Republic of the Philippines
**SUPREME COURT**
Manila

EN BANC

**G.R. No. L-41794 August 30, 1935**

**SEGUNDINA MUSÑGI, ET AL.,** plaintiffs-appellees,
vs.
**WEST COAST LIFE INSURANCE CO.,** defendant-appellant.

*Courtney Whitney for appellants.*
*Laurel, Del Rosario and Sabido for appellees.*

**IMPERIAL, *J.:***

The plaintiffs, as beneficiaries, brought suit against the defendant to recover the value of two life insurance policies. The defendant appealed from a judgment sentencing it to pay the plaintiffs the amount of said policies, and the costs.

The principal facts of the case are embodied in the following written stipulation entered into by the parties:

> 1. That Arsenio T. Garcia was insured by the defendant company in the sum of P5,000 as evidenced by Policy No. 129454 effective as of July 25, 1931, hereby attached and marked as Exhibit A;
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> 2. That the said Arsenio T. Garcia was again insured by the defendant company in the sum of P10,000 effective as of October 20, 1931, as evidenced by Policy No. 130381 hereby attached and marked as Exhibit B;
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> 3. That the two policies aforementioned were valid and subsisting at the time of the death of the insured on December 30, 1932; the fact of said death is evidenced by the accompanying death certificate issued by the Civil Register of Pasay, Rizal, which is marked as Exhibit C;
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> 4. That the plaintiffs herein are the beneficiaries in said policies, Segundina Musñgi of Policy No. 129454, and Buenaventura Garcia of Policy No. 130381;
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> 5. That demand was made upon the defendant company for the payment of the two policies above referred to, but the defendant company refused to pay on the grounds stated in the answer.

The two policies were issued upon applications filed by the insured on July 20, 1931 and October 15, of the same year, respectively. In both applications, the insured had to answer inquiries as to his state of health and that of his family, which he did voluntarily. In each of the said applications the following question was asked: "1. What physician or practitioner or any other person not named above have you consulted or been treated by, and for what illness, or ailment? (If none, so state.)" In the first application, the insured answered "None", and in the second, "No". These answers of the insured as well as his other statements contained in his applications were one of the causes or considerations for the issuance of the policies, and they so positively appear therein. After the death of the insured and as a result of the demand made by the beneficiaries upon the defendant to pay the value of the policies, the latter discovered that the aforementioned answers were false and fraudulent, because the truth was that the insured, before answering and signing the applications and before the issuance of the policies, had been treated in the General Hospital by a lady physician for different ailments. It indisputably appears that between May 13 and 19, 1929, the insured had entered the General Hospital in Manila, and was treated by Doctor Pilar V. Cruz for peptic ulcer and chronic catarrhal nasopharyngitis; on August 5, 1930, he entered the same hospital and was treated by the same physician for chronic pyelocystitis and for incipient pulmonary tuberculosis; on the 13th of the same month he returned to the hospital and was treated by the same physician for chronic suppurative pyelocystitis and for chronic bronchitis; on the 20th of the same month he again entered the hospital and was treated by the same doctor for acute tracheo-bronchitis and chronic suppurative pyelocystitis; on the 27th of the same month he again entered the same hospital and was treated for the same ailments; on December 11, 1930, he again entered the hospital and was treated for the same ailments; on the

18th of the same month, he again entered the hospital and was treated for the same ailments; on the 28th of the same month he again entered the hospital and was treated for the same ailments, and, finally, on January 11, 1931, he again entered the hospital and was treated by the same doctor for the same ailments.

