

# FIRST DIVISION

[ G.R. No. 224863, December 02, 2020 ]

**SUSAN CO DELA FUENTE, PETITIONER, VS. FORTUNE LIFE  
INSURANCE CO., INC. RESPONDENT.**

## DECISION

**CARANDANG, J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court (Rules) assailing the Decision<sup>[2]</sup> dated February 17, 2016 and the Resolution<sup>[3]</sup> dated May 26, 2016 of the Court of Appeals (CA) in CAG.R. CV No. 105012 filed by petitioner Susan Co Dela Fuente (Susan).

### Antecedents

On February 17, 2011, Susan invested P2,000,000.00 in the lending business of Reuben Protacio (Reuben).<sup>[4]</sup> On March 3, 2011, she invested an additional P1,000,000.00.<sup>[5]</sup> On March 10, 2011, Reuben applied for a life insurance with respondent Fortune Life Insurance Co., Inc. (Fortune) in the amount of P15,000,000.00 with Susan as the revocable beneficiary.<sup>[6]</sup> On March 14, 2011, she again invested another P1,000,000.00.<sup>[7]</sup> On March 25, 2011, Policy No. 61761 was issued after the premium of P82,500.00 was paid.<sup>[8]</sup> The policy stated *inter alia* that:

In case of death of the Insured by self-destruction within (2) years from the Policy Date or date of last reinstatement of this Policy, the pertinent provisions of the Insurance code, as amended, shall apply. Where the death of the Insured by selfdestruction is not compensable, we shall refund the premiums actually paid less indebtedness.<sup>[9]</sup>

On March 28, 2011, Susan invested P12,000,000.00 in Reuben's lending business.<sup>[10]</sup>

About a month after the issuance of the policy, Susan submitted a copy of Policy No. 61761 with a face value of P15,000,000.00 to claim its proceeds.<sup>[11]</sup> Based on the Death Certificate<sup>[12]</sup> submitted, Reuben died on April 15, 2011 due to a gunshot wound on the chest.<sup>[13]</sup> Medico Legal Report No. M-239-2011 prepared by Dr. Voltaire P. Nulud (Dr. Nulud) confirmed that the cause of death of Reuben is "Gunshot wound, trunk."<sup>[14]</sup>

Fortune conducted an investigation and uncovered a Clinical Abstract<sup>[15]</sup> executed by Dr. Allen Pagayatan (Dr. Pagayatan) stating that he conducted an interview with Randolph Protacio (Randolph), brother of Reuben, within minutes after he brought

Reuben to the emergency room of Makati Medical Center. Based on Dr. Pagayatan's interview, Randolph stated that prior to the shooting incident, Reuben intimated that he already wanted to die. When he thought that he had already pacified Reuben, Randolph left the room. Subsequently, he heard a gunshot and found Reuben bleeding.<sup>[16]</sup> Because of this information, Fortune denied the claim of Susan.<sup>[17]</sup> Fortune refunded Susan P80,643.00, which represents the amount of premiums paid on the policy less service charge<sup>[18]</sup> but Susan refused to accept it.<sup>[19]</sup> Thereafter, Susan filed a complaint for a sum of money and damages against Fortune.<sup>[20]</sup>

Incidentally, Rossana Ajon (Rossana), a business partner of Reuben, sent a letter to Fortune informing the latter that she already paid Susan the amount of P2,000,000.00. Rossana requested that the amount of P1,000,000.00 be segregated in the settlement to be made with Susan.<sup>[21]</sup>

In their Answer,<sup>[22]</sup> Fortune argued that Susan has no insurable interest over the life of Reuben since she had not invested yet in the business of Reuben. Fortune pointed out that when the policy was secured on March 25, 2011, Susan's investment was only in the amount of P3,000,000.00 and P2,000,000.00 was already refunded to her by Rossana. The rest of the investment in the amount of P12,000,000.00 was only invested by Susan after the policy took effect.<sup>[23]</sup> Even assuming that Susan has insurable interest over the life of Reuben to the extent of P15,000,000.00 or that she was legally appointed as the beneficiary of Reuben, Fortune insisted that Susan has no cause of action because Reuben's death was due to suicide which is an excepted risk under his policy.<sup>[24]</sup>

### **Ruling of the Regional Trial Court**

On February 27, 2015, the Regional Trial Court (RTC) rendered its Decision<sup>[25]</sup> the dispositive portion of which states:

**WHEREFORE**, premises considered, judgment is hereby rendered in favor of the plaintiff **SUSAN CO DELA FUENTE** and against the defendant **FORTUNE LIFE INSURANCE CO., INC.** ordering the latter to pay the former the following:

1. **FIFTEEN MILLION PESOS (Php 15,000,000.00)** plus interest at the rate of **twelve percent (12%)** per annum from May 18, 2011 until fully paid;
2. **FIFTY THOUSAND PESOS (Php 50,000.00)** as and by way of attorney's fees; and
3. Costs of suit.

