

## **SOCIAL SECURITY SYSTEM AND LORELIE B. SOLIDUM, BRANCH MANAGER, CUBAO BRANCH, PETITIONERS, VS. GLORIA DE LOS SANTOS, RESPONDENT.**

*G.R. No. 164790. August 29, 2008*

Ponente: REYES, R.T., J.

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### **REYES, R.T., J.:**

AN ESTRANGED wife who was not dependent upon her deceased husband for support is not qualified to be his beneficiary.

The principle is applied in this petition for review on certiorari of the Decision[1] of the Court of Appeals (CA), awarding benefits to respondent Gloria de los Santos.

#### **The Facts**

Antonio de los Santos and respondent Gloria de los Santos, both Filipinos, were married on April 29, 1964 in Manila. Less than one (1) year after, in February 1965, Gloria left Antonio and contracted another marriage with a certain Domingo Talens in Nueva Ecija. Sometime in 1969, Gloria went back to Antonio and lived with him until 1983. They had three children: Alain Vincent, Arlene, and Armine.

In 1983, Gloria left Antonio and went to the United States (US). On May 8, 1986, she filed for divorce against Antonio with the Superior Court of Orange, Sta. Ana, California. On May 21, 1983, she executed a document waiving all her rights to their conjugal properties and other matters. The divorce was granted on November 5, 1986.

On May 23, 1987, Antonio married Cirila de los Santos in Camalig, Albay. Their union produced one child, May-Ann N. de los Santos, born on May 15, 1989. On her part, Gloria married Larry Thomas Constant, an American citizen, on July 11, 1987, in the US.

On May 15, 1989, Antonio amended his records at the Social Security System (SSS). He changed his beneficiaries from Mrs. Margarita de los Santos to Cirila de los Santos; from Gloria de los Santos to May-Ann de los Santos; and from Erlinda de los Santos to Armine de los Santos.

Antonio retired from his employment on March 1, 1996, and from then on began receiving monthly pension. He died of respiratory failure on May 15, 1999. Upon his death, Cirila applied for and began receiving his SSS pension benefit, beginning December 1999.

On December 21, 1999, Gloria filed a claim for Antonio's death benefits with the SSS Cubao Branch. Her claim was denied because she was not a qualified beneficiary of Antonio. The SSS letter of denial dated September 1, 2000 stated:

We regret to inform you that your claim is denied for the following reason/s:

We received documents showing that you have remarried in the United States to one Larry T. Constant. You were also the one who filed for petition for dissolution of your marriage with the deceased member, which was in fact granted by the Superior Court of California, County of Orange.

These circumstances are sufficient ground for denial as the SSS law specifically defines beneficiaries as "the dependent spouse, until he or she remarries, the dependent legitimate, legitimated or legally adopted and illegitimate children who shall be the primary beneficiary." x x x[2]

### SSC Disposition

Gloria elevated her claim to the Social Security Commission (SSC). On February 12, 2001, she filed a petition to claim death benefits, with a prayer that she be declared the rightful beneficiary of the deceased Antonio.[3]

The SSC *motu proprio* impleaded Cirila as respondent in the case, it appearing that she was another claimant to the death benefits of Antonio. Upon receipt of the summons, Cirila moved to dismiss the petition of Gloria. She argued that Gloria had no personality to sue because the latter is neither a dependent nor a beneficiary of Antonio, as evidenced by the E-4 form accomplished and submitted by him when he was still alive. Gloria had also remarried an American citizen in the US. And that she, Cirila, was the true and legal wife of Antonio.

Cirila likewise reasoned out that the authority to determine the validity of the two marriages of Antonio lay with the regular courts. Since Gloria had already filed for settlement of the intestate estate of Antonio before the Regional Trial Court (RTC), the petition she filed with the SSC should be considered as forum shopping.

Gloria opposed the motion to dismiss. She contended that her marriage to Larry Constant was not the subsequent marriage contemplated under the Social Security Law (SS Law)[4] that would disqualify her as a beneficiary; that the decree of divorce issued by a foreign state involving Filipino citizens has no validity and effect under Philippine law. Lastly, Gloria remonstrated that there was no forum shopping because the petition she filed before the RTC did not involve the issue of her entitlement to SSS benefits.

The SSC denied the motion to dismiss. After submission of position papers from both sides, it issued a Resolution, dated February 13, 2002,[5] dismissing Gloria's petition with the following disposition:

WHEREFORE, this Commission finds, and so holds, that May-Ann de los Santos, daughter of Antonio and private respondent Cirila de los Santos is the secondary beneficiary of the former and as such, she is entitled to the balance of her father's five-year guaranteed pension.

Accordingly, the SSS is hereby ordered to compute the balance of the five-year guaranteed pension less the amount of P21,200 representing the total of the monthly pensions and dependent's pension previously received by private respondent Cirila Nimo and minor May-Ann de los Santos, respectively, and to pay the latter, through her natural guardian Cirila Nimo, the difference between the two amounts, if any. If there was overpayment of pension, the private respondent is hereby ordered to forthwith refund the amount thereof to the SSS.

The petition is dismissed for lack of merit.

SO ORDERED.[6]

The SSC deemed that Gloria abandoned Antonio when she obtained a divorce against him abroad and subsequently married another man. She thus failed to satisfy the requirement of dependency required of primary beneficiaries under the law. The Commission likewise rejected her efforts to use the invalidity of the divorce, which she herself obtained, to claim benefits from the SSS for her personal profit.

However, despite all the sophistry with which petitioner, through her counsel, sought to justify her acts in the

USA, the petition must fail. The petitioner, who was primarily responsible for obtaining the decree of marital dissolution from an American court, now wishes to invoke the very invalidity of her divorce and subsequent marriage in order to lay hands on the benefit she seeks. It is sheer folly, if not downright reprehensible, for the petitioner to seek to profit from committing an act considered as unlawful under Philippine law. This Commission will not allow itself to be used as an instrument to subvert the policies laid down in the SS Law which it has sworn to uphold at all times. x x x[7] (Emphasis added)

The SSC added that since the marriage of Antonio to Cirila was void, the latter was likewise not a qualified beneficiary. The fruit of their union, May-Ann, was considered as an illegitimate child and qualified as a secondary beneficiary. May-Ann was entitled to 50% of the share of the legitimate children of Antonio in accordance with Section 8(k) of the SS Law.[8] However, considering that the legitimate children of Antonio have reached the age of majority, May-Ann is the only remaining qualified beneficiary and was thus entitled to 100% of the benefit.

R.A. No. 8282, which is the law in force at the time of retiree Antonio's death on May 15, 1999, provides as follows:

"Section 12-B. Retirement Benefits. x x x

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension. Provided, That if he has no primary beneficiaries and he dies within sixty (60) months from the start of his monthly pension, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the total monthly pensions corresponding to the balance of the five-year guaranteed period, excluding the dependents' pension." (Emphasis supplied)

Since Antonio de los Santos retired on March 1, 1996, and began receiving monthly pension since then, the determination of who his primary beneficiaries were at that times should be based on the relevant provisions of the applicable prevailing law then, R.A. No. 1161, as amended, which is quoted hereunder:

"Section 8. Terms Defined. x x x

x x x x

(k) Beneficiaries. - The dependent spouse until he remarries and dependent children who shall be the primary beneficiaries. In their absence, the dependent parents, and subject to the restrictions imposed on dependent children, the legitimate descendants and illegitimate children who shall be the secondary beneficiaries. In the absence of any of the foregoing, any other person designed by the covered employee as secondary beneficiary." (Emphasis supplied)

Applying these provisions to the case at hand, May-Ann de los Santos as the illegitimate child of Antonio and Cirila is considered her father's secondary beneficiary who, in the absence of a primary beneficiary x x x, becomes entitled to the balance of the five-year guaranteed pension as Antonio died just three (3) years after he began receiving his retirement pension, pursuant to Section 12-B par. (d) of the SS Law, as amended.[9]

#### CA Decision

Gloria appealed the above SSC Resolution to the CA. She insisted that she, as the legal wife, was the qualified beneficiary to Antonio's death benefits.

