SOCIAL SECURITY COMMISSION, PETITIONER, VS. EDNA A. AZOTE, RESPONDENT.

G.R. No. 209741. April 15, 2015

Ponente: MENDOZA, J.

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MENDOZA, J.:

This petition for review on certiorari[1] under Rule 45 of the Rules of Court filed by petitioner Social Security Commission (SSC) assails the August 13, 2013 Decision[2] of the Court of Appeals (CA), and its October 29, 2013 Resolution[3] in CA-G.R. SP No. 122933, allowing respondent Edna A. Azote (Edna) to claim the death benefits of her late husband, Edgardo Azote (Edgardo).

The Antecedents:

On June 19, 1992, respondent Edna and Edgardo, a member of the Social Security System (SSS), were married in civil rites at the Regional Trial Court, Branch 9, Legazpi City, Albay (RTC). Their union produced six children[4] born from 1985 to 1999. On April 27, 1994, Edgardo submitted Form E-4 to the SSS with Edna and their three older children as designated beneficiaries. Thereafter or on September 7, 2001, Edgardo submitted another Form E-4 to the SSS designating his three younger children as additional beneficiaries.[5]

On January 13, 2005, Edgardo passed away. Shortly thereafter, Edna filed her claim for death benefits with the SSS as the wife of a deceased-member. It appeared, however, from the SSS records that Edgardo had earlier submitted another Form E-4 on November 5, 1982 with a different set of beneficiaries, namely: Rosemarie Azote (Rosemarie), as his spouse; and Elmer Azote (Elmer), as dependent, born on October 9, 1982. Consequently, Edna's claim was denied. Her children were adjudged as beneficiaries and she was considered as the legal guardian of her minor children. The benefits, however, would be stopped once a child would attain the age of 21.[6]

On March 13, 2007, Edna filed a petition with the SSC to claim the death benefits, lump sum and monthly pension of Edgardo.[7] She insisted that she was the legitimate wife of Edgardo. In its answer, the SSS averred that there was a conflicting information in the forms submitted by the deceased. Summons was published in a newspaper of general circulation directing Rosemarie to file her answer. Despite the publication, no answer was filed and Rosemarie was subsequently declared in default.[8]

In the Resolution,[9] dated December 8, 2010, the SSC dismissed Edna's petition for lack of merit. Citing Section 24(c) of the SS Law, it explained that although Edgardo filed the Form E-4 designating Edna and their six children as beneficiaries, he did not revoke the designation of Rosemarie as his wife-beneficiary, and Rosemarie was still presumed to be his legal wife.

The SSC further wrote that the National Statistics Office (NSO) records revealed that the marriage of Edgardo to one Rosemarie Teodora Sino was registered on July 28, 1982. Consequently, it opined that Edgardo's marriage to Edna was not valid as there was no showing that his first marriage had been annulled or dissolved. The SSC stated

that there must be a judicial determination of nullity of a previous marriage before a party could enter into a second marriage.[10]

In an order,[11] dated June 8, 2011, the SSC denied Edna's motion for reconsideration. It explained that it was incumbent upon Edna to prove that her marriage to the deceased was valid, which she failed to do. It further opined that Rosemarie could not be merely presumed dead, and that death benefits under the SSS could not be considered properties which may be disposed of in a holographic will.[12]

In the assailed August 13, 2013 Decision, the CA reversed and set aside the resolution and the order of the SSC. It held that the SSC could not make a determination of the validity or invalidity of the marriage of Edna to Edgardo considering that no contest came from either Rosemarie or Elmer.[13]

The CA explained that Edna had established her right to the benefits by substantial evidence, namely, her marriage certificate and the baptismal certificates of her children.[14] It ruled that Edgardo made a deliberate change of his wife-beneficiary in his 1994 E-4 form, as such was clearly his voluntary act manifesting his intention to revoke his former declaration in the 1982 E-4 form.[15] The 1994 E-4 form submitted by Edgardo, designating Edna as his wife, superseded his former declaration in his 1982 E-4 form.[16]

It further opined that the Davac case cited by the SSC was not applicable because there were two conflicting claimants in that case, both claiming to be wives of the deceased, while in this case, Edna was the sole claimant for the death benefits, and that her designation as wife-beneficiary remained valid and unchallenged. It was of the view that Rosemarie's non-appearance despite notice could be deemed a waiver to claim death benefits from the SSS, thereby losing whatever standing she might have had to dispute Edna's claim.[17]

In the assailed October 29, 2013 Resolution,[18] the CA denied the SSC's motion for reconsideration.[19]

Hence, the present petition.

