

WEST COAST LIFE INSURANCE COMPANY, PETITIONER, VS. PATRICIO H. GUBAGARAS, RESPONDENT.

G.R. No. 2810. October 10, 1950

Ponente: TUASON, J.

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TUASON, J.:

This is one of various life insurance cases in which is presented the question whether non-payment of premiums due during the Japanese occupation of the Philippines annulled the policy or merely suspended it. The question has been definitely disposed of by this Court in three cases, namely: *Paz Lopez Constantino v. Asia Life Insurance Co.*, G.R. No. L1669; *Agustina Peralta v. Asia Life Insurance Co.*, G. R. No. L-1670; *James McGuire v. Manufacturers Life Insurance Co.*, G. R. No. L-3581, and *National Leather v. U.S. Life Insurance Co.*, G.R. No. L-2668.

The present appeal was taken from a special division of five of the Court of Appeals. In a decision written by Mr. Justice de la Rosa, Mr. Presiding Justice Jugo dissenting, the Appellate Court affirmed the judgment of the Manila Court of First Instance which found for the plaintiff.

The facts as set forth by the Court of Appeals are, substantially, that on August 1, 1940, the West Coast Life Insurance Co. issued to Patricio H. Gubagaras and his wife, Maria Labaco, a joint 20-year endowment participating policy for ₱2,000.00. The Insurance Company had its home office in San Francisco, California, and a branch office in Manila which was the office that underwrote the policy in question. The stipulated premiums were payable at either of the two offices ₱32.56 annually, ₱68.96 semi-annually, or ₱35.12 quarterly.

Maria Labaco died on May 30, 1945 in the municipality of Dueñas, province of Iloilo. The last premium paid covered the period up to and including February 1, 1942. Because of the outbreak of the late world war, the Manila office of the defendant company was closed and no premium thereafter falling due was tendered.

On July 18, 1945, the surviving spouse wrote the defendant notifying it of his wife's death as preliminary step to collecting the policy. The defendant answered by saying that the policy had been abrogated on account of non-payment of the premiums due subsequent to February 1, 1942.

As indicated, the pivotal issue around which revolves the whole controversy has to do with the effects of the war, which made it impossible for the insured to pay or for the insurer to receive the premiums as they became due and payable without either party being to blame for the stoppage of the payment. And as also stated, this question has already been finally resolved in other cases.

The leading cases are *Constantino v. Asia Life Insurance Co.*, *supra*, and *Peralta v. Asia Life Insurance Co.*, *supra* which were consolidated and decided together. In those cases Mr. Justice Bengzon, speaking for a unanimous Court, says:

In *Glaraga v. Sun Life Ass. Co.*, 49 Phil., 737, this Court held that a life policy was avoided because the premium had not been paid within the time fixed, since by its express terms, non-payment of any premium when due or within the thirty-day period of grace, ipso facto caused the policy to lapse. This goes to show that although we take the view that insurance policies should be conserved and should not lightly be thrown out, still we do not hesitate to enforce the agreement of the parties.

Forfeitures of insurance policies are not favored, but courts cannot for that reason alone refuse to enforce an insurance contract according to its meaning. (45 C, J.S., p. 150.)

Nevertheless, it is contended for plaintiffs that inasmuch as the non-payment of premium was the consequence of war, it should be excused and should not cause the forfeiture of the policy.

Professor Vance of Yale, in his standard treatise on Insurance, says that in determining the effect of non-payment of premiums occasioned by war, the American cases may be divided into three groups, according as they support the so-called Connecticut Rule, the New York Rule, or the United States Rule.

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The United States rule declares that the contract is not merely suspended, but is abrogated by reason of non-payment of premiums, since the time of the payments is peculiarly of the essence of the contract. It additionally holds that it would be unjust to allow the insurer to retain the reserve value of the policy, which is the excess of the premiums paid over the actual risks carried during the years when the policy had been in force. This rule was announced in the well-known *Statham* case which, in the opinion of Professor Vance, is the correct rule.

The appellants and some amici curiae contend that the New York rule should be applied here. The appellee and other amici curiae contend that the United States doctrine is the orthodox view.

We have read and re-read the principal cases upholding the different theories. Besides the respect and high regard we have always entertained for decisions of the Supreme Court of the United States, we cannot resist the conviction that the reasons expounded in its decision of the *Statham* case are logically and juridically sound. Like the instant case, the policies involved in the *Statham* decision specifies that non-payment on time shall cause the policy to cease and determine. Reasoning out that punctual payments were essential, the Court said:

x x x it must be conceded that promptness of payment is essential in the business of life insurance. All the calculations of the insurance company are based on the hypothesis of prompt payments. They not only calculate on the receipt of the premiums when due, but on compounding interest upon them. It is on this basis that they are enabled to offer assurance at the favorable rates they do» Forfeiture for non-payment is a necessary means of protecting themselves from embarrassment. Unless it were enforceable, the business would be thrown into utter confusion. It is like the forfeiture of shares in mining enterprises, and all other hazardous undertakings. There must be power to cut off unprofitable members, or the success of the whole scheme is endangered. The insured parties are associates in a great scheme. This associated relation exists whether the company be a mutual one or not. Each is interested in the engagements of all; for out of the co-existence of many risks arises the law of average, which underlies the whole business. An essential feature of this scheme is the mathematical calculations referred to, on which the premiums and amounts assured are based. And these calculations, again, are based on the assumption of average mortality, and of prompt payments and compound interest thereon. Delinquency cannot be tolerated nor redeemed, except at the option of the company. This has always been the understanding and the practice in this department of business. Some companies, it is true, accord a grace of thirty days, or other fixed period, within which the premium in arrear may be paid, on certain conditions of continued good health, etc. But this is a matter of stipulation, or of discretion, on the part of the particular company. When no stipulation exists, it is the genera[^] understanding that time is material, and that the forfeiture is absolute if the premium be not paid. The extraordinary and even desperate efforts sometimes made, when an insured person is in extremis to meet a premium coming due, demonstrates the common view of this matter.

The case, therefore, is one in which time is material and of the essence of the contract. Non-payment at the day involves absolute forfeiture if such be the terms of the contract, as is the case here. Courts cannot with safety vary the stipulation of the parties by introducing equities for the relief of the insured against their own negligence.

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The above considerations certainly lend themselves to the approval of fair-minded men. Moreover, if, as alleged, the consequences of war should not prejudice the insured, neither should they bear down on the insurer.

The above decision Is conclusive of the case at bar in all its aspects. The decision of the Court of Appeals is therefore reversed with costs against the respondent.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

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