

GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER, ERNESTO A. VILLAMAYOR, RESPONDENT.

G.R. NO. 154386. August 22, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The late Dionisia Villamayor, wife of respondent Ernesto A. Villamayor (respondent), first started her government career in 1962 as a public school teacher. Upon her retirement on June 4, 1998 at the age of 57, Villamayor was already a Public School District Supervisor. However, before she retired, Villamayor was diagnosed two years earlier with breast cancer (invasive ductal carcinoma), after which she underwent a series of treatments and surgeries. On July 23, 1998, Villamayor succumbed to her illness. Her immediate cause of death was respiratory arrest, with pneumonia as antecedent cause, and breast carcinoma as underlying cause.

On October 15, 1999, respondent filed a claim for compensation with petitioner Government Service Insurance System (GSIS) under Presidential Decree No. 626. This was denied by the GSIS on the ground that the claim is not compensable because it is not a work-related illness. Respondent appealed to the Employees' Compensation Commission (ECC), which affirmed the denial, and dismissed the case for lack of merit. Respondent then filed a petition for review with the Court of Appeals (CA), docketed as CA-G.R. SP No. 63226.

On April 11, 2002, the CA[1] rendered a Decision granting the petition and declaring respondent entitled to the death benefits of his wife. The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, this petition is GRANTED. The Decision dated July 21, 2000 of public respondent Employees' Compensation Commission in ECC Case No. MG-11186-100 is reversed and set aside and a new one is rendered declaring petitioner entitled to the death benefits of his wife Dionisia A. Villamayor as so provided under P.D. No. 626, as amended.

SO ORDERED.[2]

Hence, this petition by the GSIS on the following ground:

THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE EMPLOYEES' COMPENSATION COMMISSION AFFIRMING THE DECISION OF THE PETITIONER GSIS IN DENYING THE CLAIM OF THE RESPONDENT FOR DEATH BENEFITS UNDER P.D. 626, AS AMENDED. THE DENIAL WAS BASED ON THE REASON THAT THE AILMENT, "BREAST CARCINOMA, STAGE IV" (BONE AND LUNG METASTASES), IS NOT AN OCCUPATIONAL DISEASE LISTED UNDER ANNEX "A" OF RULE III, SECTION 1 (b) OF THE AMENDED RULES OF PD 626, AS AMENDED, NOR WAS THERE PROOF, POSITIVE ENOUGH, TO SHOW THAT RISK OF CONTRACTING THE DISEASE WAS INCREASED BY THE WORKING CONDITIONS OF THE DECEASED.[3]

Petitioner's basic argument is that breast cancer, which caused Villamayor's death, is not work-connected, hence, not compensable. Petitioner also argues that respondent failed to prove that the risk of contracting breast cancer

was increased by his wife's working conditions.

Respondent, however, counters that since his wife was previously diagnosed with pulmonary tuberculosis and pneumonia which are listed as occupational diseases, and in fact, the antecedent cause of her death is pneumonia, then her death is already compensable. Respondent also maintains that his wife's breast cancer developed when, in 1989, a ball hit her right breast/chest during a school inspection. Respondent theorized that when his wife got older, her pulmonary tuberculosis and pneumonia aggravated her risk of contracting the ailment, citing an article on breast cancer, which stated that: "a cell can be changed or hit by an environmental facts, thereby producing a genetic change in the cell. x x x. If a changed cell is hit by another environmental agent, it can, it turn, be transformed to become a cancer cell. x x x.[4]

Presidential Decree (P.D.) No. 626, as amended, defines compensable sickness as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by the working conditions." Under Section 1 (b), Rule III, of the Rules Implementing P. D. No. 626, as amended, for the sickness and the resulting disability or death to be compensable, the same must be an "occupational disease" included in the list provided (Annex "A"), with the conditions set therein satisfied; otherwise, the claimant must show proof that the risk of contracting it is increased by the working conditions.[5]

Breast cancer is not listed as an occupational disease under Annex "A". Such being the case, it was necessary for respondent to prove by substantial evidence the causal relationship between his wife's illness and her working conditions. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[6] Thus, respondent must submit proof as would constitute a reasonable basis for concluding either that the conditions of his wife's employment caused the cancer or that such working conditions had aggravated the risk of contracting that ailment.[7]

On this score, the medical and hospital records presented by respondent all indicated that respondent's wife was previously diagnosed with, treated for and died from breast cancer. However, there is nothing on these records that will prove any causal connection between his wife's breast cancer and her working conditions.

It was an error for the CA to sweepingly conclude that Villamayor's illness was contracted in the course of her employment, or has increased the risk thereof by reason of employment without any medical or scientific basis in support of such conclusion. According to the CA:

Villamayor's work from being an elementary public school teacher to elementary school principal up to the time she became a Public School District Supervisor was characterized with hardships. She would often encounter a lot of problems in dealing with elementary school pupils in the course of her teaching career, she had to prepare lesson plans, conduct lecture and recitations, correct examination papers, among others. And as a school principal and district school supervisor, even demanded so much duties and responsibilities.