> GROUNDS
>
> RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE COMMISSION IS BEREFT OF AUTHORITY TO DETERMINE THE VALIDITY OR INVALIDITY OF THE MARRIAGE OF THE PRIVATE RESPONDENT AND MEMBER EDGARDO AZOTE.
>
> RESPONDENT COURT OF APPEALS GRAVELY ERRED IN GRANTING THE PETITION OF THE PRIVATE RESPONDENT AND FINDING HER ENTITLED TO THE SS BENEFITS.
>
> THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE DESIGNATION OF THE PRIVATE RESPONDENT AS WIFE-BENEFICIARY IS VALID.[20]

The SSC argues that the findings of fact of the CA were not supported by the records. It submits that under Section 5 of the SS Law, it is called upon to determine the rightful beneficiary in the performance of its quasi-judicial function of adjudicating SS benefits. In fact, it cited a number of cases,[21] where the SSC had passed upon the validity of marriages for the purpose of determining who were entitled to SS benefits.[22]

The SSC contends that Edna was not the legitimate spouse of deceased member Edgardo as the CA failed to consider the NSO certification showing that Edgardo was previously married to Rosemarie. With the death certificate of Rosemarie showing that she died only on November 6, 2004, it proved that she was alive at the time Edna and Edgardo were married, and, therefore, there existed a legal impediment to his second marriage, rendering it void. Edna is, therefore, not a legitimate spouse who is entitled to the death benefits of Edgardo.[23]

The SSC claims that the right to designate a beneficiary is subject to the SS Law. The designation of a

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wife-beneficiary merely creates a disputable presumption that they are legally married and may be overthrown by evidence to the contrary. Edna's designation became invalid with the determination of the subsistence of a previous marriage. The SSC posits that even though Edgardo revoked and superseded his earlier designation of Rosemarie as beneficiary, his designation of Edna was still not valid considering that only a legitimate spouse could qualify as a primary beneficiary.[24]

The Court's Ruling
The petition is meritorious.

The law in force at the time of Edgardo's death was Republic Act (R.A.) No. 8282,[25] the amendatory law of R.A. No. 1161 or the "Social Security Law." It is a tax-exempt social security service designed to promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden.[26] As a social security program of the government, Section 8 (e) and (k) of the said law expressly provides who would be entitled to receive benefits from its deceased-member, to wit:

> SEC. 8. Terms Defined. - For purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:
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> x x x x x 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 (21) years 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 x 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 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 the foregoing, any other person designated by the member as his/her secondary beneficiary. (Emphasis supplied)

Applying Section 8(e) and (k) of R. A. No. 8282, it is clear that only the legal spouse of the deceased-member is qualified to be the beneficiary of the latter's SS benefits. In this case, there is a concrete proof that Edgardo contracted an earlier marriage with another individual as evidenced by their marriage contract. Edgardo even acknowledged his married status when he filled out the 1982 Form E-4 designating Rosemarie as his spouse.[27]

It is undisputed that the second marriage of Edgardo with Edna was celebrated at the time when the Family Code was already in force. Article 41 of the Family Code expressly states:

> Art. 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger under the circumstances set forth in the provisions of Article 391 of the

> Civil Code, an absence of only two years shall be sufficient.
>
> For the purpose of contracting a subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse. (Emphasis and underscoring supplied)

Using the parameters outlined in Article 41 of the Family Code, Edna, without doubt, failed to establish that there was no impediment or that the impediment was already removed at the time of the celebration of her marriage to Edgardo. Settled is the rule that "whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence."[28] Edna could not adduce evidence to prove that the earlier marriage of Edgardo was either annulled or dissolved or whether there was a declaration of Rosemarie's presumptive death before her marriage to Edgardo. What is apparent is that Edna was the second wife of Edgardo. Considering that Edna was not able to show that she was the legal spouse of a deceased-member, she would not qualify under the law to be the beneficiary of the death benefits of Edgardo.

