

## EN BANC

[ G.R. No. 210761, June 28, 2016 ]

**KILUSANG MAYO UNO, REPRESENTED BY ITS CHAIRPERSON, ELMER LABOG; NATIONAL FEDERATION OF LABOR UNIONS-KILUSANG MAYO UNO, REPRESENTED BY ITS VICE-PRESIDENTS, REDEN ALCANTARA AND ARNOLD DELA CRUZ, CENTER FOR TRADE UNION AND HUMAN RIGHTS (CTUHR), REPRESENTED BY ITS EXECUTIVE DIRECTOR DAISY ARAGO, VIRGINIA FLORES AND VIOLETA ESPIRITU, PETITIONERS, VS. HON. BENIGNO SIMEON C. AQUINO III, AND PHILIPPINE HEALTH INSURANCE CORPORATION (PHIC), RESPONDENTS,**

**MIGRANTE INTERNATIONAL, REPRESENTED BY ITS CHAIRPERSON GARRY MARTINEZ, CONNIE BRAGAS-REGALADO, PARALUMAN CATUIRA, UNITED FILIPINOS IN HONGKONG (UNIFIL-HK), AND SOLEDAD PILLAS, PETITIONERS-IN-INTERVENTION.**

### DECISION

**BRION, J.:**

This is a petition for *certiorari* assailing **PhilHealth Circular Nos. 0027,<sup>[1]</sup> 0025,<sup>[2]</sup> and 0024,<sup>[3]</sup> all series of 2013**. The circulars, which adjusted the premium contribution rates for the National Health Insurance Program, were allegedly issued with grave abuse of discretion.

### ANTECEDENTS

In the 1987 Constitution, the State adopted an integrated and comprehensive approach to health development.<sup>[4]</sup> It also undertook to make essential goods and medical services available to the public at a low cost, and to provide free medical care to paupers.

On February 7, 1995, Congress passed Republic Act No. 7875, the National Health Insurance Act (*NHIA*), establishing the National Health Insurance Program (*NHIP/the Program*) and creating the Philippine Health Insurance Corporation (*the Corporation/PhilHealth*) to administer the Program. The Program covers all citizens of the Philippines in accordance with the principles of universality and compulsory coverage.<sup>[5]</sup>

PhilHealth is a government corporation attached to the Department of Health (*DOH*) for policy coordination and guidance.<sup>[6]</sup> Among its notable powers and functions are:

SEC. 16 *Powers and Functions.* - The Corporation shall have the following powers and functions:

- a. to **administer the National Health Insurance Program**;
- b. to formulate and promulgate policies **for the sound administration of the Program**;
- c. **to set standards, rules, and regulations necessary to ensure quality of care, appropriate utilization of services, fund viability**, member satisfaction, and overall accomplishment of Program objectives;
- d. **to formulate and implement guidelines on contributions and benefits**; portability of benefits, cost containment and quality assurance; and health care provider arrangements, payment methods, and referral systems;<sup>[7]</sup> x x x (emphasis supplied)

Its President and Chief Executive Officer (*CEO*) is directly appointed by the President of the Republic while its Board of Directors (*the Board*) is composed of several cabinet secretaries (or their permanent representatives) and representatives of different stakeholders.<sup>[8]</sup>

At the start of respondent President Benigno Simeon Aquino III's administration in 2010, the DOH launched the Aquino Health Agenda (*AHA/the Agenda*)<sup>[9]</sup> The objective was to implement comprehensive reform in the health sector and, ultimately, to provide universal access to health care for all Filipinos including the poor.

In line with the Agenda for a truly Universal Health Care program, PhilHealth adopted a new mission "*to ensure adequate financial access of every Filipino to quality health care services through the effective and efficient administration of the National Health Insurance Program.*"<sup>[10]</sup>

The Board, through Resolution No. 1571, Series of 2011, approved increases in annual premium contributions for the Calendar Year (CY) 2012 to enhance the NHIP benefit packages and to support the implementation of the Universal Health Care program.<sup>[11]</sup>

The minimum annual contribution of members in the **Individually Paying Program (IPP)** and **Overseas Workers Programs (OWP)** was increased to Php2,400.00. However, members who paid their contributions within the first semester of CY 2012 or signed a policy contract within the first semester of 2012 and committed to pay their contributions for two consecutive years would have their annual premium contribution computed at only Php1,200.00.