The CA agreed with the SSC in its determination that the marriage of Gloria and Antonio subsisted until his death and the subsequent marriages contracted by both of them were void for being bigamous. But contrary to findings of the SSC, the CA found that being the legal wife, Gloria was entitled by law to receive support from her husband. Thus, her status qualified Gloria to be a dependent and a primary beneficiary under the law. The

dispositive portion of the CA decision reads:

WHEREFORE, in the light of the foregoing, the Petition for Review is GRANTED and the appealed Resolution dated February 13, 2003, is hereby REVERSED and SET ASIDE. Respondent SSS is DIRECTED to compute the amount of benefits to which petitioner is entitled under the law.[10]

#### Issues

Petitioner SSS and the concerned Branch head present a lone issue for Our consideration: THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT RESPONDENT IS STILL QUALIFIED AS A PRIMARY BENEFICIARY OF DECEASED SSS MEMBER ANTONIO, UNDER SECTION 12-B IN RELATION TO SECTION 8(e) and (k) OF THE SS LAW.[11]

The controversy revolves on who between respondent Gloria, the first wife who divorced Antonio in the US, or Cirila, the second wife, is his primary beneficiary entitled to claim death benefits from the SSS.

#### Our Ruling

At the outset, let it be recalled that in 2005, this Court ruled in *Dycaico v. Social Security System*[12] that the proviso "as of the date of retirement" in Section 12-B(d) of Republic Act No. 8282,[13] which qualifies the term "primary beneficiaries," is unconstitutional for it violates the due process and equal protection clauses. For ready reference, the concerned provision is reproduced below:

SECTION 12-B. Retirement Benefits. - (a) A member who has paid at least one hundred twenty (120) monthly contributions prior to the semester of retirement and who (1) has reached the age of sixty (60) years and is already separated from employment or has ceased to be self-employed or (2) has reached the age of sixty-five (65) years, shall be entitled for as long as he lives to the monthly pension; Provided, That he shall have the option to receive his first eighteen (18) monthly pensions in lump sum discounted at a preferential rate of interest to be determined by the SSS.

x x x x

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension; Provided, That if he has no primary beneficiaries and he dies within sixty (60) months from the start of his monthly pension, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the total monthly pensions corresponding to the balance of the five-year guaranteed period, excluding the dependents' pension. (Emphasis added)

In deciding that death benefits should not be denied to the wife who was married to the deceased retiree only after the latter's retirement, this Court in *Dycaico* reasoned:

x x x In particular, the proviso was apparently intended to prevent sham marriages or those contracted by persons solely to enable one spouse to claim benefits upon the anticipated death of the other spouse.

x x x However, classifying dependent spouses and determining their entitlement to survivor's pension based on whether the marriage was contracted before or after the retirement of the other spouse, regardless of the duration of the said marriage, bears no relation to the achievement of the policy objective of the law, i.e., "provide meaningful protection to members and their beneficiaries against the hazard of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burden." x x x[14]

That said, the reckoning point in determining the beneficiaries of the deceased Antonio should be the time of his death. There is no need to look into the time of his retirement, as was the course followed by the SSC in resolving the claim of respondent. We note, however, that considering the circumstances of this case, the *Dycaico* ruling does not substantially affect the determination of Antonio's beneficiaries.

The SS Law clearly and expressly provides who are the qualified beneficiaries entitled to receive benefits from the deceased:

"Section 8. Terms Defined. - For the purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:

x x x x

(e) Dependents - The dependents shall be the following:

(1) The legal spouse entitled by law to receive support from the member;

(2) The legitimate, legitimated or legally adopted, and illegitimate child who is unmarried, not gainfully employed and has not reached twenty-one years (21) of age, or if over twenty-one (21) years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally; and

(3) The parent who is receiving regular support from the member.

x x x x

(k) Beneficiaries - The dependent spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children, who shall be the primary beneficiaries of the member: Provided, That the dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate, legitimated or legally adopted children: Provided, further, That in the absence of the dependent legitimate, legitimated or legally adopted children of the member, his/her dependent illegitimate children shall be entitled to one hundred percent (100%) of the benefits. In their absence, the dependent parents who shall be the secondary beneficiaries of the member. In the absence of all of the foregoing, any other person designated by the member as his/her secondary beneficiary.