The Court does not subscribe to the disquisition of the CA that the updated Form E-4 of Edgardo was determinative of Edna's status and eligibility to claim the death benefits of deceased-member. Although an SSS member is free to designate a beneficiary, the designation must always conform to the statute. To blindly rely on the form submitted by the deceased-member would subject the entire social security system to the whims and caprices of its members and would render the SS Law inutile.

Although the SSC is not intrinsically empowered to determine the validity of marriages, it is required by Section 4(b) (7) of R.A. No. 8282[29] to examine available statistical and economic data to ensure that the benefits fall into the rightful beneficiaries. As held in Social Security Commission vs. Favila,[30]

> SSS, as the primary institution in charge of extending social security protection to workers and their beneficiaries is mandated by Section 4(b)(7) of RA 8282 to require reports, compilations and analyses of statistical and economic data and to make an investigation as may be needed for its proper administration and development. Precisely, the investigations conducted by SSS are appropriate in order to ensure that the benefits provided under the SS Law are received by the rightful beneficiaries. It is not hard to see that such measure is necessary for the system's proper administration, otherwise, it will be swamped with bogus claims that will pointlessly deplete its funds. Such scenario will certainly frustrate the purpose of the law which is to provide covered employees and their families protection against the hazards of disability, sickness, old age and death, with a view to promoting their well-being in the spirit of social justice. Moreover and as correctly pointed out by SSC, such investigations are likewise necessary to carry out the mandate of Section 15 of the SS Law which provides in part, viz:
>
> Sec. 15. Non-transferability of Benefits. – The SSS shall pay the benefits provided for in this Act to such [x x x] persons as may be entitled thereto in accordance with the provisions of this Act x x x. (Emphasis supplied.)

The existence of two Form E-4s designating, on two different dates, two different women as his spouse is already an indication that only one of them can be the legal spouse. As can be gleaned from the certification issued by the NSO,[31] there is no doubt that Edgardo married Rosemarie in 1982. Edna cannot be considered as the legal spouse of Edgardo as their marriage took place during the existence of a previously contracted marriage. For said reason, the denial of Edna's claim by the SSC was correct. It should be emphasized that the SSC determined Edna's eligibility on the basis of available statistical data and documents on their database as expressly permitted by Section 4(b) (7) of R.A. No. 8282.

It is of no moment that the first wife, Rosemarie, did not participate or oppose Edna's claim. Rosemarie's non-participation or her subsequent death on November 11, 2004[32] did not cure or legitimize the status of Edna.

WHEREFORE, the petition is GRANTED. The August 13, 2013 Decision and the October 29, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 122933 are REVERSED and SET ASIDE. Accordingly, the petition for entitlement of SS death benefits filed by respondent Edna Azote is DENIED for lack of merit.

SO ORDERED.

Carpio (Chairperson), Del Castillo, Perez,[*] and Mendoza, JJ., concur.

Leonen, J., see separate dissenting opinion.

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[*] Designated Additional member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1977, dated April 15, 2015.

[1] Rollo, pp. 32-56.

[2] Id. at 58-74. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Rebecca De Guia-Salvador and Associate Justice Samuel H. Gaerlan, concurring.

[3] Id. at 75-76.

[4] (1) Joanna Rea A. Azote (September 15, 1985); (2) Edgardo A. Azote, Jr. (May 20, 1987); (3) Edgar Allan A. Azote (June 30, 1988); (4) Erwin John A. Azote (February 11, 1995); (5) Edgardo A. Azote, Jr. II (February 27, 1998); and (6) Jhoaenne Edrailynee A. Azote (June 24, 1999). id. at 12.

[5] Id. at 36-37.

[6] Id. at 78-79.

[7] Id. at 60.

[8] Id. at 79.

[9] Id. at 78-81.

[10] Id. at 81.

[11] Id. at 82-84.

[12] Id. at 83.

[13] Id. at 64.

