



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

SOCIAL SECURITY
COMMISSION,

Petitioner,

G.R. No. 209741

Present:

- versus -

CARPIO, J., *Chairperson*,
DEL CASTILLO,
PEREZ,*
MENDOZA, and
LEONEN, JJ.

EDNA A. AZOTE,

Respondent.

Promulgated:

15 APR 2015

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DECISION

MENDOZA, J.:

This petition for review on *certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Social Security Commission (SSC) assails the August 13, 2013 Decision² of the Court of Appeals (CA), and its October 29, 2013 Resolution³ in CA-G.R. SP No. 122933, allowing respondent Edna A. Azote (*Edna*) to claim the death benefits of her late husband, Edgardo Azote (*Edgardo*).

The Antecedents:

On June 19, 1992, respondent Edna and Edgardo, a member of the Social Security System (SSS), were married in civil rites at the Regional

* Designated Additional member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1977, dated April 15, 2015.

¹ *Rollo*, pp. 32-56.

² *Id.* at 58-74. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Rebecca De Guia-Salvador and Associate Justice Samuel H. Gaerlan, concurring.

³ *Id.* at 75-76.

Trial Court, Branch 9, Legazpi City, Albay (*RTC*). Their union produced six children⁴ born from 1985 to 1999. On April 27, 1994, Edgardo submitted Form E-4 to the SSS with Edna and their three older children as designated beneficiaries. Thereafter or on September 7, 2001, Edgardo submitted another Form E-4 to the SSS designating his three younger children as additional beneficiaries.⁵

On January 13, 2005, Edgardo passed away. Shortly thereafter, Edna filed her claim for death benefits with the SSS as the wife of a deceased-member. It appeared, however, from the SSS records that Edgardo had earlier submitted another Form E-4 on November 5, 1982 with a different set of beneficiaries, namely: Rosemarie Azote (*Rosemarie*), as his spouse; and Elmer Azote (*Elmer*), as dependent, born on October 9, 1982. Consequently, Edna's claim was denied. Her children were adjudged as beneficiaries and she was considered as the legal guardian of her minor children. The benefits, however, would be stopped once a child would attain the age of 21.⁶

On March 13, 2007, Edna filed a petition with the SSC to claim the death benefits, lump sum and monthly pension of Edgardo.⁷ She insisted that she was the legitimate wife of Edgardo. In its answer, the SSS averred that there was a conflicting information in the forms submitted by the deceased. Summons was published in a newspaper of general circulation directing Rosemarie to file her answer. Despite the publication, no answer was filed and Rosemarie was subsequently declared in default.⁸

In the Resolution,⁹ dated December 8, 2010, the SSC dismissed Edna's petition for lack of merit. Citing Section 24(c) of the SS Law, it explained that although Edgardo filed the Form E-4 designating Edna and their six children as beneficiaries, he did not revoke the designation of Rosemarie as his wife-beneficiary, and Rosemarie was still presumed to be his legal wife.

The SSC further wrote that the National Statistics Office (*NSO*) records revealed that the marriage of Edgardo to one Rosemarie Teodora Sino was registered on July 28, 1982. Consequently, it opined that Edgardo's marriage to Edna was not valid as there was no showing that his first marriage had been annulled or dissolved. The SSC stated that there

⁴ (1) Joanna Rea A. Azote (September 15, 1985); (2) Edgardo A. Azote, Jr. (May 20, 1987); (3) Edgar Allan A. Azote (June 30, 1988); (4) Erwin John A. Azote (February 11, 1995); (5) Edgardo A. Azote, Jr. II (February 27, 1998); and (6) Jhoanne Edrailyn A. Azote (June 24, 1999). *id.* at 12.

⁵ *Id.* at 36-37.

⁶ *Id.* at 78-79.

⁷ *Id.* at 60.

⁸ *Id.* at 79.

⁹ *Id.* at 78-81.

must be a judicial determination of nullity of a previous marriage before a party could enter into a second marriage.¹⁰

In an order,¹¹ dated June 8, 2011, the SSC denied Edna's motion for reconsideration. It explained that it was incumbent upon Edna to prove that her marriage to the deceased was valid, which she failed to do. It further opined that Rosemarie could not be merely presumed dead, and that death benefits under the SSS could not be considered properties which may be disposed of in a holographic will.¹²

In the assailed August 13, 2013 Decision, the CA *reversed* and *set aside* the resolution and the order of the SSC. It held that the SSC could not make a determination of the validity or invalidity of the marriage of Edna to Edgardo considering that no contest came from either Rosemarie or Elmer.¹³

The CA explained that Edna had established her right to the benefits by substantial evidence, namely, her marriage certificate and the baptismal certificates of her children.¹⁴ It ruled that Edgardo made a deliberate change of his wife-beneficiary in his 1994 E-4 form, as such was clearly his voluntary act manifesting his intention to revoke his former declaration in the 1982 E-4 form.¹⁵ The 1994 E-4 form submitted by Edgardo, designating Edna as his wife, superseded his former declaration in his 1982 E-4 form.¹⁶

