

## THIRD DIVISION

[ G.R. No. 207526, October 03, 2018 ]

**THE INSULAR ASSURANCE CO., LTD., PETITIONER, V. THE HEIRS OF JOSE H. ALVAREZ, RESPONDENTS.**

[G.R. No. 210156, October 3, 2018]

**UNION BANK OF THE PHILIPPINES, PETITIONER, V. HEIRS OF JOSE H. ALVAREZ, RESPONDENTS.**

### D E C I S I O N

**LEONEN, J.:**

The Insurance Code dispenses with proof of fraudulent intent in cases of rescission due to concealment, but not so in cases of rescission due to false representations. When an abundance of available documentary evidence can be referenced to demonstrate a design to defraud, presenting a singular document with an erroneous entry does not qualify as clear and convincing proof of fraudulent intent. Neither does belatedly invoking just one other document, which was not even authored by the alleged miscreant.

This resolves the consolidated Petitions for Review on Certiorari, under Rule 45 of the 1997 Rules of Civil Procedure. The first, docketed as G.R. No. 207526,<sup>[1]</sup> was brought by The Insular Life Assurance Co., Ltd. (Insular Life). The second, docketed as G.R. No. 210156,<sup>[2]</sup> was brought by Union Bank of the Philippines (UnionBank). These consolidated petitions seek the reversal of the assailed Court of Appeals May 21, 2013 Decision<sup>[3]</sup> and November 6, 2013 Resolution<sup>[4]</sup> in CA-G.R. CV No. 91820.

The assailed Court of Appeals May 21, 2013 Decision denied Insular Life's and UnionBank's separate appeals and affirmed the January 29, 2007 Decision<sup>[5]</sup> of Branch 148, Regional Trial Court, Makati City. The Regional Trial Court ruled in favor of Jose H. Alvarez's (Alvarez) heirs<sup>[6]</sup> (the Heirs of Alvarez) in their action for specific performance against Insular Life and UnionBank. It ordered compliance with the insurance undertaking on the Group Mortgage Redemption Insurance covering a loan obtained by Alvarez from UnionBank by applying its proceeds as payment for that loan. It also nullified the extrajudicial foreclosure ensuing from the non-payment of Alvarez's loan, and required UnionBank to reconvey title and ownership over the foreclosed property to Alvarez's estate. Lastly, it ordered Insular Life's and UnionBank's payment of attorney's fees and costs of suit.<sup>[7]</sup>

The assailed Court of Appeals November 6, 2013 Resolution denied UnionBank's Motion for Reconsideration.<sup>[8]</sup>

Alvarez and his wife, Adelina, owned a residential lot with improvements covered by Transfer Certificate of Title (TCT) No. C-315023 and registered in the Caloocan City

Registry of Deeds.<sup>[9]</sup>

On June 18, 1997, Alvarez applied for and was granted a housing loan by UnionBank in the amount of P648,000.00. This loan was secured by a promissory note,<sup>[10]</sup> a real estate mortgage over the lot,<sup>[11]</sup> and a mortgage redemption insurance taken on the life of Alvarez with UnionBank as beneficiary. Alvarez was among the mortgagors included in the list of qualified debtors covered by the Group Mortgage Redemption Insurance that UnionBank had with Insular Life.<sup>[12]</sup>

Alvarez passed away on April 17, 1998.<sup>[13]</sup> In May 1998, UnionBank filed with Insular Life a death claim under Alvarez's name pursuant to the Group Mortgage Redemption Insurance. In line with Insular Life's standard procedures, UnionBank was required to submit documents to support the claim. These included: (1) Alvarez's birth, marriage, and death certificates; (2) the attending physician's statement; (3) the claimant's statement; and (4) Alvarez's statement of account.<sup>[14]</sup>

Insular Life denied the claim after determining that Alvarez was not eligible for coverage as he was supposedly more than 60 years old at the time of his loan's approval.<sup>[15]</sup>

With the claim's denial, the monthly amortizations of the loan stood unpaid. UnionBank sent the Heirs of Alvarez a demand letter,<sup>[16]</sup> giving them 10 days to vacate the lot. Subsequently, on October 4, 1999, the lot was foreclosed and sold at a public auction with UnionBank as the highest bidder.<sup>[17]</sup>

On February 14, 2001, the Heirs of Alvarez filed a Complaint<sup>[18]</sup> for Declaration of Nullity of Contract and Damages against UnionBank, a certain Alfonso P. Miranda (Miranda), who supposedly benefitted from the loan, and the insurer which was identified only as John Doe.<sup>[19]</sup> The Heirs of Alvarez denied knowledge of any loan obtained by Alvarez.<sup>[20]</sup>