**SO ORDERED.**<sup>[26]</sup> (Emphasis in the original)

The RTC found no merit in the contention of Fortune that the information Randolph gave to Dr. Pagayatan is an exception to the hearsay rule for being part of *res gestae*. For the RTC, the statement cannot be treated as spontaneous because a considerable amount of time had lapsed from the moment the deceased was found bleeding and the time the alleged statement was given to Dr. Pagayatan at the

hospital. The RTC declared that such considerable amount of time was more than enough for Randolph to deliberate on the matter which rendered the information given regarding the case of Reuben's death fall beyond the ambit of spontaneity.<sup>[27]</sup>

The RTC did not give credence to the testimony of Dr. Raquel Fortun (Dr. Fortun) as her findings were only based on documents provided by Fortune. She did not examine the body of Reuben nor present additional evidence to convince the RTC that Reuben took his own life. The RTC ruled that her testimony regarding the presence of gun powder or residue on the shooter's hand has no weight because her qualifications and expertise restrict her from testifying on the subject matter.<sup>[28]</sup>

For the RTC, Susan was able to establish that she is entitled to the proceeds of the policy. On the other hand, the RTC found that Fortune failed to establish by preponderance of evidence its defense that Reuben committed suicide.<sup>[29]</sup>

The RTC awarded interest of 12% *per annum* from May 18, 2011 until fully paid because of Fortune's unreasonable refusal to pay Susan's claim.<sup>[30]</sup> The RTC held that Fortune's strong reliance on the unsubstantiated statements of Randolph relayed to Dr. Pagayatan to justify its obstinate refusal to pay the claim of Susan was a clear sign of wanton disregard of its obligations arising from the contract of insurance.<sup>[31]</sup>

In an Order<sup>[32]</sup> dated May 8, 2015, the RTC denied the Motion for Reconsideration<sup>[33]</sup> of Fortune for lack of merit.<sup>[34]</sup>

### **Ruling of the Court of Appeals**

On February 17, 2016, the CA rendered its Decision<sup>[35]</sup> the dispositive portion of which states:

**WHEREFORE**, premises considered, the appeal is **GRANTED**. The assailed decision dated February 27, 2015 of the RTC, Branch 133, Makati City is hereby **VACATED** and **SET ASIDE** and a new one is entered ordering the **DISMISSAL** of the complaint.

**SO ORDERED.**<sup>[36]</sup> (Emphasis in the original)

The CA held that the evidence on record proved that Reuben committed suicide. The photos taken at the crime scene did not show any cleaning kit which would have proved the claim of Susan that Reuben was cleaning his gun before his death. Not even a piece of cloth was found at the scene of the crime, as confirmed by the statement of PO3 Serquena and SPO1 Rico Caramat.<sup>[37]</sup>

The CA ruled that the statement Randolph gave to Dr. Pagayatan was spontaneously given and found no reason for him to concoct or fabricate his narration of the events. Between the statement of Randolph given to Dr. Pagayatan at the emergency room and his statement given to the police after a considerable length of time, the CA declared that the former should be given more weight because it was given spontaneously and at a time when Randolph still had no chance to think and make up a story. The CA stated that if the statement of Randolph to Dr. Pagayatan

made several minutes after the incident is considered inadmissible, there is more reason to consider as inadmissible the statement Randolph gave to the police after a considerable length of time. By then, he already had the opportunity to fabricate his account to conceal the real story behind Reuben's death.<sup>[38]</sup>

Although Dr. Fortun did not perform an autopsy on the body of Reuben, the CA gave credence to her testimony as she based her findings on the same medico-legal report and investigation report Susan presented as evidence. For the CA, Dr. Fortun merely interpreted the results of official records. The genuineness and authenticity of these documents were never assailed. The CA believed the explanation of Dr. Fortun that gunshot residues on a shooter's hand is not always visible even with sensitive testing. The CA gave weight to the opinion of Dr. Fortun that the trajectory of the bullet which went "straight front to back" supported the conclusion that the gun shot was deliberate and self-inflicted.<sup>[39]</sup>

The CA denied the Motion for Reconsideration<sup>[40]</sup> Susan filed in a Resolution<sup>[41]</sup> dated May 26, 2016.