[14] Id. at 65.

[15] Id. at 70.

[16] Id. at 70.

[17] Id. at 72.

[18] Id. at 75-76.

[19] Id. at 85-89.

[20] Id. at 39.

[21] SSS v. De Los Santos, 585 Phil. 684 (2008); and Signey v. SSS, 566 Phil. 617 (2008).

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[22] Rollo, pp. 40-42.

[23] Id. at 48-49.

[24] Id. at 50-51.

[25] AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE, REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW

[26] Section 2, R.A. No. 8282.

[27] Rollo, p. 67.

[28] Signey v. Social Security System, 566 Phil. 617, 627 (2008).

[29] SEC. 4. Powers and Duties of the Commission and SSS. - (a) The Commission. - For the attainment of its main objectives as set forth in Section 2 hereof, the Commission shall have the following powers and duties:

x x x x x x x x x

(b) The Social Security System. - Subject to the provision of Section four (4), paragraph seven (7) hereof, the SSS shall have the following powers and duties:

x x x x x x x x x

(7) To require reports, compilations and analyses of statistical and economic data and to make investigation as may be needed for the proper administration and development of the SSS

[30] G.R. No. 170195, March 28, 2011, 646 SCRA 462, 480.

[31] Rollo, p. 101.

[32] Id. at 98.

DISSENTING OPINION

LEONEN, J.:

We are asked in this case to sustain the action of the Social Security Commission as it makes conjectures and then proceeds to adjudicate on the marital status of a claimant. There is no conflicting claim made against respondent Edna Azote's claim. We are asked to sustain an action by the Social Security Commission against an individual much in need of financial succor who is asking the State to honor the declaration of a beneficiary of one who has since deceased.

I, thus, disagree with the ponencia in disallowing the claim of Edna Azote (Edna) for death benefits on the ground that she failed to sufficiently establish the legality of her marriage to deceased Social Security System member Edgardo Azote in consideration of his first marriage to Rosemarie (the designated wife in the 1982 Form E-4).

The latest Form E-4 (1994) submitted by the deceased to the Social Security System prior to his death designated Edna as his wife-beneficiary. In my view, the 1994 Form E-4 should supersede the earlier one. As correctly ruled by the Court of Appeals, the 1994 Form E-4 designating Edna as his wife manifested the deceased's intention to revoke his formal declaration in the 1982 Form E-4.

This conclusion is consistent with Section 24 (c) of Republic Act No. 8282,[1] which states that "records and reports duly accomplished and submitted to the Social Security System by the employer or the member . . . [are] presumed correct as to the data and other matters stated therein . . . (and will be] made the basis for the adjudication of the claim"[2] unless corrected before the right to the benefit being claimed accrued.[3] There is nothing in Republic Act No. 8282 expressly prohibiting the change of beneficiary. On the contrary, Section 24 (c), by implication, acknowledges a member's right to change beneficiaries.

Social security benefits are paid to members (or their beneficiaries) by reason of their membership in the System for which they contribute their money to a general common fund.[4] These benefits ripen as vested rights of members and their declared so that they are assured minimum financial assistance whenever the hazards of disability, sickness, old age, and death provided for in the law occur.[5] As a property interest of the member under compulsory coverage of Republic Act No. 8282,[6] a member's designation of a beneficiary in his Form E-4 should not easily be set aside, absent any adverse claim, in the distribution of the death benefits under the law.

In Tecson v. SSS,[7] this court allowed Tecson a friend and co- worker of the deceased - to claim the death benefits giving regard to the deceased's express desire to extend the benefits of his contributions to his friend and co-worker, to the exclusion of his wife:

