

## SECOND DIVISION

[ G.R. No. 158996, November 14, 2008 ]

**SPOUSES FREDELICTO FLORES (DECEASED) AND FELICISIMA FLORES, PETITIONERS, VS. SPOUSES DOMINADOR PINEDA AND VIRGINIA SACLOLO, AND FLORENCIO, CANDIDA, MARTA, GODOFREDO, BALTAZAR AND LUCENA, ALL SURNAMED PINEDA, AS HEIRS OF THE DECEASED TERESITA S. PINEDA, AND UNITED DOCTORS MEDICAL CENTER, INC., RESPONDENTS.**

### DECISION

**BRION, J.:**

This petition involves a medical negligence case that was elevated to this Court through an appeal by *certiorari* under Rule 45 of the Rules of Court. The petition assails the Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA G.R. CV No. 63234, which affirmed with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Nueva Ecija, Branch 37 in Civil Case No. SD-1233. The dispositive portion of the assailed CA decision states:

WHEREFORE, premises considered, the assailed Decision of the Regional Trial Court of Baloc, Sto. Domingo, Nueva Ecija, Branch 37 is hereby AFFIRMED but with modifications as follows:

- 1) Ordering defendant-appellants Dr. and Dra. Fredelicto A. Flores and the United Doctors Medical Center, Inc. to jointly and severally pay the plaintiff-appellees – heirs of Teresita Pineda, namely, Spouses Dominador Pineda and Virginia Saclolo and Florencio, Candida, Marta, Godofredo, Baltazar and Lucena, all surnamed Pineda, the sum of P400,000.00 by way of moral damages;
- 2) Ordering the above-named defendant-appellants to jointly and severally pay the above-named plaintiff-appellees the sum of P100,000.00 by way of exemplary damages;
- 3) Ordering the above-named defendant-appellants to jointly and severally pay the above-named plaintiff-appellees the sum of P36,000.00 by way of actual and compensatory damages; and
- 4) Deleting the award of attorney's fees and costs of suit.

SO ORDERED.

While this case essentially involves questions of facts, we opted for the requested review in light of questions we have on the findings of negligence below, on the

awarded damages and costs, and on the importance of this type of ruling on medical practice.<sup>[3]</sup>

### **BACKGROUND FACTS**

Teresita Pineda (*Teresita*) was a 51-year old unmarried woman living in Sto. Domingo, Nueva Ecija. She consulted on April 17, 1987 her townmate, Dr. Fredelicto Flores, regarding her medical condition. She complained of general body weakness, loss of appetite, frequent urination and thirst, and on-and-off vaginal bleeding. Dr. Fredelicto initially interviewed the patient and asked for the history of her monthly period to analyze the probable cause of the vaginal bleeding. He advised her to return the following week or to go to the United Doctors Medical Center (*UDMC*) in Quezon City for a general check-up. As for her other symptoms, he suspected that Teresita might be suffering from diabetes and told her to continue her medications.

<sup>[4]</sup>

Teresita did not return the next week as advised. However, when her condition persisted, she went to further consult Dr. Flores at his UDMC clinic on April 28, 1987, travelling for at least two hours from Nueva Ecija to Quezon City with her sister, Lucena Pineda. They arrived at UDMC at around 11:15 a.m.. Lucena later testified that her sister was then so weak that she had to lie down on the couch of the clinic while they waited for the doctor. When Dr. Fredelicto arrived, he did a routine check-up and ordered Teresita's admission to the hospital. In the admission slip, he directed the hospital staff to prepare the patient for an "on call" **D&C**<sup>[5]</sup> operation to be performed by his wife, Dr. Felicisima Flores (*Dr. Felicisima*). Teresita was brought to her hospital room at around 12 noon; the hospital staff forthwith took her blood and urine samples for the laboratory tests<sup>[6]</sup> which Dr. Fredelicto ordered.

