

## FIRST DIVISION

[ G.R. No. 174725, January 26, 2011 ]

**ALEXANDER B. GATUS, PETITIONER, VS. SOCIAL SECURITY SYSTEM, RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

This is a petition for review on *certiorari* of the **Decision**<sup>[1]</sup> of the Court of Appeals dated May 24, 2006 in **CA-G.R. SP No. 88691** (the assailed Decision) and the **Resolution**<sup>[2]</sup> dated August 7, 2006 issued by the same court in said case.

The facts, as summarized by the Court of Appeals, are as follows:

[Petitioner Alexander B.] Gatus worked at the Central Azucarera de Tarlac beginning on January 1, 1972. He was a covered member of the SSS (SS No. 02-0055015-6). He optionally retired from Central Azucarera de Tarlac upon reaching 30 years of service on January 31, 2002, at the age of 62 years. By the time of his retirement, he held the position of Tender assigned at the Distillery Cooling Tower.

In the course of his employment in Central Azucarera de Tarlac, he was certified fit to work on October 21, 1975 and was accordingly promoted to a year-round regular employment.

He suffered chest pains and was confined at the Central Luzon Doctor's Hospital in Tarlac City on August 12, 1995. Upon discharge on August 17, 1995, he was diagnosed to be suffering from Coronary Artery Disease (CAD): Triple Vessel and Unstable Angina. **His medical records showed him to be hypertensive for 10 years and a smoker.**

On account of his CAD, he was given by the SSS the following EC/SSS Permanent Partial Disability (PPD) benefits: (a) 8 monthly pensions effective September 1, 1994 and (b) 4 monthly pensions effective January 3, 1997. He became an SSS retirement pensioner on February 1, 2002.

Sometime in 2003, an SSS audit revealed the need to recover the EC benefits already paid to him on the ground that his CAD, being attributed to his chronic smoking, was not work-related. He was notified thereof through a letter dated July 31, 2003.

Convinced that he was entitled to the benefits, he assailed the decision but the SSS maintained its position. The SSS also denied his *motion for*

*reconsideration.*

**He elevated the matter to the ECC, which denied his appeal on December 10, 2004, essentially ruling that although his CAD was a cardiovascular disease listed as an occupational disease under Annex A of the *Implementing Rules on Employees' Compensation*, nothing on record established the presence of the qualifying circumstances for responsibility; that it was incumbent upon him to prove that the nature of his previous employment and the conditions prevailing therein had increased the risk of contracting his CAD; and that he had failed to prove this requisite. The ECC concluded:**

**As explained medically, the development of IHD or otherwise termed as Coronary Artery Disease (CAD) is caused by atherosclerosis, the hardening of the inner lining of arteries. One of the risk factors considered by medical science for the development of atherosclerosis is smoking. Appellant had been documented to be a chronic smoker and such factor which is not in any way related to any form of employment increased his risk of contracting heart disease.**

Hence, this recourse, wherein he contends that he had contracted the disease due to the presence of harmful fuel smoke emission of methane gas from a nearby biological waste digester and a railway terminal where diesel-fed locomotive engines had "spew(ed) black smoke;" and that he had been exposed for 30 years to various smoke emissions that had contained carbon monoxide, carbon dioxide, sulfur, oxide of nitrogen and unburned carbon.<sup>[3]</sup> (Emphases added.)

In the assailed Decision, the Court of Appeals held that petitioner is not entitled to compensation benefits under Presidential Decree No. 626, as amended, affirming the Decision of the Employees' Compensation Commission (ECC), which was likewise a confirmation of the audit conducted by the Social Security System (SSS).

Thus, this petition wherein, even without assistance of counsel, petitioner comes to this Court contending that "the appellate court's decision is flawed [and] if not reversed will result in irreparable damage to the interest of the petitioner."<sup>[4]</sup>

Petitioner lists the following as errors in the questioned Decision:

I. The appellate court's decision is against existing jurisprudence on increased risk theory of rebook condition and progression and deterioration of illness that supervened during employment and persisted after optional retirement.

II. Violation of due process.<sup>[5]</sup>

The Court of Appeals agreed with the ECC's findings that based on his medical records, petitioner has been hypertensive for ten (10) years and smokes 20 packs of cigarettes a year.<sup>[6]</sup> His medical condition was explained in the following manner by the ECC:

Ischemic Heart Disease (IHD) is the generic designation for a group of closely related syndromes resulting from ischemia - an imbalance between the supply and demand of the heart for oxygenated blood. Because coronary artery narrowing or obstruction owing to atherosclerosis underlies MI, it is often termed coronary artery disease (CAD). **Atherosclerosis which is primarily due to smoking**, diet, hypertension and diabetes is the main culprit in the development of CAD. (Pathologic Basis of Disease by Robbins, 5<sup>th</sup> edition.)<sup>[7]</sup> (Emphasis supplied.)

Petitioner claims that he was in good health when he first entered the *Central Azucarera de Tarlac* as a factory worker at the Alcohol Distillery Plant in 1972.<sup>[8]</sup> He alleges that in the course of his employment he suffered "essential hypertension" starting 1995, when he experienced chest pains and was confined at the Central Luzon Doctor's Hospital in Tarlac City; that he was diagnosed as having "Coronary Artery Disease (CAD) [Triple] Vessel and Angina Pectoris" and hypertension; that he was initially granted disability benefits by the SSS but his request for additional benefits was denied; and that the ECC denied his appeal due to allegations of smoking. He asserts that he has cited "technical, scientific and medical authorities to bolster his claim" including the exposure he experienced for thirty (30) years from the alcohol distillery to "hydrocarbons and [locomotives]," carbon monoxide, carbon dioxide, sulfur, phosphorous, nitrogen oxides and soot (particulate matter).<sup>[9]</sup>

Petitioner uses various references, including encyclopedia and medical books, to discuss the general effects of pollution, mostly caused by the burning of fossil fuels, to people with cardiovascular diseases; and the aggravation of coronary artery diseases brought about by exposure to carbon monoxide.<sup>[10]</sup> Petitioner claims that "air pollution (carbon monoxide and lead from gasoline) contributed to the development of essential hypertension and its complications: [c]oronary artery disease, hypertensive cardiovascular disease and stroke."<sup>[11]</sup>

Petitioner insists that the allegation of cigarette smoking was not proven and that the ECC did not present a document signed by competent medical authority to back such claim. Petitioner claims that there is no showing that the ECC records were elevated to the Court of Appeals, and that the latter had completely ignored his evidence.

In its **Comment**<sup>[12]</sup> dated December 11, 2006, respondent SSS alleges that the Decision of the Court of Appeals affirming the Decision of the ECC was in accordance with law and existing jurisprudence. Respondent SSS further alleges that as viewed from the records of the case, the petitioner failed to show proof by mere substantial evidence that the development of his disease was work-related;<sup>[13]</sup> that petitioner's heart ailment had no causal relation with his employment; and that "[as] viewed

**from by his lifestyle, he was a chain smoker, a habit [which had] contributed to the development of his heart ailment."**<sup>[14]</sup>

Respondent further alleges that medical findings have revealed that nicotine in cigarette smoke damages the blood vessels of the heart, making them susceptible to the hardening of the inner lining of the arteries. As to petitioner's contention that there were harmful fuel and smoke emissions due to the presence of methane gas from a nearby biological waste as well as a railway terminal where diesel-fed locomotive engines spewed black smoke, respondent counters that these were mere allegations that were not backed by scientific and factual evidence and that petitioner had failed to show which harmful emissions or substances were present in his working environment and how much exposure thereto had contributed to the development of his illness. Respondent points out that petitioner's "bare allegations do not constitute such evidence that a reasonable mind might accept as adequate to support the conclusion that there is a causal relationship between his working conditions" and his sickness and that "the law is clear that award of compensation cannot rest on speculations or presumptions."<sup>[15]</sup>

The sole issue to be determined is whether the Court of Appeals committed grave abuse of discretion in affirming the finding of the ECC that petitioner's ailment is not compensable under Presidential Decree No. 626, as amended.

The grounds for compensability are set forth in Section 1, Rule III of the Amended Rules on Employees' Compensation (the "Amended Rules"), the pertinent portion of which states:

### **RULE III Compensability**

*Sec. 1. Grounds -- 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.

Further, under Annex "A" of the Amended Rules,

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The employee's work must involve the risks described herein;
2. The disease was contracted as a result of the employee's exposure to the described risks;
3. The disease was contracted within a period of exposure and under such other factors necessary to contract it;
4. There was no notorious negligence on the part of the employee.

Cardiovascular diseases are considered as occupational when contracted under any of the following conditions:

- (a) If the heart disease was known to have been present during employment there must be proof that an acute exacerbation clearly precipitated by the unusual strain by reason of the nature of his work.
- (b) The strain of work that brings about an acute attack must be of sufficient severity and must be followed within twenty-four (24) hours by the clinical signs of a cardiac insult to constitute causal relationship.
- (c) If a person who was apparently asymptomatic before subjecting himself to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.<sup>[16]</sup>

The burden of proof is thus on petitioner to show that any of the above conditions have been met in his case. The required proof is further discussed in *Ortega v. Social Security Commission*<sup>[17]</sup>:

The requisite quantum of proof in cases filed before administrative or quasi-judicial bodies is neither proof beyond reasonable doubt nor preponderance of evidence. In this type of cases, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. In this case, substantial evidence abounds.<sup>[18]</sup>

As found by the Court of Appeals, petitioner failed to submit substantial evidence that might have shown that he was entitled to the benefits he had applied for. We thus affirm *in toto* the findings and conclusions of the Court of Appeals in the questioned Decision and quote with approval the following pronouncements of the appellate court:

The degree of proof required under P.D. 626 is merely substantial evidence, which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Accordingly, the claimant must show, at least by substantial evidence, that the development of the disease was brought about largely by the conditions present in the nature of the job. What the law requires is a reasonable work connection, not a direct causal relation.

Gatus was diagnosed to have suffered from CAD; Triple Vessel and Unstable Angina, diseases or conditions falling under the category of Cardiovascular Diseases which are not considered occupational diseases under the *Amended Rules on Employees Compensation*. His disease not being listed as an occupational disease, he was expected to show that the illness or the fatal disease was caused by his employment and the