For the **Employed Sector**, the premium rate was to be computed at **3% of the salary base** with the lowest salary bracket<sup>[12]</sup> pegged at a monthly salary base of Php7,000.00. Thus, the minimum annual contribution was computed at Php2,520.00. Finally, the monthly salary ceiling was pegged at Php50,000.00.

Lastly, the annual contribution of all National Household Targeting System for Poverty Reduction (*NHTS-PR*) poor families identified by the Department of Social Welfare and Development (*DSWD*) under the **Sponsored Program** was set at Php2,400.00 effective January 1, 2012.

The new rates for the IPP, and the OWP were scheduled to take effect on July 1, 2012 while the new rate for the Employed Sector was scheduled to take effect on January 1, 2013.

On February 21, 2012, PhilHealth moved the effectivity date of the new rates for the OWP Program to January 1, 2013.<sup>[13]</sup> The deferral was made at the request of civil society groups and non-government organizations in the light of the global crisis that affected a number of Overseas Filipino Workers (*OFWs*).

On June 27, 2012, PhilHealth also deferred the effectivity date of the new rates for the IPP program to October 1, 2012.<sup>[14]</sup> The move was made to allow further consultation in response to various sectors' opposition to the increase.

On September 25, 2012, the Corporation further postponed the premium increase to January 1, 2013, after a series of dialogues with informal sector groups.<sup>[15]</sup>

On November 22, 2012, PhilHealth made a partial deferral of the premium rate increase until the end of CY 2013.<sup>[16]</sup> From January to December 2013, the minimum annual premium contribution rate for IPP and OWP members was pegged at Php1,800.00, instead of the full Php2,400.00.

For the members enrolled in the Employed Sector, the premium rate was computed at **2.5% of the salary base**. Because the lowest salary base was pegged at Php7,000.00, the minimum annual premium contribution was computed at Php2,100.00. Finally, the monthly salary bracket ceiling was pegged at a salary base of Php35,000.00.

On September 2013, PhilHealth issued the three assailed circulars fully implementing the new premium rates for 2014:

1. **PhilHealth Circular No. 0024, s. 2013**<sup>[17]</sup> was issued on September 30, 2013, increasing the minimum annual premium rate for the IPP to Php2,400.00 for members with a monthly income of Php25,000.00 and below.
2. **PhilHealth Circular No. 0025, s. 2013**<sup>[18]</sup> was issued on September 30, 2013, adjusting the annual premium rate for the OWP to Php2,400.00 for all land-based *OFWs*, whether documented or undocumented.
3. **PhilHealth Circular No. 0027, s. 2013**<sup>[19]</sup> was also issued on September 30, 2013, for the Employed Sector. It retained 2.5% at the premium rate and the Php35,000.00 salary bracket ceiling. However, it consolidated the two lowest salary brackets<sup>[20]</sup> resulting in a minimum annual rate of Php2,400.00.

Thus, the Corporation adjusted the minimum rates for members to Php2,400.00 to ensure financial sustainability of the Program.

On January 30, 2014, petitioners Kilusang Mayo Uno (*KMU*), National Federation of Labor Unions - *KMU* (*NAFLU-KMU*), Violeta Espiritu, and Virginia Flores filed the present petition for *certiorari* with an application for a Temporary Restraining Order and/or a Preliminary Injunction against the implementation of the new rates.<sup>[21]</sup> The petitioners impleaded President Aquino and the Corporation as respondents.

On March 14, 2014, Migrante International, Connie Bragas-Regalado, Paraluman Catuira, United Filipinos in Hong Kong (*UNIFIL-HK*), and Soledad Pillas filed a petition-in-intervention.<sup>[22]</sup>

## THE PETITIONS

The petitioners (*KMU, et al.*) claim that the assailed circulars were issued with grave abuse of discretion, arguing: (1) that PhilHealth breached the limits to its delegated rule-making power because the new contribution schedule is neither reasonable, equitable, nor progressive as prescribed by the NHIA;<sup>[23]</sup> (2) that the rate increase is unduly oppressive and not reasonably necessary to attain the purpose sought;<sup>[24]</sup> and (3) that the new rates were determined without an actuarial study as required by the NHIA.<sup>[25]</sup>

The petitioners allege that according to the Commission on Audit (*COA*), PhilHealth awarded Php1.5 billion in bonuses to its top officials and employees in 2012.<sup>[26]</sup> They further allege that the Corporation gave hefty bonuses to its contractors and failed to prosecute fraudulent claims. They argue that increasing contribution rates would be completely unnecessary if the Corporation used its funds more judiciously.

