

## FIRST DIVISION

[ G.R. NO. 165546, February 27, 2006 ]

**SOCIAL SECURITY SYSTEM, PETITIONER, VS. ROSANNA H. AGUAS, JANET H. AGUAS, AND MINOR JEYLN H. AGUAS, REPRESENTED BY HER LEGAL GUARDIAN, ROSANNA H. AGUAS, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

Before us is a petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 66531 and its Resolution denying the motion for reconsideration thereof.

The antecedents are as follows:

Pablo Aguas, a member of the Social Security System (SSS) and a pensioner, died on December 8, 1996. Pablo's surviving spouse, Rosanna H. Aguas, filed a claim with the SSS for death benefits on December 13, 1996. Rosanna indicated in her claim that Pablo was likewise survived by his minor child, Jeylenn, who was born on October 29, 1991.<sup>[2]</sup> Her claim for monthly pension was settled on February 13, 1997.<sup>[3]</sup>

Sometime in April 1997, the SSS received a sworn letter<sup>[4]</sup> dated April 2, 1997 from Leticia Aguas-Macapinlac, Pablo's sister, contesting Rosanna's claim for death benefits. She alleged that Rosanna abandoned the family abode approximately more than six years before, and lived with another man on whom she has been dependent for support. She further averred that Pablo had no legal children with Rosanna, but that the latter had several children with a certain Romeo dela Peña. In support of her allegation, Leticia enclosed a notarized copy of the original birth certificate<sup>[5]</sup> of one Jefren H. dela Peña, showing that the latter was born on November 15, 1996 to Rosanna Y. Hernandez and Romeo C. dela Peña, and that the two were married on November 1, 1990.

As a result, the SSS suspended the payment of Rosanna and Jeylenn's monthly pension in September 1997. It also conducted an investigation to verify Leticia's allegations. In a Memorandum<sup>[6]</sup> dated November 18, 1997, the Social Security Officer who conducted the investigation reported that, based on an interview with Mariquita D. Dizon, Pablo's first cousin and neighbor, and Jessie Gonzales (also a neighbor). She learned that the deceased had no legal children with Rosanna; Jenelyn<sup>[7]</sup> and Jefren were Rosanna's children with one Romeo C. dela Peña; and Rosanna left the deceased six years before his death and lived with Romeo while she was still pregnant with Jenelyn, who was born on October 29, 1991. Mariquita also confirmed that Pablo was not capable of having a child as he was under treatment.

On the basis of the report and an alleged confirmation by a certain Dr. Manuel Macapinlac that Pablo was infertile, the SSS denied Rosanna's request to resume the payment of their pensions. She was advised to refund to the SSS within 30 days the amount of P10,350.00 representing the total death benefits released to her and Jenelyn from December 1996 to August 1997 at P1,150.00 per month.<sup>[8]</sup>

Rosanna and Jeylnn, through counsel, requested for a reconsideration of the said decision.<sup>[9]</sup> However, in its Letter dated February 6, 1998, the SSS denied the claim.<sup>[10]</sup>

This prompted Rosanna and Jeylnn to file a claim/petition for the Restoration/Payment of Pensions with the Social Security Commission (SSC) on February 20, 1998.<sup>[11]</sup> Janet H. Aguas, who also claimed to be the child of the deceased and Rosanna, now joined them as claimant. The case was docketed as SSC Case No. 3-14769-98.

The claimants appended to their petition, among others, photocopies of the following: (1) Pablo and Rosanna's marriage certificate; (2) Janet's certificate of live birth; (3) Jeylnn's certificate of live birth; and (4) Pablo's certificate of death.

In its Answer, the SSS averred that, based on the sworn testimonies and documentary evidence showing the disqualification of the petitioners as primary beneficiaries, the claims were barren of factual and legal basis; as such, it was justified in denying their claims.<sup>[12]</sup>

In their Position Paper, the claimants averred that Jeylnn was a legitimate child of Pablo as evidenced by her birth certificate bearing Pablo's signature as Jeylnn's father. They asserted that Rosanna never left Pablo and that they lived together as husband and wife under one roof. In support thereof, they attached a Joint Affidavit<sup>[13]</sup> executed by their neighbors, Vivencia Turla and Carmelita Yangu, where they declared that Rosanna and Pablo lived together as husband and wife until the latter's death. In Janet's birth certificate, which was registered in the Civil Registry of San Fernando, it appears that her father was Pablo and her mother was Rosanna. As to the alleged infertility of Pablo, the claimants averred that Dr. Macapinlac denied giving the opinion precisely because he was not an expert on such matters, and that he treated the deceased only for tuberculosis. The claimant likewise claimed that the information the SSS gathered from the doctor was privileged communication.<sup>[14]</sup>

In compliance with the SSC's order, the SSS secured Confirmation Reports<sup>[15]</sup> signed by clerks from the corresponding civil registers confirming (1) the fact of marriage between Pablo and Rosanna on December 4, 1977; (2) the fact of Jefren dela Peña's birth on November 15, 1996; (3) the fact of Jeylnn's birth on October 29, 1991; and (4) the fact of Pablo's death on December 8, 1996.