The defendant contended at the outset that the two policies did not create any valid obligation because they were fraudulently obtained by the insured. The appealed decision holds that the health of the insured before the acceptance of his applications and the issuance of the policies could neither be discussed nor questioned by the defendant, because the insured was examined by three physicians of the company and all of them unanimously certified that he was in good health and that he could be properly insured. The question here is not whether the physicians' reports or the answers which the insured gave to them relative to his health were correct or not. It is admitted that such information was substantially correct, in the sense that the physicians of the defendant who examined the insured, for failure to make a detailed examination, did not discover the ailments suffered by the insured. However, the question raised for our determination is whether the two answers given by the insured in his applications are false, and if they were the cause, or one of the causes, which induced the defendant to issue the policies. On the first point, the facts above set out leave no room for doubt. The insured knew that he had suffered from a number of ailments, including incipient pulmonary tuberculosis, before subscribing the applications, yet he concealed them and omitted the hospital where he was confined as well as the name of the lady physician who treated him. That this concealment and the false statements constituted fraud, is likewise clear, because the defendant by reason thereof accepted the risk which it would otherwise have flatly refused. When not otherwise specially provided for by the Insurance Law, the contract of life insurance is governed by the general rules of the civil law regarding contracts. Article 1261 of the Civil Code provides that there is no contract unless there should be, in addition to consent and a definite object, a consideration for the obligation established. And article 1276 provides that the statement of a false consideration shall render the contract void. The two answers being one of the considerations of the policies, and it appearing that they are false and fraudulent, it is evident that the insurance contracts were null and void and did not give rise to any right to recover their value or amount. A similar case was already decided by this court in *Argente vs. West Coast Life Insurance Co*. (51 Phil., 725). In that case the insured concealed from the physician who examined her that she had consulted and had been treated by another physician for cerebral congestion and Bell's Palsy, and that she was addicted to alcohol, so much so that on one occasion she was confined in the San Lazaro Hospital suffering from "alcoholism"; this court held that such concealments and false and fraudulent statements rendered the policy null and void. In discussing the legal phase of the case, this court said:

> One ground for the rescission of a contract of insurance under the Insurance Act is a "concealment", which in section 25 is defined as "A neglect to communicate that which a party knows and ought to communicate". Appellant argues that the alleged concealment was immaterial and insufficient to avoid the policy. We cannot agree. In an action on a life insurance policy where the evidence conclusively shows that the answers to questions concerning diseases were untrue, the truth or falsity of the answers become the determining factor. If the policy was procured by fraudulent representations, the contract of insurance apparently set forth therein was never legally existent. It can fairly be assumed that had the true facts been disclosed by the assured, the insurance would never have been granted.
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> In Joyce, The Law of Insurance, second edition, volume 3, Chapter LV, is found the following:
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> "Concealment exists where the assured has knowledge of a fact material to the risk, and honesty, good faith and fair dealing requires that he should communicate it to the assured, but he designedly and intentionally withholds the same.
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> "Another rule is that if the assured undertakes to state all the circumstances affecting the risk, a full and fair statement of all is required.
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> "It is also held that the concealment must, in the absence of inquiries, be not only material, but fraudulent, or the fact must have been intentionally withheld; so it is held under English law that if no inquiries are made and no fraud or design to conceal enters into the concealment the contract is not avoided. And it is determined that even though silence may constitute misrepresentation or concealment it is not of itself necessarily so as it is a question of fact. Nor is there a concealment justifying a forfeiture where the fact of insanity is not disclosed no questions being asked concerning the same. . . .
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> "But it would seem that if a material fact is actually known to the assured, its concealment must of itself necessarily be a fraud, and if the fact is one which the assured ought to know, or is presumed to know, the presumption of knowledge ought to place the assured in the same position as in the former case with relation to material facts; and if the jury in such cases find the fact material, and one tending to increase the risk, it is difficult to see how the inference of a fraudulent intent or intentional concealment can be avoided. And it is declared that if a material fact is concealed by assured it is equivalent to a false representation that it does not exist and that the essentials are the truth of the representations whether they were intended to mislead and did insurer accept them as true and act upon them to his prejudice. So it is decided that under a stipulation voiding the policy for concealment or misrepresentation of any material fact or if his interest is not truly stated or is other than the sole and unconditional ownership the facts are unimportant that insured

did not intend to deceive or withhold information as to encumbrances even though no questions were asked. And if insured while being examined for life insurance, and knowing that she had heart disease, falsely stated that she was in good health, and though she could not read the application, it was explained to her and the questions asked through an interpreter, and the application like the policy contained a provision that no liability should be incurred unless the policy was delivered while the insured was in good health, the court properly directed a verdict for the insurer, though a witness who was present at the examination testified that the insured was not asked whether she had heart disease.

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"The basis of the rule vitiating the contract in cases of concealment is that it misleads or deceives the insurer into accepting the risk, or accepting it at the rate of premium agreed upon. The insurer, relying upon the belief that the assured will disclose every material fact within his actual or presumed knowledge, is misled into a belief that the circumstance withheld does not exist, and he is thereby induced to estimate the risk upon a false basis that it does not exist. The principal question, therefore, must be, Was the assurer misled or deceived into entering a contract obligation or in fixing the premium of insurance by a withholding of material information or facts within the assured's knowledge or presumed knowledge?

"It therefore follows that the assurer in assuming a risk is entitled to know every material fact of which the assured has exclusive or peculiar knowledge, as well as all material facts which directly tend to increase the hazard or risk which are known by the assured, or which ought to be or are presumed to be known by him. And a concealment of such facts vitiates the policy. "It does not seem to be necessary ... that the ... suppression of the truth should have been willful." If it were but an inadvertent omission, yet if it were material to the risk and such as the plaintiff should have known to be so, it would render the policy void. But it is held that if untrue or false answers are given in response to inquiries and they relate to material facts the policy is avoided without regard to the knowledge or fraud of assured, although under the statute statements are representations which must be fraudulent to avoid the policy. So under certain codes the important inquiries are whether the concealment was willful and related to a matter material to the risk.

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"If the assured has exclusive knowledge of material facts, he should fully and fairly disclose the same, whether he believes them material or not. But notwithstanding this general rule it will not infrequently happen, especially in life risks, that the assured may have a knowledge actual or presumed of material facts, and yet entertain an honest belief that they are not material. ... The determination of the point whether there has or has not been a material concealment must rest largely in all cases upon the form of the questions propounded and the exact terms of the contract. Thus, where in addition to specifically named diseases the insured was asked whether he had had any sickness within ten years, to which he answered "No", and it was proven that within that period he had had a slight attack of pharyngitis, it was held a question properly for the jury whether such an inflammation of the throat was a "sickness" within the intent of the inquiry, and the court remarked on the appealed decision that if it could be held as a matter of law that the policy was thereby avoided, then it was a mere devise on the part of insurance companies to obtain money without rendering themselves liable under the policy. . . .

". . . The question should be left to the jury whether the assured truly represented the state of his health so as not to mislead or deceive the insurer; and if he did not deal in good faith with the insurer in that matter, then the inquiry should be made, Did he know the state of his health so as to be able to furnish a proper answer to such questions as are propounded. A Massachusetts case, if construed as it is frequently cited, would be opposed to the above conclusion; but, on the contrary, it sustains it, for the reason that symptoms of consumption had so far developed themselves within a few months prior to effecting the insurance as to induce a reasonable belief that the applicant had that fatal disease, and we should further construe this case as establishing the rule that such a matter cannot rest alone upon the assured's belief irrespective of what is a reasonable belief, but that it ought to be judged by the criterion whether the belief is one fairly warranted by the circumstances. A case in Indiana, however, holds that if the assured has some affection or ailment of one or more of the organs inquired about so well-defined and marked as to materially derange for a time the functions of such organ, as in the case of Bright's disease, the policy will be avoided by a nondisclosure, irrespective of the fact whether the assured knew of such ailment or not. . . ."

In view of the foregoing, we are of the opinion that the appellant's first two assignments of error are well founded, wherefore, the appealed judgment is reversed and the defendant absolved from the complaint, with the costs of both instances to the plaintiffs. So ordered.

*Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.*

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