At 2:40 p.m. of that same day, Teresita was taken to the operating room. It was only then that she met Dr. Felicisima, an obstetrician and gynecologist. The two doctors – Dr. Felicisima and Dr. Fredelicto, conferred on the patient's medical condition, while the resident physician and the medical intern gave Dr. Felicisima their own briefings. She also interviewed and conducted an internal vaginal examination of the patient which lasted for about 15 minutes. Dr. Felicisima thereafter called up the laboratory for the results of the tests. At that time, only the results for the blood sugar (*BS*), uric acid determination, cholesterol determination, and complete blood count (*CBC*) were available. Teresita's *BS* count was 10.67mmol/l<sup>[7]</sup> and her *CBC* was 109g/l.<sup>[8]</sup>

Based on these preparations, Dr. Felicisima proceeded with the D&C operation with Dr. Fredelicto administering the general anesthesia. The D&C operation lasted for about 10 to 15 minutes. By 3:40 p.m., Teresita was wheeled back to her room.

A day after the operation (or on April 29, 1987), Teresita was subjected to an ultrasound examination as a confirmatory procedure. The results showed that she had an enlarged uterus and *myoma uteri*.<sup>[9]</sup> Dr. Felicisima, however, advised Teresita that she could spend her recovery period at home. Still feeling weak, Teresita opted for hospital confinement.

Teresita's complete laboratory examination results came only on that day (April 29,

1987). Teresita's urinalysis showed a three plus sign (+++) indicating that the sugar in her urine was very high. She was then placed under the care of Dr. Amado Jorge, an internist.

By April 30, 1987, Teresita's condition had worsened. She experienced difficulty in breathing and was rushed to the intensive care unit. Further tests confirmed that she was suffering from **Diabetes Mellitus Type II**.<sup>[10]</sup> Insulin was administered on the patient, but the medication might have arrived too late. Due to complications induced by diabetes, Teresita died in the morning of May 6, 1987.<sup>[11]</sup>

Believing that Teresita's death resulted from the negligent handling of her medical needs, her family (*respondents*) instituted an action for damages against Dr. Fredelicto Flores and Dr. Felicisima Flores (collectively referred to as the *petitioner spouses*) before the RTC of Nueva Ecija.

The RTC ruled in favor of Teresita's family and awarded actual, moral, and exemplary damages, plus attorney's fees and costs.<sup>[12]</sup> The CA affirmed the judgment, but modified the amount of damages awarded and deleted the award for attorney's fees and costs of suit.<sup>[13]</sup>

Through this petition for review on *certiorari*, the petitioner spouses – Dr. Fredelicto (now deceased) and Dr. Felicisima Flores – allege that the RTC and CA committed a reversible error in finding them liable through negligence for the death of Teresita Pineda.

### **ASSIGNMENT OF ERRORS**

The petitioner spouses contend that they exercised due care and prudence in the performance of their duties as medical professionals. They had attended to the patient to the best of their abilities and undertook the management of her case based on her complaint of an on-and-off vaginal bleeding. In addition, they claim that nothing on record shows that the death of Teresita could have been averted had they employed means other than what they had adopted in the ministration of the patient.

### **THE COURT'S RULING**

**We do not find the petition meritorious.**

The respondents' claim for damages is predicated on their allegation that the decision of the petitioner spouses to proceed with the D&C operation, notwithstanding Teresita's condition and the laboratory test results, amounted to negligence. On the other hand, the petitioner spouses contend that a D&C operation is the proper and accepted procedure to address vaginal bleeding – the medical problem presented to them. Given that the patient died after the D&C, the core issue is whether the decision to proceed with the D&C operation was an honest mistake of judgment or one amounting to negligence.

### ***Elements of a Medical Negligence Case***

A **medical negligence case** is a type of claim to redress a wrong committed by a

medical professional, that has caused bodily harm to or the death of a patient. There are four elements involved in a medical negligence case, namely: *duty, breach, injury, and proximate causation.*<sup>[14]</sup>

Duty refers to the standard of behavior which imposes restrictions on one's conduct.<sup>[15]</sup> The standard in turn refers to the amount of competence associated with the proper discharge of the profession. A physician is expected to use at least the same level of care that any other reasonably competent doctor would use under the same circumstances. Breach of duty occurs when the physician fails to comply with these professional standards. If injury results to the patient as a result of this breach, the physician is answerable for negligence.<sup>[16]</sup>

