Republic of the Philippines
SUPREME COURT
Manila

EN BANC

G.R. No. L-16163 February 28, 1963

IGNACIO SATURNINO, in his own behalf and as the JUDICIAL GUARDIAN OF CARLOS SATURNINO, minor, plaintiffs-appellants,
vs.
THE PHILIPPINE AMERICAN LIFE INSURANCE COMPANY, defendant-appellee.

Eleazaro A. Samson for plaintiffs-appellants.
Abello & Macias for defendant-appellee.

MAKALINTAL, *J.:*

Plaintiffs, now appellants, filed this action in the Court of First Instance of Manila to recover the sum of P5,000.00, corresponding to the face value of an insurance policy issued by defendant on the life of Estefania A. Saturnino, and the sum of P1,500.00 as attorney's fees. Defendant, now appellee, set up special defenses in its answer, with a counterclaim for damages allegedly sustained as a result of the unwarranted presentation of this case. Both the complaint and the counterclaim were dismissed by the trial court; but appellants were declared entitled to the return of the premium already paid; plus interest at 6% up to January 8, 1959, when a check for the corresponding amount — P359.65 — was sent to them by appellee.

The policy sued upon is one for 20-year endowment non-medical insurance. This kind of policy dispenses with the medical examination of the applicant usually required in ordinary life policies. However, detailed information is called for in the application concerning the applicant's health and medical history. The written application in this case was submitted by Saturnino to appellee on November 16, 1957, witnessed by appellee's agent Edward A. Santos. The policy was issued on the same day, upon payment of the first year's premium of P339.25. On September 19, 1958 Saturnino died of pneumonia, secondary to influenza. Appellants here, who are her surviving husband and minor child, respectively, demanded payment of the face value of the policy. The claim was rejected and this suit was subsequently instituted.

It appears that two months prior to the issuance of the policy or on September 9, 1957, Saturnino was operated on for cancer, involving complete removal of the right breast, including the pectoral muscles and the glands found in the right armpit. She stayed in the hospital for a period of eight days, after which she was discharged, although according to the surgeon who operated on her she could not be considered definitely cured, her ailment being of the malignant type.

Notwithstanding the fact of her operation Estefania A. Saturnino did not make a disclosure thereof in her application for insurance. On the contrary, she stated therein that she did not have, nor had she ever had, among other ailments listed in the application, cancer or other tumors; that she had not consulted any physician, undergone any operation or suffered any injury within the preceding five years; and that she had never been treated for nor did she ever have any illness or disease peculiar to her sex, particularly of the breast, ovaries, uterus, and menstrual disorders. The application also recites that the foregoing declarations constituted "a further basis for the issuance of the policy."

The question at issue is whether or not the insured made such false representations of material facts as to avoid the policy. There can be no dispute that the information given by her in her application for insurance was false, namely, that she had never had cancer or tumors, or consulted any physician or undergone any operation within the preceding period of five years. Are the facts then falsely represented material? The Insurance Law (Section 30) provides that "materiality is to be determined not by the event, but solely by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the proposed contract, or in making his inquiries." It seems to be the contention of appellants that the facts subject of the representation were not material in view of the "non-medical" nature of the insurance applied for, which does away with the usual requirement of medical examination before the policy is issued. The contention is without merit. If anything, the waiver of medical examination renders even more material the information required of the

applicant concerning previous condition of health and diseases suffered, for such information necessarily constitutes an important factor which the insurer takes into consideration in deciding whether to issue the policy or not. It is logical to assume that if appellee had been properly apprised of the insured's medical history she would at least have been made to undergo medical examination in order to determine her insurability.

Appellants argue that due information concerning the insured's previous illness and operation had been given to appellees agent Edward A. Santos, who filled the application form after it was signed in blank by Estefania A. Saturnino. This was denied by Santos in his testimony, and the trial court found such testimony to be true. This is a finding of fact which is binding upon us, this appeal having been taken upon questions of law alone. We do not deem it necessary, therefore, to consider appellee's additional argument, which was upheld by the trial court, that in signing the application form in blank and leaving it to Edward A. Santos to fill (assuming that to be the truth) the insured in effect made Santos her agent for that purpose and consequently was responsible for the errors in the entries made by him in that capacity.

In the application for insurance signed by the insured in this case, she agreed to submit to a medical examination by a duly appointed examiner of appellee if in the latter's opinion such examination was necessary as further evidence of insurability. In not asking her to submit to a medical examination, appellants maintain, appellee was guilty of negligence, which precluded it from finding about her actual state of health. No such negligence can be imputed to appellee. It was precisely because the insured had given herself a clean bill of health that appellee no longer considered an actual medical checkup necessary.

Appellants also contend there was no fraudulent concealment of the truth inasmuch as the insured herself did not know, since her doctor never told her, that the disease for which she had been operated on was cancer. In the first place the concealment of the fact of the operation itself was fraudulent, as there could not have been any mistake about it, no matter what the ailment. Secondly, in order to avoid a policy it is not necessary to show actual fraud on the part of the insured. In the case of Kasprzyk v. Metropolitan Insurance Co., 140 N.Y.S. 211, 214, it was held:

> Moreover, if it were the law that an insurance company could not depend a policy on the ground of misrepresentation, unless it could show actual knowledge on the part of the applicant that the statements were false, then it is plain that it would be impossible for it to protect itself and its honest policyholders against fraudulent and improper claims. It would be wholly at the mercy of any one who wished to apply for insurance, as it would be impossible to show actual fraud except in the extremest cases. It could not rely on an application as containing information on which it could act. There would be no incentive to an applicant to tell the truth.
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> Wherefore, the parties respectfully pray that the foregoing stipulation of facts be admitted and approved by this Honorable Court, without prejudice to the parties adducing other evidence to prove their case not covered by this stipulation of facts.

In this jurisdiction a concealment, whether intentional or unintentional, entitles the insurer to rescind the contract of insurance, concealment being defined as "negligence to communicate that which a party knows and ought to communicate" (Sections 24 & 26, Act No. 2427). In the case of *Argente v. West Coast Life Insurance Co., 51 Phil. 725, 732*, this Court said, quoting from Joyce, The Law of Insurance, 2nd ed., Vol. 3:

> "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 judgment appealed from, dismissing the complaint and awarding the return to appellants of the premium already paid, with interest at 6% up to January 29, 1959, affirmed, with costs against appellants.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon and Regala, JJ., concur.

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