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SECOND DIVISION

[G.R. No. 199780, September 24, 2014]

GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS. JOSE M. CAPACITE, RESPONDENT.

D E C I S I O N

BRION, J.:

This is an appeal under Rule 43 of the Rules of Court of the decision[1] dated August 4, 2011 and the resolution[2] dated November 24, 2011 of the Court of Appeals *(CA)* in CA-GR SP No. 116030. The appealed decision reversed and set aside the Decision dated June 29, 2010 of the Employees' Compensation Commission *(ECC)*, which denied the claim for compensation benefits under Presidential Decree No. 626 *(PD 626)*[3] filed by Jose M. Capacite *(Jose)*.

The Antecedent Facts

Elma Capacite (*Elma*) was an employee in the Department of Agrarian Reform (*DAR*) – Eastern Samar Provincial Office, Borongan, Eastern Samar, who successively held the following positions between the periods of November 8, 1982 to July 15, 2009: Junior Statistician, Bookkeeper, Bookkeeper II, and finally as Accountant I.[4]

On May 11, 2009, due to persistent cough coupled with abdominal pain, Elma was admitted at the Bethany Hospital. The pathology examination showed that she was suffering from "*Adenocarcinoma, moderately differentiated, probably cecal origin with metastases to mesenteric lymph node and seeding of the peritoneal surface*."[5]

On July 16, 2009, Elma died due to "***Respiratory Failure secondary to Metastatic Cancer to the lungs***; *Bowel cancer with Hepatic and Intraperitoneal Seeding and Ovarian cancer.*"[6]

On May 13, 2009, Elma's surviving spouse, Jose, filed a claim for ECC death benefits before the Government Service Insurance System (GSIS) Catbalogan Branch Office, alleging that Elma's stressful working condition caused the cancer that eventually led to her death.[7]

On August 18, 2009, the GSIS denied Jose's claim. The GSIS opined that Jose had failed to present direct evidence to prove a causal connection between Elma's illness and her work in order for the claimant to be entitled to the ECC death benefits.[8]

Jose appealed the GSIS decision to the ECC. On June 29, 2010, the ECC denied Jose's claim for death benefits.[9] The ECC held that colorectal cancer is not listed as an occupational and compensable disease under Annex "A" of the Amended Rules on

Employee's Compensation.[10] Although its item 17 provides that "*[c]ancer of the lungs, liver and brain shall be compensable," the rules required "that it had been incurred by employees working as* ***vinyl chloride workers, or plastic workers***." [11]

Jose appealed the ECC ruling to the CA under Rule 43 of the Rules of Court. On August 4, 2011, the CA granted the petition and reversed the ECC findings. *Without discussing the nature of Elma's employment*, the CA ruled that she had "adenocarcinoma of the lungs" or "lung cancer," which is a respiratory disease listed under Annex "A" of the Amended Rules on Employee's Compensation, entitling her heirs to death benefits even if she had not been a "*vinyl chloride worker, or plastic worker.*"

The CA further ruled that Jose was no longer required to provide evidence that would directly connect the deceased's illness with her working conditions; that it was enough that the nature of her employment contributed to the development of the disease. As a bookkeeper, **the CA assumed that Elma had been exposed to voluminous dusty records and other harmful substances that aggravated her respiratory disease.**

GSIS filed a motion for reconsideration which the CA denied in its resolution dated November 24, 2011. The GSIS now comes before us for a final review.

The Issues

GSIS raises the following assignment of errors:

I.

> THE CA ERRED IN RULING THAT METASTASIZED TO THE LUNGS IS AN AILMENT AKIN TO RESPIRATORY DISEASE UNDER ANNEX "A" OF P.D. NO. 626, AS AMENDED, OR THAT SUCH DISEASE IS WORK-RELATED.

II.

> THE CA ERRED IN APPLYING THE LIBERAL INTERPRETATION OF THE RULES SINCE THE LIMITED RESOURCES DERIVED FROM ECC CONTRIBUTIONS SHOULD ONLY BE APPLIED TO LEGITIMATE CLAIMS FOR COMPENSATION BENEFITS.

GSIS primarily argues that Elma's illness is not work-related. It is neither listed under Annex "A" of the Amended Rules on Employee's Compensation, nor was it caused by her working conditions. GSIS asserts that the liberal attitude to grant benefits should not be used to defeat the mandate of the GSIS to provide meaningful protection to all government employees who are actually working under hazardous circumstances.

The Court's Ruling

We find the petition meritorious.

PD 626, as amended, defines **compensable sickness** as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof by the employee that the risk of contracting the same is increased by the working conditions." Of particular significance in this definition is the use of the conjunction "or," which indicates alternative situations.

Based on this definition, we ruled in *GSIS v. Vicencio*[12] that for sickness and the resulting death of an employee to be compensable, the claimant must show either: (1) that it is a result of an occupational disease listed under Annex "A" of the Amended Rules on Employees' Compensation with the conditions set therein satisfied; or (2) if not so listed, that the risk of contracting the disease was increased by the working conditions.

While item 17, Annex "A" of the Amended Rules of Employee's Compensation considers lung cancer to be a compensable occupational disease, it likewise provides that the employee should be employed as a vinyl chloride worker or a plastic worker. In this case, however, Elma did not work in an environment involving the manufacture of chlorine or plastic, for her lung cancer to be considered an occupational disease.[13] There was, therefore, no basis for the CA to simply categorize her illness as an occupational disease without first establishing the nature of Elma's work. Both the law and the implementing rules clearly state that the given alternative conditions must be satisfied for a disease to be compensable.

No proof exists showing that Elma's lung cancer was induced or aggravated by her working conditions

We also do not find that Elma's cause of death was work-connected. As we earlier pointed out, entitlement to death benefits depends on whether the employee's disease is listed as an occupational disease or, if not so listed, whether the risk of contracting the disease has been increased by the employee's working conditions.

In reversing the ECC and granting the claim for death benefits, the CA relied on the case of *GSIS v. Vicencio*,[14] which particularly states:

> Granting, however, that the only cause of Judge Vicencio's death is lung cancer, we are still one with the CA in its finding that the working conditions of the late Judge Vicencio contributed to the development of his lung cancer.
>
> It is true that under Annex "A" of the Amended Rules on Employees' Compensation, lung cancer is occupational only with respect to vinyl chloride workers and plastic workers. However, this will not bar a claim for benefits under the law if the complainant can adduce substantial evidence that the risk of contracting the illness is increased or aggravated by the working conditions to which the employee is exposed to.
>
> It is well-settled that the degree of proof required under P.D. No. 626 is merely substantial evidence, which means, "such relevant evidence as a

reasonable mind might accept as adequate to support a conclusion." What the law requires is a reasonable work-connection and not a direct causal relation. ***It is enough that the hypothesis on which the workman's claim is based is probable. Medical opinion to the contrary can be disregarded especially where there is some basis in the facts for inferring a work-connection. Probability, not certainty, is the touchstone. It is not required that the employment be the sole factor in the growth, development or acceleration of a claimant's illness to entitle him to the benefits provided for. It is enough that his employment contributed, even if to a small degree, to the development of the disease***. [Emphasis ours]

x x x x

We hold that the CA's application of the Vicencio ruling is misplaced. The correct implementing rule under PD 626 or Section 1(b), Rule III of the Amended Rules on Employee's Compensation in fact provides that:

Section 1. Grounds.

x x x x

(b) For the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease listed under Annex "A" of these Rules with the conditions set therein satisfied, ***otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions***. [Emphasis ours]

The CA failed to consider that what moved the Court to grant death benefits to the heirs of Judge Vicencio was the proof that the judge had been in contact with voluminous and dusty records. The Court also took judicial notice of the *dilapidated conditions* of Judge Vicencio's workplace:

The late Judge Vicencio was a frontline officer in the administration of justice, being the most visible living representation of this country's legal and judicial system. It is undisputed that throughout his noble career from Fiscal to Metropolitan Trial Court Judge, and, finally, to RTC Judge, his work ***dealt with stressful daily work hours, and constant and long-term contact with voluminous and dusty records. We also take judicial notice that Judge Vicencio's workplace at the Manila City Hall had long been a place with sub-standard offices of judges and prosecutors overflowing with records of cases covered up in dust and are poorly ventilated. All these, taken together, necessarily contributed to the development of his lung illness."*** [Emphasis ours]