The Petitioners-in-Intervention (*Migrante, et al.*) adopt all of the petitioners' arguments. They add that **Circular No. 0025, s. 2013** violated the Migrant Workers and Overseas Filipinos Act<sup>[27]</sup> which prescribed the non-increase of fees charged by any government office on Overseas Filipino Workers (*OFWs*).<sup>[28]</sup>

## THE COUNTER ARGUMENTS

The President, through the Office of the Solicitor General (*OSG*), invokes his immunity from suit as a sitting Head of State and moved that he be dropped as a party-respondent.<sup>[29]</sup>

PhilHealth, through the Office of the Government Corporate Counsel (*OGCC*), claims that the increases in premium contributions were supported by three actuarial studies conducted in 2010,<sup>[30]</sup> 2011,<sup>[31]</sup> and 2012.<sup>[32]</sup> Moreover, it consulted World Bank representatives<sup>[33]</sup> and the affected stakeholders before implementing the increase.

The Php2,400.00 minimum annual contribution for *all* members is equivalent to the amount that the Government annually incurs to maintain coverage for the poorest of the poor. Php1,000.00 is allotted for drugs and medicine, Php300.00 for administrative costs, Php500.00 for consultation, and Php600.00 for in-patient services.<sup>[34]</sup>

As the premium rate for "the poorest of the poor" was set at Php2,400.00, the rates for the Employed Sector, the OWP, and the IPP were likewise increased to avoid a situation where the poorest would contribute a premium higher than that contributed by an employed member, an OFW, or an individually paying member.<sup>[35]</sup>

PhilHealth counters that not only did it defer the rate increase to relieve the public of the simultaneous burden of increases in fees, tolls, taxes, and social security contributions, but it even introduced the corresponding enhancements in the benefit packages in 2012 before the premium rates were increased.<sup>[36]</sup>

With respect to the allegations of outrageously unconscionable bonuses, PhilHealth argues that these have no logical relation to the increase in premiums. In any case, COA's disallowance of these items are presently under appeal and *sub-judice*.<sup>[37]</sup>

Lastly, PhilHealth prays for the dismissal of the petition arguing: (1) that it was filed out of time;<sup>[38]</sup> (2) that it failed to state the material dates as required by Rule 46, Section 3 of the Rules of Court;<sup>[39]</sup> (3) that the petitioners have no legal standing;<sup>[40]</sup> (4) that the petitioners disregarded the hierarchy of courts because the issue was not of transcendental importance;<sup>[41]</sup> and (5) that the petition has neither basis nor merit.<sup>[42]</sup>

## OUR RULING

We DISMISS the petition for lack of merit.

At the outset, we stress the settled principle that a sitting head of state enjoys immunity from suit during his actual tenure.<sup>[43]</sup> The events that gave rise to the present action and the filing of the case occurred during the incumbency of President Aquino. Moreover, the petition contains no allegations as to any specific presidential act or omission that amounted to grave abuse of discretion. Therefore, it is only proper to drop the President as a party-respondent.

Under the NHIA, **all citizens of the Philippines are required to enroll** in the Program; membership is **mandatory**.<sup>[44]</sup> In other words, the NHIP covers all Filipinos in accordance with the principles of universality and **compulsory coverage**.<sup>[45]</sup> Ultimately, every Filipino is affected by an increase in the premium rates. Thus, the petitioners have sufficient legal standing to file the present suit.

Nevertheless, the petitioners availed of the wrong remedy in coming to this Court. *Certiorari* is a remedy of **last resort** available only when there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law.<sup>[46]</sup>

An administrative agency's exercise of *quasi-legislative* powers may be questioned and prohibited through an ordinary action for injunction before the Regional Trial Court (RTC).<sup>[47]</sup> The petitioners failed to explain their premature resort to *certiorari* and their disregard for the hierarchy of courts, these procedural grounds warrant the outright dismissal of their petition.

Even if the procedural issues are disregarded, the petitions still failed to show that