The Heirs of Alvarez claimed that after Alvarez's death, they came upon a document captioned "Letter of Undertaking," which appeared to have been sent by UnionBank to Miranda. In this document, UnionBank bound itself to deliver to Miranda P466,000.00 of the approved P648,000.00 housing loan, provided that Miranda would deliver to it TCT No. C-315023, "free from any liens and/or encumbrances."<sup>[21]</sup>

The Complaint was later amended and converted into one for specific performance<sup>[22]</sup> to include a demand against Insular Life to fulfill its obligation as an insurer under the Group Mortgage Redemption Insurance.<sup>[23]</sup>

In its defense, UnionBank asserted that the Heirs of Alvarez could not feign ignorance over the existence of the loan and mortgage considering the Special Power of Attorney<sup>[24]</sup> executed by Adelina in favor of her late husband, which authorized him to apply for a housing loan with UnionBank.<sup>[25]</sup>

For its part, Insular Life maintained that based on the documents submitted by UnionBank, Alvarez was no longer eligible under the Group Mortgage Redemption Insurance since he was more than 60 years old when his loan was approved.<sup>[26]</sup>

In its January 29, 2007 Decision,<sup>[27]</sup> the Regional Trial Court ruled in favor of the Heirs of Alvarez. It found no indication that Alvarez had any fraudulent intent when he gave UnionBank information about his age and date of birth. It explained that UnionBank initiated and negotiated the Group Mortgage Redemption Insurance with Insular Life, and that "ordinary customers will not know about [insurance policies such as this] unless it is brought to their knowledge by the bank."<sup>[28]</sup> It noted that if UnionBank's personnel were mindful of their duties and if Alvarez appeared to be disqualified for the insurance, they should have immediately informed him of his disqualification. It emphasized that in evaluating Alvarez's worthiness for the loan, UnionBank had been in possession of materials sufficient to inform itself of Alvarez's personal circumstances. It added that if Insular Life had any doubt on the information that UnionBank had provided, it should have inquired further instead of relying solely on the information readily available to it and immediately refusing to pay.<sup>[29]</sup>

The dispositive portion of the Regional Trial Court's January 29, 2007 Decision read:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against defendants order (sic):

1. Defendants to comply with the insurance undertaking under Mortgage Redemption Insurance Policy No. G-098496 by paying its proceeds to be applied as payment of the outstanding loan obligation of deceased Jose H. Alvarez with defendant Union Bank;
2. The extrajudicial foreclosure of the real estate mortgage over Jose H. Alvarez's TCT No. C-315023 a nullity and without legal force and effect and to release the mortgage encumbrance thereon;
3. Defendant Union Bank to reconvey the title and ownership over TCT No. C-315023 to the Estate of the deceased Jose H. Alvarez for the benefit of his heirs and successors-in-interest;
4. Defendants jointly and severally to pay the plaintiffs the sum of P50,000.00 as and for attorney's fees;
5. Defendants jointly and severally to pay the costs of the suit.

SO ORDERED.<sup>[30]</sup>

UnionBank<sup>[31]</sup> and Insular Life<sup>[32]</sup> filed separate appeals before the Court of Appeals.

In its assailed May 21, 2013 Decision,<sup>[33]</sup> the Court of Appeals affirmed the Regional Trial Court's ruling. It noted that the errors assigned by Insular Life and UnionBank to the Regional Trial Court boiled down to the issue of whether or not Alvarez was guilty of fraudulent misrepresentation as to warrant the rescission of the Group Mortgage Redemption Insurance obtained by UnionBank on Alvarez's life. It explained that fraud is never presumed and fraudulent misrepresentation as a defense of the insurer to avoid liability must be established by convincing evidence. Insular Life, in this case, failed to establish this defense. It only relied on Alvarez's Health Statement Form where he wrote "1942" as his birth year. However, this form alone was insufficient to prove that he fraudulently intended to misrepresent his

age. It noted that aside from the Health Statement Form, Alvarez had to fill out an application for insurance. This application would have supported the conclusion that he consistently wrote "1942" in all the documents that he had submitted to UnionBank. However, the records made no reference to this document.<sup>[34]</sup>

The Court of Appeals added that assuming that fraudulent misrepresentation entitled Insular Life to rescind the contract, it should have first complied with certain conditions before it could exercise its right to rescind. The conditions were:

(1) prior notice of cancellation to [the] insured; (2) notice must be based on the occurrence after effective date of the policy of one or more grounds mentioned; (3) must be in writing, mailed or delivered to the insured at the address shown in the policy; and (4) must state the grounds relied upon provided in Section 64 of the Insurance Code and upon [the] request of [the] insured, to furnish facts on which cancellation is based.<sup>[35]</sup>

None of these conditions were fulfilled. Finally, the letter of denial dated April 8, 1999 was furnished only to UnionBank.<sup>[36]</sup>

Insular Life opted to directly appeal before this Court. Its appeal was docketed as G.R. No. 207526.<sup>[37]</sup> UnionBank, on the other hand, filed its Motion for Reconsideration (of the Decision dated May 21, 2013),<sup>[38]</sup> which the Court of Appeals denied in its November 6, 2013 Resolution.<sup>[39]</sup> UnionBank then filed before this Court its Petition, docketed as G.R. No. 210156.<sup>[40]</sup>

In its March 12, 2014 Resolution, this Court consolidated Insular Life's and UnionBank's Petitions.<sup>[41]</sup>

In response to the Court of Appeals' reasoning that intent to defraud must be established, Insular Life pinpoints concealment, rather than fraudulent misrepresentation, as the key to the validity of its rescission. It asserts that Alvarez's concealment of his age, whether intentional or unintentional, entitles it to rescind the insurance contract.<sup>[42]</sup> It claims that proof of fraudulent intent is not necessary for the insurer to rescind the contract on account of concealment.<sup>[43]</sup> It adds that it did not rely solely on Alvarez's Health Statement Form but also on his representations during the background check conducted by UnionBank where he said that he was only 55 years old at the time of application. As an insurance contract is a contract *uberrima fides*, it claims that it has every right to rely on Alvarez's good faith in its dealing with him.<sup>[44]</sup>

UnionBank claims that the real estate mortgage is not affected by the status of the Group Mortgage Redemption Insurance as they are two (2) different contracts. Thus, any concealment made by Alvarez should not result in the invalidation of the foreclosure.<sup>[45]</sup>

For this Court's resolution are the following issues:

First, whether or not petitioner The Insular Life Assurance Co., Ltd. is obliged to pay Union Bank of the Philippines the balance of Jose H. Alvarez's loan given the claim that he lied about his age at the time of the approval of his loan; and

Second, whether or not petitioner Union Bank of the Philippines was correct in proceeding with the foreclosure following Insular Life Assurance Co., Ltd.'s refusal to pay.

### I.A

Fraud is not to be presumed, for "otherwise, courts would be indulging in speculations and surmises."<sup>[46]</sup> Moreover, it is not to be established lightly. Rather, "[i]t must be established by clear and convincing evidence . . . [; a] mere preponderance of evidence is not even adequate to prove fraud."<sup>[47]</sup> These precepts hold true when allegations of fraud are raised as grounds justifying the invalidation of contracts, as the fraud committed by a party tends to vitiate the other party's consent.<sup>[48]</sup>

Citing Section 27 of the Insurance Code, however, Insular Life asserts that in cases of rescission due to concealment, i.e., when a party "neglect[s] to communicate that which [he or she] knows and ought to communicate,"<sup>[49]</sup> proof of fraudulent intent is not necessary.<sup>[50]</sup>

Section 27 reads:

Section 27. A concealment *whether intentional or unintentional* entitles the injured party to rescind a contract of insurance. (Emphasis supplied)

The statutory text is unequivocal. Insular Life correctly notes that proof of fraudulent intent is unnecessary for the rescission of an insurance contract on account of concealment.

This is neither because intent to defraud is intrinsically irrelevant in concealment, nor because concealment has nothing to do with fraud. To the contrary, it is because in insurance contracts, concealing material facts<sup>[51]</sup> is inherently fraudulent: "if a material fact is actually known to the [insured], its concealment must of itself necessarily be a fraud."<sup>[52]</sup> When one knows a material fact and conceals it, "it is difficult to see how the inference of a fraudulent intent or intentional concealment can be avoided."<sup>[53]</sup> Thus, a concealment, regardless of actual intent to defraud, "is equivalent to a false representation."<sup>[54]</sup>

This Court has long settled this equivalence. *Argente v. West Coast Life Insurance*,<sup>[55]</sup> quoting heavily from Joyce's *The Law of Insurance*, explained how concealment of material facts in insurance contracts is tantamount to causal fraud,<sup>[56]</sup> deceptively inducing an insurer into "accepting the risk, or accepting it at the rate of premium agreed upon."<sup>[57]</sup> *Argente* explained:

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. . . . 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.