In fact, the deceased's chest was hit hard by a ball in one of her tour of duties that adversely affected her other internal systems as evidenced by a Certification issued by a fellow district supervisor, Mr. Jose L. Cequena, and the Medical Certificate issued by her personal physician Dr. Esmeraldo A. Discimulacion.[8]

The certifications issued by District Supervisor Jose L. Cequena and Hon. Dr. Esmeraldo A. Discimulacion are not sufficient to show that the previous incident wherein Villamayor was hit by a ball on the right chest caused the breast cancer, considering that Cequena and Discimulacion are not certified gynecologic oncologists who have sufficient knowledge on the etiology of breast cancer.

According to the American Cancer Society (ACS), breast cancer is a malignant (cancerous) tumor that starts from the cells of the breast. The most common type of breast cancer is infiltrating (invasive) ductal carcinoma, which

accounts for 80% of invasive breast cancers. Its starts in a milk passage or duct, breaks through the wall of the duct and invades the fatty tissues of the breast. From there, it can spread to other parts of the body.[9] In the Philippines, breast cancer is the leading cause of cancer deaths among Filipino women.[10]

The cause of breast cancer is still unknown. However, certain risk factors — anything that increases a person's chance of getting a disease, such as cancer — have been linked to the disease. These include gender, aging, genetic risk factors, family and personal history of breast cancer, race (most common in Caucasians), previous abnormal breast biopsy, atypical hyperplasia, previous breast radiation, menstrual periods (early menstruation and late menopause), diethylstilbestrol (DES), not having children (nulliparity), oral contraceptive use, hormone replacement therapy, alcohol use, and obesity and high-fat diets. [11] Note that trauma or injury to the breast is not mentioned as being a significant risk factor. As a matter of fact, in an article posted in the CNN Online Library, it has been stated that a blow to the breast or a bruise can cause a lump, but it does not mean that the person is more likely to get breast cancer.[12]

In the present case, absent any substantial evidence that will positively establish the link between Villamayor's working conditions and her breast cancer or that such working conditions had aggravated the risk of contracting that ailment, the claim for death benefits should have been denied by the CA, as was done by petitioner GSIS and the Employees' Compensation Commission.

Respondent also cites an article wherein it was stated that:

[A] cell can be changed or hit by an environmental facts, thereby producing a genetic change in the cell. When the cell divides, this change is passed on to all of its daughter cells, which in turn, pass the change on to their daughter cells. Therefore, as a person gets older, the number of changed cells ups. If a changed cell is hit by another environmental agent, it can, it [sic] turn, be transformed to become a cancer cell. Because it takes time for a cell to receive two hits, individuals are more likely to develop cancer as they age. (pp. 112-114, Understanding Breast Cancer Risk, Patricia Kelly, 1991 edition)[13]

Respondent, however, failed to define or elaborate on the "environmental facts", or "environmental agent", which supposedly stimulates the genetic change or transformation in a cell. Such nebulous citation does not qualify as substantial evidence that will support the conclusion that there is a causal relationship between Villamayor's illness and her working conditions. In *Orate v. Court of Appeals*, [14] involving a claim for employee's compensation benefits for breast cancer, the Court stated:

Regrettably, however, said bare allegations and vague excerpts on cancer do not constitute such evidence that a reasonable mind might accept as adequate to support the conclusion that there is a causal relationship between her illness and her working conditions. Awards of compensation cannot rest on speculations and presumptions. The claimant must prove a positive proposition. A perusal of the records reveals that there is no evidence that she was indeed exposed to dyes. Even assuming that she was dealing directly with chemicals, there is no proof that the company where she worked did not implement measures to control the hazards occasioned by the use of such chemicals.[15]

Finally, respondent contends that the fact that his wife was also diagnosed with pulmonary tuberculosis and pneumonia, which contributed to her demise, makes her death compensable.

Indeed, Annex "A" of the Amended Rules on Employees' Compensation lists pneumonia and pulmonary tuberculosis as occupational diseases. Nevertheless, it does not automatically follow that any resulting disability or death from such occupational diseases are compensable. For the disability or resulting death to be compensable, the same should have been contracted under certain working conditions.

In the case of tuberculosis and pulmonary tuberculosis, the same should involve "any occupation involving close

and frequent contact with a source or sources of tuberculosis infection by reason of employment: (a) in the medical treatment or nursing of a person or persons suffering from tuberculosis (b) as laboratory worker, pathologist or postmortem worker, where occupation involves working with material which is a source of tuberculosis infection;"[16] or "in addition to working conditions already listed under P.D. No. 626, as amended, any occupation involving constant exposure to harmful substances in the working environment, in the form of gases, fumes, vapors, and dust, as in chemical and textile factories; overwork or fatigue; and exposure to rapid variations in temperature, high degree of humidity and bad weather conditions."[17]

For pneumonia, the same must be contracted under the following conditions: (a) there must be an honest and definite history of wetting and chilling during the course of employment, also industrial injury to the chest wall with or without rib fracture, or inhalation of noxious gases, fumes and other deleterious [sic] substances in the place of work; (b) there must be a direct connection between the offending agent or event and the worker's illness; (c) the signs of consolidation should appear soon (within a few hours) and the symptoms of initial chilling and fever should be at least twenty-four (24) hours after the injury; (d) the patient must present one of the following findings within a few days of the accident: (1) severe chill and fever; (2) headache and pain, agonizing in character in the side; (3) short, dry, painful cough with blood-tinged expectoration; (4) physical signs of consolidation with fine rales.[18]

Clearly, Villamayor's pulmonary tuberculosis and pneumonia were not the result of her exposure to any of the foregoing conditions. That these diseases were the result of complications from her breast cancer, as submitted by petitioner GSIS, finds support in Villamayor's medical history and records.

Records show that Villamayor was initially diagnosed with breast cancer in 1996. In April 1997, she underwent surgery where excision of a breast mass on her left and right breasts was done.[19] The histopathologic report on the mass on her right breast made the following diagnosis: "Invasive Ductal Carcinoma with metastasis to two of seventeen axillary lymph nodes." [20] A CT scan of her chest was subsequently done on February 10, 1998, where the impression made by the radiologist was "pulmonary metastases x x x minimal PTB, left upper lobe." [21] In the compensation form filled out by Villamayor's attending physician/surgeon, Dr. Alan Paul I. Ocalere wrote "Breast Cancer, Stage IV (Lung & Bone Metastases)" as the final diagnosis. He also noted the following history and procedures done on Villamayor:[22]

- S/P MRM (R) April 22, 1997
- underwent chemotherapy post-op
- but developed bone recurrence after 8 months
- Noted lung metastases in Feb 1998
- Had 2 more courses of chemotherapy
- but since then, there was rapid deterioration of the patient's health

All these prove that Villamayor's pulmonary tuberculosis and pneumonia were contracted after she was diagnosed with breast cancer, and that these were complications from such disease. Thus, in 1998, Dr. Ocalere noted that there were already lung and bone metastases. Metastasis is the process by which tumor cells spread to distant parts of the body.[23] Apparently, the cancer cells had already spread to Villamayor's lung and bones, and her health was rapidly deteriorating, as a result of which she contracted pulmonary tuberculosis and pneumonia. Consequently, petitioner GSIS and the Employees' Compensation Commission were correct in denying respondent's claim for death benefits.

While this Court has ruled that the sympathy of the law on social security is toward its beneficiaries, it is likewise important to note that such sympathy must be balanced by the equally vital interest of denying undeserving claims for compensation. "Compassion for the victims of diseases not covered by the law ignores the need to show a greater concern for the trust fund to which the tens of millions of workers and their families to look to for compensation whenever covered accidents, diseases and deaths occur." [24]

WHEREFORE, the petition is GRANTED. The CA Decision dated April 11, 2002, declaring respondent entitled to the death benefits of his wife is SET ASIDE, and the Decision dated July 21, 2000 of the Employees' Compensation Commission in ECC Case No. MG-11186-100 is REINSTATED.

No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] Associate Justice Mercedes Gozo-Dadole, ponente, with Associate Justices Salvador J. Valdez, Jr. and Juan Q. Enriquez, Jr., concurring, CA rollo, pp. 163-174.

[2] Id. at 174.

[3] Rollo, pp. 16-17.

[4] Id. at 69.

[5] Bonilla v. Court of Appeals, 395 Phil. 162, 167 (2000).

[6] Bunao v. Social Security System, G.R. No. 159606, December 13, 2005, 477 SCRA 564, 572.

[7] Id.

[8] Rollo, pp. 39-40.

[9] "Detailed Guide: Breast Cancer, What is Breast Cancer?" <http://www.cancer.org/docroot/CRI/content/CRI_2_2_1X_what_is_breast_cancer_5.asp?sitearea=CRI> (visited August 8, 2006).

[10] National Statistical Coordination Board Fact Sheet, No. 01, Series of 2002 <http://www.ncsb.gov.ph/ru12/Fact%20Sheet/2002%20FS/Mar_FS.PDF#searchxh='national%20statistical%20coordination%20board%20breast%20cancer'> (visited August 8, 2006).

[11] "Detailed Guide: Breast Cancer, What Causes Breast Cancer" <http://www.cancer.org/docroot/CRI/content/CRI_2_2_2X_what_causes_breast_cancer_5.asp?rnav=cricri> (visited August 8, 2006).

[12] "Breast Cancer" <<http://www.cnn.com/HEALTH/library/DS/00328.html>> (visited August 8, 2006).

[13] Supra note 4.

[14] 447 Phil. 654 (2003).

[15] Id. at 666.

[16] Annex "A" (Occupational Diseases), 7(e).

[17] Id., No. 27, per ECC Resolution No. 432 dated July 20, 1997.

[18] Id., No. 21.

[19] Rollo, p. 135.

[20] Id. at 136.

[21] Id. at 162.

[22] Id. at 177.

[23] Mosby's Pocket Dictionary of Medicine, Nursing & Allied Health, Third Edition, 1998.

[24] *Riño vs. Employees' Compensation Commission*, 387 Phil. 612, 620 (2000).

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