It further opined that the *Davac* case cited by the SSC was not applicable because there were two conflicting claimants in that case, both claiming to be wives of the deceased, while in this case, Edna was the sole claimant for the death benefits, and that her designation as wife-beneficiary remained valid and unchallenged. It was of the view that Rosemarie's non-appearance despite notice could be deemed a waiver to claim death benefits from the SSS, thereby losing whatever standing she might have had to dispute Edna's claim.¹⁷

In the assailed October 29, 2013 Resolution,¹⁸ the CA denied the SSC's motion for reconsideration.¹⁹

¹⁰ Id. at 81.

¹¹ Id. at 82-84.

¹² Id. at 83.

¹³ Id. at 64.

¹⁴ Id. at 65.

¹⁵ Id. at 70.

¹⁶ Id. at 70.

¹⁷ Id. at 72.

¹⁸ Id. at 75-76.

¹⁹ Id. at 85-89.

Hence, the present petition.

GROUND

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE COMMISSION IS BEREFT OF AUTHORITY TO DETERMINE THE VALIDITY OR INVALIDITY OF THE MARRIAGE OF THE PRIVATE RESPONDENT AND MEMBER EDGARDO AZOTE.

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN GRANTING THE PETITION OF THE PRIVATE RESPONDENT AND FINDING HER ENTITLED TO THE SS BENEFITS.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE DESIGNATION OF THE PRIVATE RESPONDENT AS WIFE-BENEFICIARY IS VALID.²⁰

The SSC argues that the findings of fact of the CA were not supported by the records. It submits that under Section 5 of the SS Law, it is called upon to determine the rightful beneficiary in the performance of its quasi-judicial function of adjudicating SS benefits. In fact, it cited a number of cases,²¹ where the SSC had passed upon the validity of marriages for the purpose of determining who were entitled to SS benefits.²²

The SSC contends that Edna was not the legitimate spouse of deceased member Edgardo as the CA failed to consider the NSO certification showing that Edgardo was previously married to Rosemarie. With *the death certificate of Rosemarie* showing that she *died only on November 6, 2004*, it proved that she was alive at the time Edna and Edgardo were married, and, therefore, there existed a legal impediment to his second marriage, rendering it void. Edna is, therefore, not a legitimate spouse who is entitled to the death benefits of Edgardo.²³

The SSC claims that the right to designate a beneficiary is subject to the SS Law. The designation of a wife-beneficiary merely creates a disputable presumption that they are legally married and may be overthrown by evidence to the contrary. Edna's designation became invalid with the determination of the subsistence of a previous marriage. The SSC posits that even though Edgardo revoked and superseded his earlier designation of Rosemarie as beneficiary, his designation of Edna was still not valid

²⁰ Id. at 39.

²¹ *SSS v. De Los Santos*, 585 Phil. 684 (2008); and *Signey v. SSS*, 566 Phil. 617 (2008).

²² *Rollo*, pp. 40-42.

²³ Id. at 48-49.

considering that only a legitimate spouse could qualify as a primary beneficiary.²⁴

The Court's Ruling

The petition is meritorious.

The law in force at the time of Edgardo's death was Republic Act (R.A.) No. 8282,²⁵ the amendatory law of R.A. No. 1161 or the "Social Security Law." It is a tax-exempt social security service designed to promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden.²⁶ As a social security program of the government, Section 8 (e) and (k) of the said law expressly provides who would be entitled to receive benefits from its deceased-member, to wit:

SEC. 8. Terms Defined. - For purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:

x x x x

(e) Dependents - The dependents shall be the following:

(1) The **legal spouse** entitled by law to receive support from the member;

(2) The legitimate, legitimated or legally adopted, and illegitimate child who is unmarried, not gainfully employed, and has not reached twenty-one (21) years of age, or if over twenty-one (21) years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally; and

(3) The parent who is receiving regular support from the member.

x x x x

²⁴ Id. at 50-51.

²⁵ AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE, REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW

²⁶ Section 2, R.A. No. 8282.

(k) Beneficiaries - The dependent spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children, who shall be the primary beneficiaries of the member: *Provided*, That the dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate, legitimated or legally adopted children: *Provided, further*, That in the absence of the dependent legitimate, legitimated children of the member, his/her dependent illegitimate children shall be entitled to one hundred percent (100%) of the benefits. In their absence, the dependent parents who shall be the secondary beneficiaries of the member. In the absence of all the foregoing, any other person designated by the member as his/her secondary beneficiary. (Emphasis supplied)

Applying Section 8(e) and (k) of R. A. No. 8282, it is clear that only the legal spouse of the deceased-member is qualified to be the beneficiary of the latter's SS benefits. In this case, there is a concrete proof that Edgardo contracted an earlier marriage with another individual as evidenced by their marriage contract. Edgardo even acknowledged his married status when he filled out the 1982 Form E-4 designating Rosemarie as his spouse.²⁷

It is undisputed that the second marriage of Edgardo with Edna was celebrated at the time when the Family Code was already in force. Article 41 of the Family Code expressly states:

Art. 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting a subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse. (Emphasis and underscoring supplied)

Using the parameters outlined in Article 41 of the Family Code, Edna, without doubt, failed to establish that there was no impediment or that the impediment was already removed at the time of the celebration of her marriage to Edgardo. Settled is the rule that "whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial

²⁷ *Rollo*, p. 67.

evidence.”²⁸ Edna could not adduce evidence to prove that the earlier marriage of Edgardo was either annulled or dissolved or whether there was a declaration of Rosemarie’s presumptive death before her marriage to Edgardo. What is apparent is that Edna was the second wife of Edgardo. Considering that Edna was not able to show that she was the legal spouse of a deceased-member, she would not qualify under the law to be the beneficiary of the death benefits of Edgardo.

The Court does not subscribe to the disquisition of the CA that the updated Form E-4 of Edgardo was determinative of Edna’s status and eligibility to claim the death benefits of deceased-member. Although an SSS member is free to designate a beneficiary, the designation must always conform to the statute. To blindly rely on the form submitted by the deceased-member would subject the entire social security system to the whims and caprices of its members and would render the SS Law inutile.

Although the SSC is not intrinsically empowered to determine the validity of marriages, it is required by Section 4(b) (7) of R.A. No. 8282²⁹ to examine available statistical and economic data to ensure that the benefits fall into the rightful beneficiaries. As held in *Social Security Commission vs. Favila*,³⁰

SSS, as the primary institution in charge of extending social security protection to workers and their beneficiaries is mandated by Section 4(b)(7) of RA 8282 to require reports, compilations and analyses of statistical and economic data and to make an investigation as may be needed for its proper administration and development. Precisely, the investigations conducted by SSS are appropriate in order to ensure that the benefits provided under the SS Law are received by the rightful beneficiaries. It is not hard to see that such measure is necessary for the system’s proper administration, otherwise, it will be swamped with bogus claims that will pointlessly deplete its funds. Such scenario will certainly frustrate the purpose of the law which is to provide covered employees and their families protection against the hazards of disability, sickness, old age and death, with a view to promoting their well-being in the spirit of social justice. Moreover and as correctly pointed out by SSC, such investigations are likewise necessary to carry out the mandate of Section 15 of the SS Law which provides in part, *viz:*

²⁸ *Signey v. Social Security System*, 566 Phil. 617, 627 (2008).

²⁹ SEC. 4. *Powers and Duties of the Commission and SSS.* - (a) The Commission. - For the attainment of its main objectives as set forth in Section 2 hereof, the Commission shall have the following powers and duties:

x x x

(b) The Social Security System. - Subject to the provision of Section four (4), paragraph seven (7) hereof, the SSS shall have the following powers and duties:

x x x

(7) To require reports, compilations and analyses of statistical and economic data and to make investigation as may be needed for the proper administration and development of the SSS

³⁰ G.R. No. 170195, March 28, 2011, 646 SCRA 462, 480.

Sec. 15. *Non-transferability of Benefits.* – The SSS shall pay the benefits provided for in this Act *to such [x x x] persons as may be entitled thereto in accordance with the provisions of this Act* x x x. (Emphasis supplied.)

The existence of two Form E-4s designating, on two different dates, two different women as his spouse is already an indication that only one of them can be the legal spouse. As can be gleaned from the certification issued by the NSO,³¹ there is no doubt that Edgardo married Rosemarie in 1982. Edna cannot be considered as the legal spouse of Edgardo as their marriage took place during the existence of a previously contracted marriage. For said reason, the denial of Edna's claim by the SSC was correct. It should be emphasized that the SSC determined Edna's eligibility on the basis of available statistical data and documents on their database as expressly permitted by Section 4(b) (7) of R.A. No. 8282.

It is of no moment that the first wife, Rosemarie, did not participate or oppose Edna's claim. Rosemarie's non-participation or her subsequent death on November 11, 2004³² did not cure or legitimize the status of Edna.

WHEREFORE, the petition is **GRANTED**. The August 13, 2013 Decision and the October 29, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 122933 are **REVERSED** and **SET ASIDE**. Accordingly, the petition for entitlement of SS death benefits filed by respondent Edna Azote is **DENIED** for lack of merit.

SO ORDERED.


JOSE CANRAL MENDOZA
Associate Justice

³¹ *Rollo*, p. 101.

³² *Id.* at 98.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

see separate dissenting opinion



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice