

## SIXTEENTH DIVISION

[ CA-G.R. SP NO. 80400, August 08, 2006 ]

**MARCELINA E. MARGARICO, PETITIONER, VS. SOCIAL SECURITY SYSTEM, RESPONDENT.**

### D E C I S I O N

**DIMARANAN-VIDAL, J.:**

In this Petition for Review under Rule 43 of the Revised Rules of Court, MARCELINA E. MARGARICO (hereinafter Petitioner) is seeking the reversal of the Decision<sup>[1]</sup> dated 28 August 2003 of the Employees Compensation Commission (ECC) in ECC Case No. SM-14937-0317-03 which affirmed the decision<sup>[2]</sup> of the Social Security System (SSS) denying her claim for the death benefits of her deceased spouse, VIRGILIO T. MARGARICO (VIRGILIO for brevity) due to pulmonary tuberculosis (PTB).

### THE FACTS

#### As synthesized by the ECC:

The appellant is the surviving spouse of the deceased, Virgilio Margarico (SSS No. 03-31962040), who worked as a Security Guard of Lockheed Detective and Watchman Agency, Inc., Quezon City from July, 1974 to September, 1995. He was assigned at the now closed Manila Banking Corp., Ayala Avenue, Makati City where he was required to work daily from 7:00 am to 7:00 pm. As a Security Guard, he was required to memorize the eleven (11) General Orders of Security Guards, conduct inspections on his area of responsibility, monitor the movement and activities, keep his allegiance to the government and to his agency, and to be fair, honest, and polite in the performance of his duty.

On 20 October 1995, the deceased was admitted at Jose Reyes Memorial Medical Center, Manila where his ailment was diagnosed as **Pulmonary Newgrowth** secondary to **Malignant Pleural Effusion**. On June 8, 1996, he died of **Cardiorespiratory Arrest** secondary to **Pulmonary Tuberculosis**. On account of the death of her husband, the appellant was granted SSS (under SSS law) Death with Funeral Benefits on June 20, 1996.

Believing that her husband's fatal ailment was service-connected, appellant herein filed a claim for death benefits under PD 626, as amended (*sic*) in 2002. The appellant, as the surviving spouse of the late Virgilio Margarico, takes the position that she is entitled to death benefits under PD 626, as amended. She bases her claim on the ground that the

death of her husband was due to an occupational disease and/or at the least the cause of her husband's death was brought about by the nature of his work and the circumstances surrounding his employment. That due to the nature of her husband's work, the same illness was contracted with the resultant death thereafter, hence compensable. However, she did not submit chest x-ray results to substantiate her claim.

The System denied the appellant's claim reasoning that:

**“cause of death has no causal relationship to this job”<sup>[3]</sup>**

On 28 August 2003, the ECC rendered the assailed decision, the decretal portion of which reads:

WHEREFORE, the appealed decision is **AFFIRMED** and the claim is dismissed for lack of merit.<sup>[4]</sup>

Evidently, the ECC denied the petition on the ground that 1) there is no showing that the deceased was terminated due to his ailment; 2) no employer-employee relationship existed between the deceased and his former employer Lockheed Detective and Watchman Agency at the time of death; 3) there was no showing that the deceased's working conditions increased his risk of contracting PTB.

Aggrieved, the Petitioner comes now before Us with the sole issue, to wit:

**WHETHER THE CAUSE OF DEATH OF PETITIONER'S HUSBAND IS COMPENSABLE UNDER P.D. 626, AS AMENDED.**

#### **OUR RULING**

The Petition is impressed with merit.

It appears that VIRGILIO joined the workforce of Lockheed Detective and Watchman Agency with a clean bill of health in 1974 and worked thereat for a continuous period of twenty one (21) years or until 1995.<sup>[5]</sup> On 22 September 1995, he filed an application for vacation leave/forced leave of 15 days per his doctor's advice.<sup>[6]</sup> Shortly thereafter, he was confined at the Jose Reyes Memorial Medical Center for his ailment, Pulmonary Newgrowth, Malignant Pleural Effusion.<sup>[7]</sup> The ailment progressed until eight months after the confinement, VIRGILIO died of Cardiorespiratory Arrest secondary to Pulmonary Tuberculosis.<sup>[8]</sup>

From the foregoing, it is evident that VIRGILIO's illness, which eventually caused his death, started when he was still employed. Thus, ECC's findings that there was no more employer-employee relationship between VIRGILIO and Lockheed at the time of death is misplaced.

Per the pertinent provision of PD 626 *vis-a-vis* the *Amended Rules on Employees' Compensation* (Amended Rules for brevity) promulgated on 21 July 1987, Pulmonary Tuberculosis is a compensable occupational illness when certain work-related factors are present. The Amended Rules enumerate these factors as follow: