

TARCILA L. TRINIDAD, PLAINTIFF AND APPELLEE, VS. ORIENT PROTECTIVE ASSURANCE ASSOCIATION, DEFENDANT AND APPELLANT.*G.R. No. 45517. April 05, 1939*

Ponente: LAUREL, J.

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The Orient Protective Assurance Association, defendant-appellant in the case at bar, is a mutual benefit society, duly incorporated under the laws of the Philippines and organized for the purpose of engaging in the business of insuring the lives of its members upon the mutual or assessment plan. The obligations of the members consisted of the payment of an entrance fee of P6 and a contribution of P2 for every death or disability of an ordinary member, the number of such contributions, however, not to exceed twelve, every calendar year. With respect to the corresponding benefits to be derived, a scale of payments is followed by the defendant association, that is, if a member dies within one year from the date of issue of his membership certificate, the sum of P500 shall be paid to the beneficiary named in the certificate; if death occurs during the second year, P750 and thereafter P1,000.

On February 18, 1935, one Andres Trinidad, a resident of Echague, Isabela, applied for membership to, and his application accepted by, the Orient Protective Assurance Association, the latter delivering the corresponding life benefit certificate as of the aforesaid date. On January 3, 1936, Andres Trinidad died. Tarcila L. Trinidad, his widow, and plaintiff-appellee in this case, notified the defendant of the death of her husband. Appellant forwarded three copies of the form necessary for filing the claim of the beneficiary named in the benefit certificate. Appellee accomplished all the necessary papers and sent them to the principal place of business of the defendant association in the City of Manila. In answer to this claim, appellant informed her that by reason of the failure of Andres Trinidad to pay the premium on time, the benefit certificate had become forfeited and that therefore plaintiff, as the beneficiary of the deceased Andres Trinidad, had lost all rights under the policy. Plaintiff Tarcila L. Trinidad was allowed by the Court of First Instance of Manila to prosecute the present action as a pauper.

On February 26, 1936, the plaintiff filed the complaint for the recovery of the sum of P500 with legal interest thereon from the commencement of the action. On April 2, 1936, the defendant filed its answer consisting of a general and specific denial. After trial, the lower court rendered a decision for the plaintiff on September 26, 1936. On October 15, 1936, defendant filed a motion for new trial which was denied on October 24, 1936. On November 2, 1936, defendant excepted to the said order and announced its intention to appeal. On November 13, 1936, plaintiff filed a motion, praying, for the reasons therein given, for immediate writ of execution of the judgment of the lower court under section 144 of the Code of Civil Procedure. This was objected to by the defendant but the petition was granted by the lower court on January 21, 1937. The case was finally elevated to this court by bill of exceptions.

The important question raised by the appellant has reference to the right of the plaintiff-appellee to recover the amount of P500 and the legal interest thereon. Appellant seeks to avoid liability on the plea of forfeiture by reason

of failure of Andres Trinidad to respond in time to the premium call and because the latter died of a cause mentioned specifically as exempting appellant from liability. The premium call appears to have been mailed to Andres Trinidad on December 1, 1935. According to the defendant-appellant's contention he had only until December 31 of that year to pay. Due, however, to the serious illness of Andres, the money order of P2 was not sent until January 2, 1936, and received by the defendant-appellant on January 4 following. According to the testimony of the accountant of the defendant-appellant, this payment was entered in the ledger under the account "premium calls" and not under the heading of "suspense account" because entries were made under "suspense account" only where there was doubt as to whether payment had properly been made or not, and this was not the case of Andres Trinidad. At any rate, defendant-appellant did not refuse to accept payment because it was made late; neither was the money returned to the sender. There are abundant cases which hold that acceptance under these or similar circumstances constitutes a waiver of the "automatic forfeiture contained in the benefit certificate. (Dugan vs. International Association of Bridge and Structural Iron Works [1916], 202 Ill. App., 308; Conkling vs. Knights & Ladies of Security [1918], 166 N. W., 384; 183 Iowa, 665; Supreme Lodge Knights of Pythias vs. Vellenvoss [1903], 119 K, 671; 56 C. C. A., 287; Modern Woodmen of America vs. Colman, 94 N. W., 814; 68 Neb., 660, rehearing denied, 96 N. W., 154; 68 Neb., 660; Beil vs. Supreme Lodge Knights of Honor, 80 N. Y. S., 751; 80 App. Div., 60; Rewitzer vs. Switchmen's Union of North America, 98 N. Y. S., 974; 112 App. Div., 708; and Grand Lodge A. U. U. W. of Kansas vs. Smith, 92 P., 710; 76 Kan., 509 [1907].) "It is a matter of common knowledge that large amounts of money are collected from ignorant persons by companies and associations which adopt 'high sounding titles and print the amount of benefits they agree to pay in large black-faced type, following such undertakings by fine print conditions which destroy the substance of the promise. All provisions, conditions, or exceptions which in any way tend to work a forfeiture of the policy should be construed most strongly against those for whose benefit they are inserted, and most favorably toward those against whom they are meant to operate. (Standard L. & A. Ins. Co. vs. Martin, 133 Ind., 376; 33 N. E., 105; McElfresh vs. Odd Fellows Ace. Co., 21 Ind. App., 557; 52 N. E., 819; 1 Cyc, 243, and cases there cited.)" (United States Benev. Society vs. Watson [1908], 84 N. E., 29, 31.)

With respect to the allegation that the deceased died of a cause mentioned specifically as exempting the association from liability, no proof was offered.

The lower court acted within its power in ordering the immediate execution of its judgment.

The judgment of the lower court is affirmed, with costs against the appellant. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Concepcion, and Moran, JJ., concur.

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