The SSC decided to set the case for hearing. It also directed the SSS to verify the authenticity of Pablo's signature as appearing on Jeylnn's birth certificate from his claim records, particularly his SSS Form E-1 and retirement benefit application.<sup>[16]</sup> The SSS complied with said directive and manifested to the SSC that, based on the

laboratory analysis conducted, Pablo's signature in the birth certificate was made by the same person who signed the member's record and other similar documents submitted by Pablo.<sup>[17]</sup>

The SSC then summoned Vivencia Turla, Carmelita Yangu and Leticia Aguas-Macapinlac for clarificatory questions with regard to their respective sworn affidavits.<sup>[18]</sup> Vivencia testified that she had known Pablo and Rosanna for more than 30 years already; the couple were married and lived in Macabacale, Dolores, San Fernando, Pampanga; she was a former neighbor of the spouses, but four years after their marriage, she (Vivencia) and her family moved to Sto. Niño Triangulo, San Fernando, Pampanga; she would often visit the two, especially during Christmas or fiestas; the spouses' real child was Jeylnn; Janet was only an adopted child; the spouse later transferred residence, not far from their old house, and Janet, together with her husband and son, remained in the old house.<sup>[19]</sup>

On the other hand, Carmelita testified that she had been a neighbor of Pablo and Rosanna for 15 years and that, up to the present, Rosanna and her children, Janet, Jeylnn and Jefren, were still her neighbors; Janet and Jeylnn were the children of Pablo and Rosanna but she did not know whose child Jefren is.<sup>[20]</sup>

According to Leticia, Janet was not the real child of Pablo and Rosanna; she was just taken in by the spouses because for a long time they could not have children;<sup>[21]</sup> however, there were no legal papers on Janet's adoption.<sup>[22]</sup> Later on, Rosanna got pregnant with Jeylnn; after the latter's baptism, there was a commotion at the house because Romeo dela Peña was claiming that he was the father of the child and he got mad because the child was named after Pablo; the latter also got mad and even attempted to shoot Rosanna; he drove them away from the house; since then, Pablo and Rosanna separated;<sup>[23]</sup> she knew about this because at that time their mother was sick, and she would often visit her at their ancestral home, where Pablo and Rosanna were also staying; Rosanna was no longer living in their ancestral home but Janet resided therein; she did not know where Rosanna was staying now but she knew that the latter and Romeo dela Peña were still living together.<sup>[24]</sup>

Subsequently, Mariquita Dizon and Jessie Gonzales were also summoned for clarificatory questions.<sup>[25]</sup> During the hearing, Mariquita brought with her photocopies of two baptismal certificates: that of Jeylnn Aguas,<sup>[26]</sup> child of Pablo Aguas and Rosanna Hernandez born on October 29, 1991, and that of Jenelyn H. dela Peña,<sup>[27]</sup> child of Romeo dela Peña and Rosanna Hernandez, born on January 29, 1992.

On March 14, 2001, the SSC rendered a decision denying the claims for lack of merit and ordering Rosanna to immediately refund to the SSS the amount of P10,350.00 erroneously paid to her and Jeylnn as primary beneficiaries of the deceased. The SSC likewise directed the SSS to pay the death benefit to qualified secondary beneficiaries of the deceased, and in their absence, to his legal heirs.<sup>[28]</sup>

The SSC ruled that Rosanna was no longer qualified as primary beneficiary, it appearing that she had contracted marriage with Romeo dela Peña during the

subsistence of her marriage to Pablo. The SSC based its conclusion on the birth certificate of Jefren dela Peña stating that his mother, Rosanna, and father, Romeo dela Peña, were married on November 1, 1990. The SSC declared that Rosanna had a child with Romeo dela Peña while she was still married to Pablo (as evidenced by the baptismal certificate of Jenelyn H. dela Peña showing that she was the child of Rosanna Hernandez and Romeo dela Peña and that she was born on January 29, 1992). The SSC concluded that Rosanna was no longer entitled to support from Pablo prior to his death because of her act of adultery. As for Jeylnn, the SSC ruled that, even if her birth certificate was signed by Pablo as her father, there was more compelling evidence that Jeylnn was not his legitimate child. The SSC deduced from the records that Jeylnn and Jenelyn was one and the same person and concluded, based on the latter's baptismal certificate, that she was the daughter of Rosanna and Romeo dela Peña. It also gave credence to the testimonies of Leticia and Mariquita that Jeylnn was the child of Rosanna and Romeo dela Peña. As for Janet, the SSC relied on Leticia's declaration that she was only adopted by Pablo and Rosanna.<sup>[29]</sup>

The claimants filed a motion for reconsideration of the said decision but their motion was denied by the SSC for lack of merit and for having been filed out of time.<sup>[30]</sup> The claimants then elevated the case to the CA via a petition for review under Rule 43 of the Rules of Court.