As found by both the SSC and the CA, the divorce obtained by respondent against the deceased Antonio was not binding in this jurisdiction. Under Philippine law, only aliens may obtain divorces abroad, provided they are valid according to their national law.[15] The divorce was obtained by respondent Gloria while she was still a Filipino citizen and thus covered by the policy against absolute divorces. It did not sever her marriage ties with Antonio.

However, although respondent was the legal spouse of the deceased, We find that she is still disqualified to be his primary beneficiary under the SS Law. She fails to fulfill the requirement of dependency upon her deceased husband Antonio.

Social Security System v. Aguas[16] is instructive in determining the extent of the required "dependency" under the SS Law. In Aguas, the Court ruled that although a husband and wife are obliged to support each other, whether one is actually dependent for support upon the other cannot be presumed from the fact of marriage alone.[17]

Further, Aguas pointed out that a wife who left her family until her husband died and lived with other men, was not dependent upon her husband for support, financial or otherwise, during the entire period.

Said the Court:

In a parallel case involving a claim for benefits under the GSIS law, the Court defined a dependent as "one who derives his or her main support from another. Meaning, relying on, or subject to, someone else for support; not able to exist or sustain oneself, or to perform anything without the will, power, or aid of someone else." It should be noted that the GSIS law likewise defines a dependent spouse as "the legitimate spouse dependent for support upon the member or pensioner." In that case, the Court found it obvious that a wife who

abandoned the family for more than 17 years until her husband died, and lived with other men, was not dependent on her husband for support, financial or otherwise, during that entire period. Hence, the Court denied her claim for death benefits.

The obvious conclusion then is that a wife who is already separated de facto from her husband cannot be said to be "dependent for support" upon the husband, absent any showing to the contrary. Conversely, if it is proved that the husband and wife were still living together at the time of his death, it would be safe to presume that she was dependent on the husband for support, unless it is shown that she is capable of providing for herself.[18]

Respondent herself admits that she left the conjugal abode on two (2) separate occasions, to live with two different men. The first was in 1965, less than one year after their marriage, when she contracted a second marriage to Domingo Talens. The second time she left Antonio was in 1983 when she went to the US, obtained a divorce, and later married an American citizen.

In fine, these uncontroverted facts remove her from qualifying as a primary beneficiary of her deceased husband.

WHEREFORE, the petition is GRANTED and the appealed Decision REVERSED and SET ASIDE. The Resolution of the Social Security Commission is REINSTATED.

**SO ORDERED.**

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

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[1] Rollo, pp. 8-14. CA-G.R. SP No. 70891. Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Conrado M. Vasquez, Jr. and Bienvenido L. Reyes, concurring.

[2] Records, p. 11.

[3] Id. at 1-13.

[4] Republic Act (R.A.) No. 1161, as amended by R.A. No. 8282, known as the Social Security Act of 1997, May 24, 1997.

[5] Rollo, pp. 42-48.

[6] Id. at 47.

[7] Id. at 46.

[8] See note 4.

[9] Rollo, pp. 46-47.

[10] Id. at 37.

[11] Id. at 23.

[12] G.R. No. 161357, November 30, 2005, 476 SCRA 538.

[13] The Social Security Law, as amended, see note 4.

[14] Dycaico v. Social Security System, *supra* note 12, at 553.

[15] Llorente v. Court of Appeals, G.R. No. 124371, November 23, 2000, 345 SCRA 592.

[16] G.R. No. 165546, February 27, 2006, 483 SCRA 383.

[17] Social Security System v. Aguas, id.

[18] Id. at 401.

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