72- year old widower when he married Milagros who was then 43 years old.

On 4 January 1985, Nicolas filed with the Government Service Insurance System (“GSIS”) an application for retirement benefits effective 18 February 1985 under Presidential Decree No. 1146 or the Revised Government Service Insurance Act of 1977 (“PD 1146”). In his retirement application, Nicolas designated his wife Milagros as his sole beneficiary.[4] Nicolas’ last day of actual service was on 17 February 1985.[5] On 31 January 1986, GSIS approved Nicolas’ application for retirement “effective 17 February 1984,” granting a lump sum payment of annuity for the first five years and a monthly annuity thereafter.[6] Nicolas died on 22 April 1992. Milagros filed with GSIS a claim for survivorship pension under PD 1146. On 8 June 1992, GSIS denied the claim because under Section 18 of PD 1146, the surviving spouse has no right to survivorship pension if the surviving spouse contracted the marriage with the pensioner within three years before the pensioner qualified for the pension.[7] According to GSIS, Nicolas wed Milagros on 10 July 1983, less than one year from his date of retirement on “17 February 1984.”

On 2 October 1992, Milagros filed with the trial court a special civil action for declaratory relief questioning the validity of Section 18 of PD 1146 disqualifying her from receiving survivorship pension.

On 9 November 1994, the trial court rendered judgment declaring Milagros eligible for survivorship pension. The trial court ordered GSIS to pay Milagros the benefits due including interest. Citing Articles 115[8] and 117[9] of the Family Code, the trial court held that retirement benefits, which the pensioner has earned for services rendered and for which the pensioner has contributed through monthly salary deductions, are onerous acquisitions. Since retirement benefits are property the pensioner acquired through labor, such benefits are conjugal property. The trial court held that the prohibition in Section 18 of PD 1146 is deemed repealed for being inconsistent with the Family Code, a later law. The Family Code has retroactive effect if it does not prejudice or impair vested rights.

GSIS appealed to the Court of Appeals, which affirmed the decision of the trial court. Hence, this petition for review.

In the meantime, in a letter dated 10 January 2003, Milagros informed the Court that she has accepted GSIS' decision disqualifying her from receiving survivorship pension and that she is no longer interested in pursuing the case.[10] Commenting on Milagros' letter, GSIS asserts that the Court must decide the case on the merits.[11]

The Court will resolve the issue despite the manifestation of Milagros. The issue involves not only the claim of Milagros but also that of other surviving spouses who are similarly situated and whose claims GSIS would also deny based on the proviso. Social justice and public interest demand that we resolve the constitutionality of the proviso.

The Ruling of the Court of Appeals

The Court of Appeals agreed with the trial court that the retirement benefits are onerous and conjugal because the pension came from the deceased pensioner's salary deductions. The Court of Appeals held that the pension is not gratuitous since it is a deferred compensation for services rendered.

The Issues

GSIS raises the following issues:

- Whether Section 16 of PD 1146 entitles Milagros to survivorship pension;
- Whether retirement benefits form part of conjugal property;
- Whether Articles 254 and 256 of the Family Code repealed Section 18 of PD 1146.[12]

The Court's Ruling

The pertinent provisions of PD 1146 on survivorship benefits read:

SEC. 16. Survivorship Benefits. When a member or pensioner dies, the beneficiary shall be entitled to survivorship benefits provided for in sections seventeen and eighteen hereunder. The survivorship pension shall consist of:

- basic survivorship pension which is fifty percent of the basic monthly pension; and
- dependent's pension not exceeding fifty percent of the basic monthly pension payable in accordance with the rules and regulations prescribed by the System.

SEC. 17. Death of a Member.

- Upon the death of a member, the primary beneficiaries shall be entitled to:
 - the basic monthly pension which is guaranteed for five years; Provided, That, at the option of the beneficiaries, it may be paid in lump sum as defined in this Act: Provided, further, That, the member is entitled to old-age pension at the time of his death; or
 - the basic survivorship pension which is guaranteed for thirty months and the dependent's pension; Provided, That, the deceased had paid at least thirty-six monthly contributions within the five-year period immediately preceding his death, or a total of at least one hundred eighty monthly contributions prior to his death.
- At the end of the guaranteed periods mentioned in the preceding sub-section (a), the survivorship pension shall be paid as follows:
 - when the dependent spouse is the only survivor, he shall receive the basic survivorship pension for life or until he remarries;
 - when only dependent children are the survivors, they shall be entitled to the survivorship pension for as long

as they are qualified;

- when the survivors are the dependent spouse and the dependent children, they shall be entitled to the survivorship pension so long as there are dependent children and, thereafter, the surviving spouse shall receive the basic survivorship pension for life or until he remarries.