On September 9, 2003, the CA rendered a decision in favor of petitioners. The *fallo* of the decision reads:

**WHEREFORE**, the resolution and order appealed from are hereby **REVERSEDSET ASIDE**, and a new one is entered **DECLARING** petitioners as **ENTITLED** to the SSS benefits accruing from the death of Pablo Aguas. The case is hereby **REMANDED** to public respondent for purposes of computing the benefits that may have accrued in favor of petitioners after the same was cut and suspended in September 1997.

**SO ORDERED.**<sup>[31]</sup>

In so ruling, the CA relied on the birth certificates of Janet and Jeylnn showing that they were the children of the deceased. According to the appellate court, for judicial purposes, these records were binding upon the parties, including the SSS. These entries made in public documents may only be challenged through adversarial proceedings in courts of law, and may not be altered by mere testimonies of witnesses to the contrary. As for Rosanna, the CA found no evidence to show that she ceased to receive support from Pablo before he died. Rosanna's alleged affair with Romeo dela Peña was not properly proven. In any case, even if Rosanna married Romeo dela Peña during her marriage to Pablo, the same would have been a void marriage; it would not have *ipso facto* made her not dependent for support upon Pablo and negate the presumption that, as the surviving spouse, she is entitled to support from her husband.<sup>[32]</sup>

The SSS filed a motion for reconsideration of the decision, which the CA denied for lack of merit.<sup>[33]</sup> Hence, this petition.

Petitioner seeks a reversal of the decision of the appellate court, contending that it

## I

GRAVELY ERRED IN HOLDING THAT ROSANNA AGUAS IS ACTUALLY DEPENDENT FOR SUPPORT UPON THE MEMBER DURING HIS LIFETIME TO QUALIFY AS PRIMARY BENEFICIARY WITHIN THE INTENDMENT OF SECTION 8(e), IN RELATION TO SECTION (k) OF THE SSS LAW, AS AMENDED.

## II

ERRED IN HOLDING THAT JANET AGUAS AND JEYINN AGUAS ARE ENTITLED TO THE PENSION BENEFIT ACCRUING FROM THE DEATH OF PABLO AGUAS.<sup>[34]</sup>

Petitioner invokes Section 8 of Republic Act No. 1161, as amended by Presidential Decree No. 735, which defines a *dependent spouse* as "the legitimate spouse dependent for support upon the employee." According to petitioner, Rosanna forfeited her right to be supported by Pablo when she engaged in an intimate and illicit relationship with Romeo dela Peña and married the latter during her marriage to Pablo. Such act constitutes abandonment, which divested her of the right to receive support from her husband. It asserts that her act of adultery is evident from the birth certificate of Jefren H. dela Peña showing that he was born on November 15, 1996 to Rosanna and Romeo dela Peña. Petitioner submits that Rosanna cannot be considered as a dependent spouse of Pablo; consequently, she is not a primary beneficiary.<sup>[35]</sup>

As for Janet and Jeylenn, petitioner maintains that they are not entitled to the pension because, based on the evidence on record, particularly the testimonies of the witnesses, they are not the legitimate children of Pablo. It argues that, in the exercise of its quasi-judicial authority under Section 5(a) of the Social Security Act, the SSC can pass upon the legitimacy of respondents' relationship with the member to determine whether they are entitled to the benefits, even without correcting their birth certificates.<sup>[36]</sup>

Respondents, for their part, assert that petitioner failed to prove that Rosanna committed acts of adultery or that she married another man after the death of her husband. They contend that Janet and Jeylenn's legitimacy may be impugned only on the grounds stated in Article 166 of the Family Code, none of which were proven in this case.<sup>[37]</sup>

The issue to be resolved in this case is whether Rosanna, Jeylenn and Janet are entitled to the SSS death benefits accruing from the death of Pablo.

The petition is partly meritorious.

The general rule is that only questions of law may be raised by the parties and passed upon by the Court in petitions for review under Rule 45 of the Rules of Court.<sup>[38]</sup> In an appeal via *certiorari*, the Court may not review the factual findings of the CA.<sup>[39]</sup> It is not the Court's function under Rule 45 to review, examine, and evaluate or weigh the probative value of the evidence presented.<sup>[40]</sup> However, the Court may review findings of facts in some instances, such as, when the judgment is