> It should be remembered that the benefits or compensation allowed an employee or his beneficiary under the provisions of the Social Security Act are paid out of funds which are contributed in part by the employees and in part by the employers' (commercial or industrial companies members of the System). . . . As these funds are obtained from the employees and the employers, without the Government having contributed any portion thereof: it would be unjust for the System to refuse to pay the benefits to those whom the employee has designated as his beneficiaries. The contribution of the employee is his money; the contribution of the employer is for the benefit of the employee. Hence the beneficiary should primarily be the one to profit by such contributions. This is what is expressly provided in above-quoted Section 13 of the law.
>
> It should also be noted that the Social Security System is not a law of succession. Its purpose is to provide social security, which means funds for the beneficiary, if the employee dies, or for the employee himself and his dependents if he is unable to perform his task because of illness or disability, or is laid off by reason of the termination of the employment, or because of temporary lay-off due to strike, etc. It should also be remembered that the beneficiaries of the System are those who are dependent upon the employee for support. . . .
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> . . . . . .
>
> . . . It was subsequently known that Lim Hoc had a wife and children in Communist China; the omission by him of their existence and names in the records of the employer must have been due to the fact that they were not at the time, at least, dependent upon him. If they were actually dependents, their names would have appeared in the record of the employer. The absence in the record of his employee of their existence and names must have been due to the lack of communication, of which We can take judicial notice, between Communist China and the Philippines, or to the express desire of Lim Hoc to extend the benefits of his contributions to the System to his "friend and co-worker", to the exclusion of his wife[.]

Edna established her right to the benefits through substantial evidence. She presented her marriage certificate and the baptismal certificates of her children. Being public documents, these constitute prima facie proof of their contents, and, therefore, her claim to death benefits as legal wife and dependent ofEdgardo should have been approved.[8]

SSS v. Vda. De Bailon[9] cites Arturo M. Tolentino, a recognized authority in civil law, as having commented:

> Where a person has entered into two successive marriages, a presumption arises in favor of the validity of the

> second marriage, and the burden is on the party attacking the validity of the second marriage to prove that. the first marriage had not been dissolved; it is not enough to prove the first marriage, for it must also be shown that it had not ended when the second marriage was contracted. The presumption in favor of the innocence of the defendant from crime or wrong and of the legality of his second marriage, will prevail over the presumption of the continuance of life of the first spouse or of the continuance of the marital relation with such first first spouse.[10] (Emphasis supplied)

There was yet no attack on the validity of the deceased's marriage to Edna. No adjudicatory process was pending. Certainly the Social Security Commission was not invoked as the forum to test the validity of her marriage. The validity of that marriage passed unchallenged. No right was asserted by the proper real party in interest under the superceded forms submitted by the claimant. The Social Security. System motu proprio conducted its investigation based solely on the conflicting information in the 1982 and 1994 forms submitted by the deceased. It made pronouncements without any complaint and without affording all the parties the usual due process rights accorded to them. It made a judgment as to the marital status of the claimant when it did not have jurisdiction to do so. This action is null and void many times over.

In these circumstances, the presumption in favor of the validity of the second marriage must prevail, and sound reason requires that it be not lightly impugned and discredited by the alleged prior marriage stated in the 1982 Form E-4.

The Social Security Commission cited SSS v. De Los Santos[11] and Signey v. SSS[12] to justify its position that it can pass upon the validity of marriages to determine who are entitled to social security benefits. However, in those cases, there were two conflicting claimants both claiming to be wives of the deceased, although in Signey, the first wife subsequently executed a waiver of the benefits being claimed. The Commission necessarily had to rule on the validity of marriages in order to determine who had a better right to the death benefits.

There is only one claimant in this case. No one contests her claim.

The question on the validity of Edna's designation as wife-beneficiary or the legality of her marriage to the deceased is not yet upon us. The alleged first wife has neither challenged the same nor claimed death benefits, and thus, there appears to be no controversy yet. We are asked to disturb their domestic peace. Certainly, this amounts to unreasonable state intrusion on the autonomy that we should respect in intimate relationships. Their inherent rights to privacy must impose on us the deserved judicial restraint from making a determination on this matter. Ruling on the validity of Edna's marriage to the deceased would be premature and anticipatory.

These cases are problematic because of the absence of a divorce law.

Divorce is not alien in our jurisdiction. Our new Civil Code has repealed the earlier provisions on divorce, which we used to have under Act No. 2710 on grounds of conjugal infidelity of one spouse.[13] Divorce between Filipinos has remained unrecognized even under the Family Code of the Philippines.[14]

Instead of divorce, the present Family Code only provides for legal separation (Title II),[15] and even this expressly prescribes that "the marriage bonds shall not be severed."[16] Under our present laws, the extinguishment of a valid marriage must be grounded only upon the death of either spouse or that which is expressly provided by law (for defective marital unions).[17] In the alternative, estranged couples undergo the expensive labyrinth of claiming "psychological incapacity" under article 36 of the Family Code to be awarded an order to declare their marriage a nullity ab initio.

There are many second marriages like that of Edgardo and Edna, which was celebrated in Legazpi City and accepted by all parties concerned. They have lived together as husband and wife without issue for 13 long years

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until the husband's death in 2005. By all indications, they have established a strong family foundation. This case shows that without divorce, our laws remain insensitive to a multitude of intimate relations. As people with autonomous and private choices that do no harm to society' they are wholly and immoderately disregarded. This case, like many others, should be basis for Congress to seriously consider the respect due to voluntary adult. choices of our people. A divorce law is no longer a luxury; it has become a just and inevitable necessity.

ACCORDINGLY, I vote to DENY the Petition. The Decision dated August 13, 2013 and Resolution dated October 29, 2013 of the Court of Appeals should be AFFIRMED.

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[1] Rep. Act No. 8282 (1997), An Act Further Strengthening the Social Security System thereby amending for this purpose Republic Act No. 1161, as amended, otherwise known as the Social Security Law.

[2] Rep. Act No, 8282 (1997), sec. 24 (c).

[3] Rep. Act No. 8282 (1997), sec. 24 (c).

[4] Valencia v. Manila Yacht Club, 138 Phil. 761 (1969) [Per J. Reyes, J.B.L., En Banc], citing Rural Transit Employees Association, et al. v. Bachrach Trailsportation Co., Inc., et al., 129 Phil. 503 [Per J. Reyes, J.B.L., En Banc].

[5] Benguet Comolidated Inc. v. SSS, 119 Phil. 890 (1964) [Per J. Barrera, En Banc].

[6] Dycaico v. Social Security System, 513 Phil. 23 (2005) [Per J. Callejo, Sr., En Banc]. See also GSIS v. Montesclaros, 478 Phil. 573 (2004) [Per J. Carpio, En Banc].

[7] 113 Phil. 703 (1961) [Per J. Labrador, En Banc].

[8] In Suarnaba v. Workmen's Compensation Commission, 175 Phil. 8 (1978) [Per J. Santos, Second Division], this court held that the parish certificate attesting to the marriage of petitioner and the deceased, other parol evidence, and the presumption that "a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage" clearly show that the petitioner is the legal wife of the deceased employee and, therefore, her claim to con1pensation benefits as legal wife and dependent of the deceased should have been approved, especially where no other person claimed to be the wife of the deceased employee.

[9] 529 Phil. 249 (2006) [Per J. Carpio Morales, Third Division].

[10] Id. at 262-263, citing 1 A. TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 282 (1999 ed.).

[11] 585 Phil. 684 (2008) [Per J. Reyes, R. T., Third Division].

[12] 566 Phil. 617 (2008) (Per J. Tinga, Second Division].

[13] Act No. 2710 (1917), An Act to Establish Divorce.

Sec. 1. A petition for divorce can only be filed for adultery on the part of the wife or concubinage on the part of the husband, committed in any of the forms described in article four hundred and thirty--seven of the Penal Code.

x x x x x x x x x

Sec. 11. The dissolution of the bonds of matrimony shall have the following effects:

First. The spouses shall be free to marry again.
Second. The minor children shall remain in the custody of the innocent spouse unless otherwise directed by the

court in the interest of said minors, for whom said court may appoint a guardian.
Third. The children shall, with regard to their parents, retain all rights granted to them by law as legitimate children; but upon the partition of the estate of said parents they shall bring to collation everything received by them under the provisions of the second paragraph of section nine.

[14] Exec. Order No. 209 (1987), The Family Code of the Philippines.

[15] Exec. Order No. 209 (1987), Title II.

[16] Exec. Order No. 209 (1987), Title 11, art. 63 (I).

[17] Exec. Order No. 209 (1987), Title I, chapter 3. Void and Voidable Marriages.

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