- In the absence of primary beneficiaries, the secondary beneficiaries designated by the deceased and recorded in the System, shall be entitled to:

- a cash payment equivalent to thirty times the basic survivorship pension when the member is qualified for old-age pension; or

- a cash payment equivalent to fifty percent of the average monthly compensation for each year he paid contributions, but not less than five hundred pesos; Provided, That, the member paid at least thirty-six monthly contributions within the five-year period immediately preceding his death or paid a total of at least one hundred eighty monthly contributions prior to his death.

- When the primary beneficiaries are not entitled to the benefits mentioned in paragraph (a) of this section, they shall receive a cash payment equivalent to one hundred percent of the average monthly compensation for each year the member paid contributions, but not less than five hundred pesos. In the absence of primary beneficiaries, the amount shall revert to the funds of the System.

SEC. 18. Death of a Pensioner. Upon the death of a pensioner, the primary beneficiaries shall receive the applicable pension mentioned under paragraph (b) of section seventeen of this Act: Provided, That, the dependent spouse shall not be entitled to said pension if his marriage with the pensioner is contracted within three years before the pensioner qualified for the pension. When the pensioner dies within the period covered by the lump sum, the survivorship pension shall be paid only after the expiration of the said period. This shall also apply to the pensioners living as of the effectivity of this Act, but the survivorship benefit shall be based on the monthly pension being received at the time of death. (Emphasis supplied)

Under PD 1146, the primary beneficiaries are (1) the dependent spouse until such spouse remarries, and (2) the dependent children.[13] The secondary beneficiaries are the dependent parents and legitimate descendants except dependent children.[14] The law defines dependent as “the legitimate, legitimated, legally adopted, acknowledged natural or illegitimate child who is unmarried, not gainfully employed, and not over twenty-one years of age or is over twenty-one years of age but physically or mentally incapacitated and incapable of self-support.” The term also includes the legitimate spouse dependent for support on the member, and the legitimate parent wholly dependent on the member for support.[15]

The main question for resolution is the validity of the proviso in Section 18 of PD 1146, which proviso prohibits the dependent spouse from receiving survivorship pension if such dependent spouse married the pensioner within three years before the pensioner qualified for the pension (“the proviso”).

We hold that the proviso, which was the sole basis for the rejection by GSIS of Milagros’ claim, is unconstitutional because it violates the due process clause. The proviso is also discriminatory and denies equal protection of the law.

Retirement Benefits as Property Interest

Under Section 5 of PD 1146, it is mandatory for the government employee to pay monthly contributions. PD 1146 mandates the government to include in its annual appropriation the necessary amounts for its share of the contributions. It is compulsory on the government employer to take off and withhold from the employees’ monthly salaries their contributions and to remit the same to GSIS.[16] The government employer must also remit its corresponding share to GSIS.[17] Considering the mandatory salary deductions from the government

employee, the government pensions do not constitute mere gratuity but form part of compensation.

In a pension plan where employee participation is mandatory, the prevailing view is that employees have contractual or vested rights in the pension where the pension is part of the terms of employment.[18] The reason for providing retirement benefits is to compensate service to the government. Retirement benefits to government employees are part of emolument to encourage and retain qualified employees in the government service. Retirement benefits to government employees reward them for giving the best years of their lives in the service of their country.[19]

Thus, where the employee retires and meets the eligibility requirements, he acquires a vested right to benefits that is protected by the due process clause.[20] Retirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law.[21] Thus, a pensioner acquires a vested right to benefits that have become due as provided under the terms of the public employees' pension statute.[22] No law can deprive such person of his pension rights without due process of law, that is, without notice and opportunity to be heard.[23]

In addition to retirement and disability benefits, PD 1146 also provides for benefits to survivors of deceased government employees and pensioners. Under PD 1146, the dependent spouse is one of the beneficiaries of survivorship benefits. A widow's right to receive pension following the demise of her husband is also part of the husband's contractual compensation.[24]

Denial of Due Process

The proviso is contrary to Section 1, Article III of the Constitution, which provides that "[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws." The proviso is unduly oppressive in outrightly denying a dependent spouse's claim for survivorship pension if the dependent spouse contracted marriage to the pensioner within the three-year prohibited period. There is outright confiscation of benefits due the surviving spouse without giving the surviving spouse an opportunity to be heard. The proviso undermines the purpose of PD 1146, which is to assure comprehensive and integrated social security and insurance benefits to government employees and their dependents in the event of sickness, disability, death, and retirement of the government employees.

The "whereas" clauses of PD 1146 state:

WHEREAS, the Government Service Insurance System in promoting the efficiency and welfare of the employees of the Government of the Philippines, administers the laws that grant to its members social security and insurance benefits;

WHEREAS, it is necessary to preserve at all times the actuarial solvency of the funds administered by the System; to guarantee to the government employee all the benefits due him; and to expand and increase the benefits made available to him and his dependents to the extent permitted by available resources;

WHEREAS, provisions of existing laws have impeded the efficient and effective discharge by the System of its functions and have unduly hampered the System from being more responsive to the dramatic changes of the times and from meeting the increasing needs and expectations of the Filipino public servant;

WHEREAS, provisions of existing laws that have prejudiced, rather than benefited, the government employee; restricted, rather than broadened, his benefits, prolonged, rather than facilitated the payment of benefits, must now yield to his paramount welfare;

WHEREAS, the social security and insurance benefits of government employees must be continuously re-examined and improved to assure comprehensive and integrated social security and insurance programs that

will provide benefits responsive to their needs and those of their dependents in the event of sickness, disability, death, retirement, and other contingencies; and to serve as a fitting reward for dedicated public service;

WHEREAS, in the light of existing economic conditions affecting the welfare of government employees, there is a need to expand and improve the social security and insurance programs administered by the Government Service Insurance System, specifically, among others, by increasing pension benefits, expanding disability benefits, introducing survivorship benefits, introducing sickness and income benefits, and eventually extending the compulsory coverage of these programs to all government employees regardless of employment status.

PD 1146 has the following purposes:

- to preserve at all times the actuarial solvency of the funds administered by the System;
- to guarantee to the government employee all the benefits due him; and
- to expand, increase, and improve the social security and insurance benefits made available to him and his dependents such as:
 - increasing pension benefits
 - expanding disability benefits
 - introducing survivorship benefits
 - introducing sickness income benefits
 - extending compulsory membership to all government employees irrespective of status[25]

The law extends survivorship benefits to the surviving and qualified beneficiaries of the deceased member or pensioner to cushion the beneficiaries against the adverse economic effects resulting from the death of the wage earner or pensioner.[26]

Violation of the Equal Protection Clause

The surviving spouse of a government employee is entitled to receive survivor's benefits under a pension system. However, statutes sometimes require that the spouse should have married the employee for a certain period before the employee's death to prevent sham marriages contracted for monetary gain. One example is the Illinois Pension Code which restricts survivor's annuity benefits to a surviving spouse who was married to a state employee for at least one year before the employee's death. The Illinois pension system classifies spouses into those married less than one year before a member's death and those married one year or more. The classification seeks to prevent conscious adverse risk selection of deathbed marriages where a terminally ill member of the pension system marries another so that person becomes eligible for benefits. In *Sneddon v. The State Employee's Retirement System of Illinois*,[27] the Appellate Court of Illinois held that such classification was based on difference in situation and circumstance, bore a rational relation to the purpose of the statute, and was therefore not in violation of constitutional guarantees of due process and equal protection.

A statute based on reasonable classification does not violate the constitutional guaranty of the equal protection of the law.[28] The requirements for a valid and reasonable classification are: (1) it must rest on substantial distinctions; (2) it must be germane to the purpose of the law; (3) it must not be limited to existing conditions only; and (4) it must apply equally to all members of the same class.[29] Thus, the law may treat and regulate one class differently from another class provided there are real and substantial differences to distinguish one class from another.[30]

The proviso in question does not satisfy these requirements. The proviso discriminates against the dependent

spouse who contracts marriage to the pensioner within three years before the pensioner qualified for the pension.[31] Under the proviso, even if the dependent spouse married the pensioner more than three years before the pensioner's death, the dependent spouse would still not receive survivorship pension if the marriage took place within three years before the pensioner qualified for pension. The object of the prohibition is vague. There is no reasonable connection between the means employed and the purpose intended. The law itself does not provide any reason or purpose for such a prohibition. If the purpose of the proviso is to prevent "deathbed marriages," then we do not see why the proviso reckons the three-year prohibition from the date the pensioner qualified for pension and not from the date the pensioner died. The classification does not rest on substantial distinctions. Worse, the classification lumps all those marriages contracted within three years before the pensioner qualified for pension as having been contracted primarily for financial convenience to avail of pension benefits.

Indeed, the classification is discriminatory and arbitrary. This is probably the reason Congress deleted the proviso in Republic Act No. 8291 ("RA 8291"),[32] otherwise known as the "Government Service Insurance Act of 1997," the law revising the old charter of GSIS (PD 1146). Under the implementing rules of RA 8291, the surviving spouse who married the member immediately before the member's death is still qualified to receive survivorship pension unless the GSIS proves that the surviving spouse contracted the marriage solely to receive the benefit.[33]

Thus, the present GSIS law does not presume that marriages contracted within three years before retirement or death of a member are sham marriages contracted to avail of survivorship benefits. The present GSIS law does not automatically forfeit the survivorship pension of the surviving spouse who contracted marriage to a GSIS member within three years before the member's retirement or death. The law acknowledges that whether the surviving spouse contracted the marriage mainly to receive survivorship benefits is a matter of evidence. The law no longer prescribes a sweeping classification that unduly prejudices the legitimate surviving spouse and defeats the purpose for which Congress enacted the social legislation.

WHEREFORE, the petition is DENIED for want of merit. We declare VOID for being violative of the constitutional guarantees of due process and equal protection of the law the proviso in Section 18 of Presidential Decree No. 1146, which proviso states that "the dependent spouse shall not be entitled to said pension if his marriage with the pensioner is contracted within three years before the pensioner qualified for the pension." The Government Service Insurance System cannot deny the claim of Milagros O. Montesclaros for survivorship benefits based on this invalid proviso.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Penned by Associate Justice Ruben T. Reyes, with Associate Justices Mariano M. Umali and Rebecca de Guia-Salvador concurring.

[2] Penned by Judge Peary G. Aleonar.

[3] See Marriage Contract; Records, p. 5.

[4] Records, p. 8.

[5] See Service Record; Records p. 70.

[6] Records, p. 112.

[7] Ibid., pp. 9, 12.

[8] Article 115 of the Family Code reads:

Art. 115. Retirement benefits, pensions, annuities, gratuities, usufructs and similar benefits shall be governed by the rules on gratuitous or onerous acquisitions as may be proper in each case.

[9] Article 117 of the family Code reads:

Art. 117. The following are conjugal partnership properties:

- Those acquired by onerous title during the marriage at the expense of the common fund, whether the acquisition be for the partnership, or for only one of the spouses;
- Those obtained from the labor, industry, work or profession of either or both of the spouses;

x x x

[10] Rollo, p. 78.

[11] Ibid., p. 84.

[12] Ibid., pp. 14-15.

[13] Sec. 2(g), PD 1146.

[14] Sec. 2(h), PD 1146.

[15] Sec. 2(f), PD 1146.

[16] Section 6, PD 1146.

[17] Ibid.

[18] 60A Am. Jur. 2d Pensions and Retirement Funds § 1620 (1988).

[19] GSIS v. Civil Service Commission, 315 Phil. 159 (1995).

[20] 60A Am. Jur. 2d Pensions and Retirement Funds § 1506 (1988).

[21] Zucker v. U.S., 758 F.2d 637 (CA Fed. Cir., 1985).

[22] Pennie v. Reis, 132 U.S. 464, 33 L.Ed. 426 (1889).

[23] Stevens v. Minneapolis Fire Department Relief Ass'n, 124 Minn 381, 141 NW 35 (1914).

[24] 60A Am. Jur. 2d Pensions and Retirement Funds § 1620 (1988).

[25] Information Primer on Presidential Decree 1146 and other Benefits 14.

[26] Section 1, Rule VI of the Implementing Rules and Regulations of PD 1146, Rollo, p. 8.

[27] 388 N.E.2d 229 (1979).

[28] Fariñas v. The Executive Secretary, G.R. No. 147387, 10 December 2003; Villareña v. The Commission on Audit, G.R. Nos. 145383-84, 6 August 2003.

[29] Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) v. The Secretary, Department of

Interior and Local Government, G.R. No. 143076, 10 June 2003, 403 SCRA 558; Lacson v. The Executive Secretary, 361 Phil. 251 (1999); Tiu v. CA. 361 Phil. 229 (1999); People v. Cayat, 68 Phil. 12 (1939).

[30] Fariñas v. The Executive Secretary, G.R. No. 147387, 10 December 2003; Abbas v. Commission on Elections, G.R. No. 89651, 10 November 1989, 179 SCRA 287.

[31] Section 11 of PD 1146 provides for the qualifications to become entitled to retirement benefits:

SEC. 11. Conditions for Old-Age Pension. –

- Old-age pension shall be paid to a member who:
- has at least fifteen years of service;
- is at least sixty years of age; and
- is separated from the service.
- Unless the service is extended by appropriate authorities, retirement shall be compulsory for an employee at sixty-five years of age with at least fifteen years of service: Provided, That if he has less than fifteen years of service, he shall be allowed to continue in the service to complete the fifteen years.

[32] The pertinent provisions of RA 8291 regarding survivorship benefits read:

SEC. 20. Survivorship Benefits. - When a member or pensioner dies, the beneficiaries shall be entitled to survivorship benefits provided in Sections 21 and 22 hereunder subject to the conditions therein provided for. The survivorship pension shall consist of:

- the basic survivorship pension which is fifty percent (50%) of the basic monthly pension; and
- the dependent children's pension not exceeding fifty percent (50%) of the basic monthly pension.

SEC. 21. Death of a Member. -

- Upon the death of a member, the primary beneficiaries shall be entitled to:
- survivorship pension: Provided, That the deceased:
- was in the service at the time of his death; or
- if separated from the service, has at least three (3) years of service at the time of his death and has paid thirty-six (36) monthly contributions within the five-year period immediately preceding his death; or has paid a total of at least one hundred eighty (180) monthly contributions prior to his death; or
- the survivorship pension plus a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for every year of service: Provided, That the deceased was in the service at the time of his death with at least three (3) years of service; or
- a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve Thousand Pesos (P12,000.00): Provided, That the deceased has rendered at least three (3) years of service prior to his death but does not qualify for the benefits under item (1) or (2) of this paragraph.
- The survivorship pension shall be paid as follows:
- when the dependent spouse is the only survivor, he/she shall receive the basic survivorship pension for life or until he/she remarries;

- when only dependent children are the survivors, they shall be entitled to the basic survivorship pension for as long as they are qualified, plus the dependent children's pension equivalent to ten percent (10%) of the basic monthly pension for every dependent child not exceeding five (5), counted from the youngest and without substitution;
- when the survivors are the dependent spouse and the dependent children, the dependent spouse shall receive the basic survivorship pension for life or until he/she remarries, and the dependent children shall receive the dependent children's pension mentioned in the immediately preceding paragraph (2) hereof.
- In the absence of primary beneficiaries, the secondary beneficiaries shall be entitled to:
 - the cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve Thousand Pesos (P12,000.00): Provided, That the member is in the service at the time of his death and has at least three (3) years of service; or
 - in the absence of secondary beneficiaries, the benefits under this paragraph shall be paid to his legal heirs.
- For purposes of the survivorship benefits, legitimate children shall include legally adopted and legitimated children.

SEC. 22. Death of a Pensioner. - Upon the death of an old-age pensioner or a member receiving the monthly income benefit for permanent disability, the qualified beneficiaries shall be entitled to the survivorship pension defined in Section 20 of this Act, subject to the provisions of paragraph (b) of Section 21 hereof. When the pensioner dies within the period covered by the lump sum, the survivorship pension shall be paid only after the expiration of the said period.

[33] Section 10.4.1 of the Implementing Rule and Regulation of R.A. No. 8291 reads:

Section 10.4 Allocation of the Survivorship Pension Among Beneficiaries. – The survivorship pension shall be paid as follows:

10.4.1 – When the dependent spouse is the only survivor, he/she shall receive the basic survivorship pension for life or until he/she remarries. For purposes of this section, the marriage of the surviving spouse immediately prior to the death of the member or pensioner shall be acceptable, unless it is proven that the marriage was solemnized solely for the purpose of receiving the benefit. (Emphasis supplied)

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