As in any civil action, the burden to prove the existence of the necessary elements rests with the plaintiff.<sup>[17]</sup> To successfully pursue a claim, the plaintiff must prove by preponderance of evidence that, **one**, *the physician either failed to do something which a reasonably prudent health care provider would have done, or that he did something that a reasonably prudent provider would not have done*; and **two**, *the failure or action caused injury to the patient.*<sup>[18]</sup> Expert testimony is therefore essential since the factual issue of whether a physician or surgeon has exercised the requisite degree of skill and care in the treatment of his patient is generally a matter of expert opinion.<sup>[19]</sup>

### ***Standard of Care and Breach of Duty***

D&C is the classic gynecologic procedure for the evaluation and possible therapeutic treatment for abnormal vaginal bleeding.<sup>[20]</sup> That this is the recognized procedure is confirmed by Drs. Salvador Nieto (*Dr. Nieto*) and Joselito Mercado (*Dr. Mercado*), the expert witnesses presented by the respondents:

DR. NIETO: [W]hat I know among obstetricians, if there is bleeding, they perform what we call D&C for diagnostic purposes.

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Q: So are you trying to tell the Court that D&C can be a diagnostic treatment?

A: Yes, sir. Any doctor knows this.<sup>[21]</sup>

Dr. Mercado, however, objected with respect to the time the D&C operation should have been conducted in Teresita's case. He opined that given the blood sugar level of Teresita, her diabetic condition should have been addressed first:

Q: Why do you consider the time of performance of the D&C not appropriate?

A: Because I have read the record and I have seen the urinalysis, [there is] spillage in the urine, and blood sugar was 10.67

Q: What is the significance of the spillage in the urine?

A: It is a sign that the blood sugar is very high.

Q: Does it indicate sickness?

A: 80 to 95% it means diabetes mellitus. The blood sugar was 10.67.

xxx

xxx  
xxx

COURT: In other words, the operation conducted on the patient, your opinion, that it is inappropriate?

A: The timing of [when] the D&C [was] done, based on the record, in my personal opinion, that D&C should be postponed a day or two.<sup>[22]</sup>

The petitioner spouses countered that, at the time of the operation, there was nothing to indicate that Teresita was afflicted with diabetes: a blood sugar level of 10.67mmol/l did not necessarily mean that she was a diabetic considering that this was **random blood sugar**,<sup>[23]</sup> there were other factors that might have caused Teresita's blood sugar to rise such as the taking of blood samples during lunchtime and while patient was being given intra-venous dextrose.<sup>[24]</sup> Furthermore, they claim that their principal concern was to determine the cause of and to stop the vaginal bleeding.

The petitioner spouses' contentions, in our view, miss several points. **First**, as early as April 17, 1987, Teresita was already suspected to be suffering from diabetes.<sup>[25]</sup> This suspicion again arose right before the D&C operation on April 28, 1987 when the laboratory result revealed Teresita's increased blood sugar level.<sup>[26]</sup> Unfortunately, the petitioner spouses did not wait for the full medical laboratory results before proceeding with the D&C, a fact that was never considered in the courts below. **Second**, the petitioner spouses were duly advised that the patient was experiencing general body weakness, loss of appetite, frequent urination, and thirst &#150; all of which are classic symptoms of diabetes.<sup>[27]</sup> When a patient exhibits symptoms typical of a particular disease, these symptoms should, at the very least, alert the physician of the possibility that the patient may be afflicted with the suspected disease:

[Expert testimony for the plaintiff showed that] tests should have been ordered immediately on admission to the hospital in view of the symptoms presented, and that failure to recognize the existence of diabetes constitutes negligence.<sup>[28]</sup>

**Third**, the petitioner spouses cannot claim that their principal concern was the vaginal bleeding and should not therefore be held accountable for complications coming from other sources. This is a very narrow and self-serving view that even reflects on their competence.

Taken together, we find that reasonable prudence would have shown that diabetes and its complications were foreseeable harm that should have been taken into