In her petition,<sup>[42]</sup> Susan insists that Reuben's death is compensable because he died when he accidentally fired his gun while cleaning it. Susan argues that the CA erred in holding that the absence of a gun cleaning kit in the room where Reuben was found lifeless disproves that the latter accidentally shot himself while cleaning his gun.<sup>[43]</sup> Susan also avers that the testimony of Dr. Pagayatan on the information Randolph relayed to him is inadmissible and cannot be considered as part of *res gestae* as this was not spontaneously given. Susan emphasizes that it took more than 15 minutes from the time the shooting happened in the house of Reuben and the moment Randolph allegedly gave the information to Dr. Pagayatan at the emergency room.<sup>[44]</sup> Susan likewise claims that the testimony of Dr. Fortun is biased and weak since she is an expert witness hired by Fortune.<sup>[45]</sup> Susan posits that instead of discrediting Dr. Nulud for entertaining the possibility that Reuben killed himself, the CA should have appreciated his open-mindedness and should have looked at it as signs of impartiality and disinterestedness.<sup>[46]</sup> After all, Dr. Nulud's opinion is based on the absence of muzzle imprint of the gun barrel on the skin of the deceased, the direction and trajectory of the bullet in the victim's body, and the negative result of the paraffin examination on the victim's hands.<sup>[47]</sup>

In its Comment,<sup>[48]</sup> Fortune highlights that Susan belatedly filed her motion for reconsideration on the Decision of the CA. Susan moved for reconsideration of the Decision of the CA that she received on March 1, 2016 only on March 17, 2016 (Thursday), or 16 days after the receipt of the assailed Decision.<sup>[49]</sup> Fortune maintains that the death of Reuben is an excepted risk. Based on the pictures taken and the testimonies of the responding officers and investigator, there appears to be no cleaning kit nor any piece of cleaning material which Reuben could have used in purportedly cleaning his gun.<sup>[50]</sup> Fortune asserts that the possibility that the insured could have been using his own clothes or his hand when he was cleaning his gun cannot be raised in a motion for reconsideration.<sup>[51]</sup> Fortune likewise claims that the CA correctly held that the statement Randolph made to Dr. Pagayatan qualified as part of *res gestae*, an exception to the hearsay rule. Fortune argues that Randolph's statement to Dr. Pagayatan was spontaneously given and under circumstances

which would bar him from inventing the same.<sup>[52]</sup> Fortune also submits that the CA correctly gave credence to the testimony of Dr. Fortun, a known forensic pathologist, who opined that Reuben committed suicide.<sup>[53]</sup>

In her Reply,<sup>[54]</sup> Susan insists that Fortune is now barred by laches in questioning the timeliness of the filing of the petition because the belated filing of the Motion for Reconsideration was not raised in the Comment/Opposition to Susan's Motion for Reconsideration.<sup>[55]</sup> Susan also reiterates her argument that the statement of Randolph cannot be admitted as part of *res gestae*.<sup>[56]</sup>

### **Issues**

The issues to be resolved in this case are:

- (1) whether Fortune is now barred by laches from questioning the timeliness of the filing of the petition because the issue on the belated filing of the Motion for Reconsideration was not raised in the Comment/Opposition to Susan's Motion for Reconsideration;
- (2) whether the insurer carries the burden of proving that the insured's death was caused by suicide or self-destruction; and
- (3) whether Susan, as creditor of Reuben and beneficiary of the policy, is entitled to the entire face value of the policy in the amount of P15,000,000.00 despite the fact that her insurable interest at the time the policy took effect was only P4,000,000.00 and Rossana had already returned P2,000,000.00.

### **Ruling of the Court**

**Fortune is now barred from raising the belated filing of the motion for reconsideration in its Comment to Susan's petition filed in this Court.**

At the outset, We must address the claim of Susan that Fortune is now barred by laches from questioning the timeliness of the filing of her petition since the issue on the belated filing of her Motion for Reconsideration was not raised in the Comment/Opposition to Susan's Motion for Reconsideration. The CA entertained Susan's Motion for Reconsideration despite having been filed 16 days from the receipt of the assailed Decision of the CA or one day after the last day to file her Motion for Reconsideration in violation of Section 1, Rule 52 of the Rules of Court (Rules) which clearly provides:

Section 1. *Period for filing.* - A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice