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THIRD DIVISION

[G. R. No. 178763, April 21, 2009]

PETER PAUL PATRICK LUCAS, FATIMA GLADYS LUCAS, ABBEYGAIL LUCAS AND GILLIAN LUCAS, PETITIONERS, VS. DR. PROSPERO MA. C. TUAÑO, RESPONDENT.

D E C I S I O N

CHICO-NAZARIO, J.:

In this petition for review on *certiorari*[1] under Rule 45 of the Revised Rules of Court, petitioners Peter Paul Patrick Lucas, Fatima Gladys Lucas, Abbeygail Lucas and Gillian Lucas seek the reversal of the 27 September 2006 *Decision*[2] and 3 July 2007 *Resolution,*[3] both of the Court of Appeals in CA-G.R. CV No. 68666, entitled "Peter Paul Patrick Lucas, Fatima Gladys Lucas, Abbeygail Lucas and Gillian Lucas v. Prospero Ma. C. Tuaño."

In the questioned decision and resolution, the Court of Appeals affirmed the 14 July 2000 *Decision* of the Regional Trial Court (RTC), Branch 150, Makati City, dismissing the complaint filed by petitioners in a civil case entitled, *"Peter Paul Patrick Lucas, Fatima Gladys Lucas, Abbeygail Lucas and Gillian Lucas v. Prospero Ma. C. Tuaño,"* docketed as Civil Case No. 92-2482.

From the record of the case, the established factual antecedents of the present petition are:

Sometime in August 1988, petitioner Peter Paul Patrick Lucas (Peter) contracted "sore eyes" in his right eye.

On 2 September 1988, complaining of a red right eye and swollen eyelid, Peter made use of his health care insurance issued by Philamcare Health Systems, Inc. (Philamcare), for a possible consult. The Philamcare Coordinator, Dr. Edwin Oca, M.D., referred Peter to respondent, Dr. Prospero Ma. C. Tuaño, M.D. (Dr. Tuaño), an ophthalmologist at St. Luke's Medical Center, for an eye consult.

Upon consultation with Dr. Tuaño, Peter narrated that it had been nine (9) days since the problem with his right eye began; and that he was already taking *Maxitrol* to address the problem in his eye. According to Dr. Tuaño, he performed "ocular routine examination" on Peter's eyes, wherein: (1) a gross examination of Peter's eyes and their surrounding area was made; (2) Peter's visual acuity were taken; (3) Peter's eyes were palpated to check the intraocular pressure of each; (4) the motility of Peter's eyes was observed; and (5) the ophthalmoscopy[4] on Peter's eyes was used. On that particular consultation, Dr. Tuaño diagnosed that Peter was suffering from *conjunctivitis*[5] or "sore eyes." Dr. Tuaño then prescribed *Spersacet-C*[6] eye drops for Peter and told the latter to return for follow-up after one week.

As instructed, Peter went back to Dr. Tuaño on 9 September 1988. Upon examination, Dr. Tuaño told Peter that the "sore eyes" in the latter's right eye had already cleared up and he could discontinue the *Spersacet-C*. However, the same eye developed *Epidemic Kerato Conjunctivitis* (EKC),[7] a viral infection. To address the new problem with Peter's right eye, Dr. Tuaño prescribed to the former a steroid-based eye drop called *Maxitrol*,[8] a dosage of six (6) drops per day.[9] To recall, Peter had already been using *Maxitrol* prior to his consult with Dr. Tuaño.

On 21 September 1988, Peter saw Dr. Tuaño for a follow-up consultation. After examining both of Peter's eyes, Dr. Tuaño instructed the former to taper down[10] the dosage of *Maxitrol,* because the EKC in his right eye had already resolved. Dr. Tuaño specifically cautioned Peter that, being a steroid, *Maxitrol* had to be withdrawn gradually; otherwise, the EKC might recur.[11]

Complaining of feeling as if there was something in his eyes, Peter returned to Dr. Tuaño for another check-up on 6 October 1988. Dr. Tuaño examined Peter's eyes and found that the right eye had once more developed EKC. So, Dr. Tuaño instructed Peter to resume the use of *Maxitrol* at six (6) drops per day.

On his way home, Peter was unable to get a hold of *Maxitrol,* as it was out of stock. Consequently, Peter was told by Dr. Tuano to take, instead, *Blephamide*[12] another steroid-based medication, but with a lower concentration, as substitute for the unavailable *Maxitrol*, to be used three (3) times a day for five (5) days; two (2) times a day for five (5) days; and then just once a day.[13]

Several days later, on 18 October 1988, Peter went to see Dr. Tuaño at his clinic, alleging severe eye pain, feeling as if his eyes were about to "pop-out," a headache and blurred vision. Dr. Tuaño examined Peter's eyes and discovered that the EKC was again present in his right eye. As a result, Dr. Tuaño told Peter to resume the maximum dosage of *Blephamide*.

Dr. Tuaño saw Peter once more at the former's clinic on 4 November 1988. Dr. Tuaño's examination showed that only the periphery of Peter's right eye was positive for EKC; hence, Dr. Tuaño prescribed a lower dosage of *Blephamide*.

It was also about this time that Fatima Gladys Lucas (Fatima), Peter's spouse, read the accompanying literature of *Maxitrol* and found therein the following warning against the prolonged use of such steroids:

> WARNING:
>
> Prolonged use may result in glaucoma, with damage to the optic nerve, defects in visual acuity and fields of vision, and posterior, subcapsular cataract formation. Prolonged use may suppress the host response and thus increase the hazard of secondary ocular infractions, in those diseases causing thinning of the cornea or sclera, perforations have been known to occur with the use of topical steroids. In acute purulent conditions of the eye, steroids may mask infection or enhance existing infection. If these products are used for 10 days or longer, intraocular pressure should be routinely monitored even though it may be difficult in

children and uncooperative patients.

Employment of steroid medication in the treatment of herpes simplex requires great caution.

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ADVERSE REACTIONS:

Adverse reactions have occurred with steroid/anti-infective combination drugs which can be attributed to the steroid component, the anti-infective component, or the combination. Exact incidence figures are not available since no denominator of treated patients is available.

Reactions occurring most often from the presence of the anti-infective ingredients are allergic sensitizations. The reactions due to the steroid component in decreasing order to frequency are elevation of intra-ocular pressure (IOP) with possible development of glaucoma, infrequent optic nerve damage; posterior subcapsular cataract formation; and delayed wound healing.

Secondary infection: The development of secondary has occurred after use of combination containing steroids and antimicrobials. Fungal infections of the correa are particularly prone to develop coincidentally with long-term applications of steroid. The possibility of fungal invasion must be considered in any persistent corneal ulceration where steroid treatment has been used.

Secondary bacterial ocular infection following suppression of host responses also occurs.

On 26 November 1988, Peter returned to Dr. Tuaño's clinic, complaining of "feeling worse."[14] It appeared that the EKC had spread to the whole of Peter's right eye yet again. Thus, Dr. Tuaño instructed Peter to resume the use of *Maxitrol*. Petitioners averred that Peter already made mention to Dr. Tuaño during said visit of the above-quoted warning against the prolonged use of steroids, but Dr. Tuaño supposedly brushed aside Peter's concern as mere paranoia, even assuring him that the former was taking care of him (Peter).

Petitioners further alleged that after Peter's 26 November 1988 visit to Dr. Tuaño, Peter continued to suffer pain in his right eye, which seemed to "progress," with the ache intensifying and becoming more frequent.

Upon waking in the morning of 13 December 1988, Peter had no vision in his right eye. Fatima observed that Peter's right eye appeared to be bloody and swollen.[15] Thus, spouses Peter and Fatima rushed to the clinic of Dr. Tuaño. Peter reported to Dr. Tuaño that he had been suffering from constant headache in the afternoon and blurring of vision.

Upon examination, Dr. Tuaño noted the hardness of Peter's right eye. With the use of a *tonometer*[16] to verify the exact *intraocular pressure*[17] (IOP) of Peter's eyes,

Dr. Tuaño discovered that the tension in Peter's right eye was **39.0 Hg**, while that of his left was 17.0 Hg.[18] Since the tension in Peter's right eye was way over the **normal IOP**, which merely ranged from **10.0 Hg to 21.0 Hg**,[19] Dr. Tuaño ordered[20] him to immediately discontinue the use of *Maxitrol* and prescribed to the latter *Diamox*[21] and *Normoglaucon*, instead.[22] Dr. Tuaño also required Peter to go for daily check-up in order for the former to closely monitor the pressure of the latter's eyes.

On 15 December 1988, the tonometer reading of Peter's right eye yielded a **high normal level,** *i.e.***, 21.0 Hg**. Hence, Dr. Tuaño told Peter to continue using *Diamox* and *Normoglaucon*. But upon Peter's complaint of "stomach pains and tingling sensation in his fingers,"[23] Dr. Tuaño discontinued Peter's use of *Diamox*.[24]

Peter went to see another ophthalmologist, Dr. Ramon T. Batungbacal (Dr. Batungbacal), on 21 December 1988, who allegedly conducted a complete ophthalmological examination of Peter's eyes. Dr. Batungbacal's diagnosis was *Glaucoma**[25]** O.D.*[26] He recommended *Laser Trabeculoplasty*[27] for Peter's right eye.

When Peter returned to Dr. Tuaño on 23 December 1988,[28] the tonometer measured the IOP of Peter's right eye to be **41.0 Hg**,[29] again, way above normal. Dr. Tuaño addressed the problem by advising Peter to resume taking *Diamox* along with *Normoglaucon*.

During the Christmas holidays, Peter supposedly stayed in bed most of the time and was not able to celebrate the season with his family because of the debilitating effects of *Diamox*.[30]

On 28 December 1988, during one of Peter's regular follow-ups with Dr. Tuaño, the doctor conducted another ocular routine examination of Peter's eyes. Dr. Tuaño noted the recurrence of EKC in Peter's right eye. Considering, however, that the IOP of Peter's right eye was still quite high at **41.0 Hg**, Dr. Tuaño was at a loss as to how to balance the treatment of Peter's EKC *vis-à-vis* the presence of *glaucoma* in the same eye. Dr. Tuaño, thus, referred Peter to Dr. Manuel B. Agulto, M.D. (Dr. Agulto), another ophthalmologist specializing in the treatment of glaucoma.[31] Dr. Tuaño's letter of referral to Dr. Agulto stated that:

> Referring to you Mr. Peter Lucas for evaluation & possible management. I initially saw him Sept. 2, 1988 because of conjunctivitis. The latter resolved and he developed EKC for which I gave Maxitrol. The EKC was recurrent after stopping steroid drops. Around 1 month of steroid treatment, he noted blurring of vision & pain on the R. however, I continued the steroids for the sake of the EKC. A month ago, I noted iris atrophy, so I took the IOP and it was definitely elevated. I stopped the steroids immediately and has (sic) been treating him medically.
>
> It seems that the IOP can be controlled only with oral Diamox, and at the moment, the EKC has recurred and I'm in a fix whether to resume the steroid or not considering that the IOP is still uncontrolled.[32]

On 29 December 1988, Peter went to see Dr. Agulto at the latter's clinic. Several tests were conducted thereat to evaluate the extent of Peter's condition. Dr. Agulto wrote Dr. Tuaño a letter containing the following findings and recommendations:

> Thanks for sending Peter Lucas. On examination conducted vision was 20/25 R and 20/20L. Tension curve 19 R and 15 L at 1210 H while on Normoglaucon BID OD & Diamox ½ tab every 6h po.
>
> Slit lamp evaluation[33] disclosed subepithelial corneal defect outer OD. There was circumferential peripheral iris atrophy, OD. The lenses were clear.
>
> Funduscopy[34] showed vertical cup disc of 0.85 R and 0.6 L with temporal slope R>L.
>
> Zeiss gonioscopy[35] revealed basically open angles both eyes with occasional PAS,[36] OD.
>
> Rolly, I feel that Peter Lucas has really sustained significant glaucoma damage. I suggest that we do a baseline visual fields and push medication to lowest possible levels. If I may suggest further, I think we should prescribe Timolol[37] BID[38] OD in lieu of Normoglaucon. If the IOP is still inadequate, we may try D'epifrin[39] BID OD (despite low PAS). I'm in favor of retaining Diamox or similar CAI.[40]
>
> If fields show further loss in say - 3 mos. then we should consider trabeculoplasty.
>
> I trust that this approach will prove reasonable for you and Peter.[41]

Peter went to see Dr. Tuaño on 31 December 1988, bearing Dr. Agulto's aforementioned letter. Though Peter's right and left eyes then had normal IOP of **21.0 Hg** and 17.0 Hg, respectively, Dr. Tuaño still gave him a prescription for *Timolol* B.I.D. so Peter could immediately start using said medication. Regrettably, *Timolol* B.I.D. was out of stock, so Dr. Tuaño instructed Peter to just continue using *Diamox* and *Normoglaucon* in the meantime.

Just two days later, on 2 January 1989, the IOP of Peter's right eye remained elevated at **21.0 Hg,**[42] as he had been without *Diamox* for the past three (3) days.

On 4 January 1989, Dr. Tuaño conducted a *visual field study*[43] of Peter's eyes, which revealed that the latter had *tubular vision*[44] in his right eye, while that of his left eye remained normal. Dr. Tuaño directed Peter to religiously use the *Diamox* and *Normoglaucon,* as the tension of the latter's right eye went up even further to **41.0 Hg** in just a matter of two (2) days, in the meantime that *Timolol* B.I.D. and *D'epifrin* were still not available in the market. Again, Dr. Tuaño advised Peter to come for regular check-up so his IOP could be monitored.

Obediently, Peter went to see Dr. Tuaño on the 7th, 13th, 16th and 20th of January