595 Phil. 56

# THIRD DIVISION

# [ G.R. No. 159132, December 18, 2008 ]

## FE CAYAO-LASAM, PETITIONER, VS. SPOUSES CLARO AND EDITHA RAMOLETE, RESPONDENTS.*

## D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by Dr. Fe Cayao-Lasam (petitioner) seeking to annul the Decision[1] dated July 4, 2003 of the Court of Appeals (CA) in CA-G.R. SP No. 62206.

The antecedent facts:

On July 28, 1994, respondent, three months pregnant Editha Ramolete (Editha) was brought to the Lorma Medical Center (LMC) in San Fernando, La Union due to vaginal bleeding. Upon advice of petitioner relayed *via* telephone, Editha was admitted to the LMC on the same day. A pelvic sonogram[2] was then conducted on Editha revealing the fetus' weak cardiac pulsation.[3] The following day, Editha's repeat pelvic sonogram[4] showed that aside from the fetus' weak cardiac pulsation, no fetal movement was also appreciated. Due to persistent and profuse vaginal bleeding, petitioner advised Editha to undergo a Dilatation and Curettage Procedure (D&C) or "*raspa.*"

On July 30, 1994, petitioner performed the D&C procedure. Editha was discharged from the hospital the following day.

On September 16, 1994, Editha was once again brought at the LMC, as she was suffering from vomiting and severe abdominal pains. Editha was attended by Dr. Beatriz de la Cruz, Dr. Victor B. Mayo and Dr. Juan V. Komiya. Dr. Mayo allegedly informed Editha that there was a dead fetus in the latter's womb. After, Editha underwent laparotomy,[5] she was found to have a massive intra-abdominal hemorrhage and a ruptured uterus. Thus, Editha had to undergo a procedure for hysterectomy[6] and as a result, she has no more chance to bear a child.

On November 7, 1994, Editha and her husband Claro Ramolete (respondents) filed a Complaint[7] for Gross Negligence and Malpractice against petitioner before the Professional Regulations Commission (PRC).

Respondents alleged that Editha's hysterectomy was caused by petitioner's unmitigated negligence and professional incompetence in conducting the D&C procedure and the petitioner's failure to remove the fetus inside Editha's womb.[8] Among the alleged acts of negligence were: *first*, petitioner's failure to check up,

visit or administer medication on Editha during her first day of confinement at the LMC;[9] *second*, petitioner recommended that a D&C procedure be performed on Editha without conducting any internal examination prior to the procedure;[10] *third*, petitioner immediately suggested a D&C procedure instead of closely monitoring the state of pregnancy of Editha.[11]

In her Answer,[12] petitioner denied the allegations of negligence and incompetence with the following explanations: upon Editha's confirmation that she would seek admission at the LMC, petitioner immediately called the hospital to anticipate the arrival of Editha and ordered through the telephone the medicines Editha needed to take, which the nurses carried out; petitioner visited Editha on the morning of July 28, 1994 during her rounds; on July 29, 1994, she performed an internal examination on Editha and she discovered that the latter's cervix was already open, thus, petitioner discussed the possible D&C procedure, should the bleeding become more profuse; on July 30 1994, she conducted another internal examination on Editha, which revealed that the latter's cervix was still open; Editha persistently complained of her vaginal bleeding and her passing out of some meaty mass in the process of urination and bowel movement; thus, petitioner advised Editha to undergo D&C procedure which the respondents consented to; petitioner was very vocal in the operating room about not being able to see an abortus;[13] taking the words of Editha to mean that she was passing out some meaty mass and clotted blood, she assumed that the abortus must have been expelled in the process of bleeding; it was Editha who insisted that she wanted to be discharged; petitioner agreed, but she advised Editha to return for check-up on August 5, 1994, which the latter failed to do.

Petitioner contended that it was Editha's gross negligence and/or omission in insisting to be discharged on July 31, 1994 against doctor's advice and her unjustified failure to return for check-up as directed by petitioner that contributed to her life-threatening condition on September 16, 1994; that Editha's hysterectomy was brought about by her very abnormal pregnancy known as *placenta increta,* which was an extremely rare and very unusual case of abdominal placental implantation. Petitioner argued that whether or not a D&C procedure was done by her or any other doctor, there would be no difference at all because at any stage of gestation before term, the uterus would rupture just the same.

On March 4, 1999, the Board of Medicine (the Board) of the PRC rendered a Decision,[14] exonerating petitioner from the charges filed against her. The Board held:

> Based on the findings of the doctors who conducted the laparotomy on Editha, hers is a case of Ectopic Pregnancy Interstitial. This type of ectopic pregnancy is one that is being protected by the uterine muscles and manifestations may take later than four (4) months and only attributes to two percent (2%) of ectopic pregnancy cases.
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> When complainant Editha was admitted at Lorma Medical Center on July 28, 1994 due to vaginal bleeding, an ultra-sound was performed upon her and the result of the Sonogram Test reveals a morbid fetus but did not specify where the fetus was located. Obstetricians will assume that the pregnancy is within the uterus unless so specified by the Sonologist

who conducted the ultra-sound. Respondent (Dr. Lasam) cannot be faulted if she was not able to determine that complainant Editha is having an ectopic pregnancy interstitial. The D&C conducted on Editha is necessary considering that her cervix is already open and so as to stop the profuse bleeding. Simple curettage cannot remove a fetus if the patient is having an ectopic pregnancy, since ectopic pregnancy is pregnancy conceived outside the uterus and curettage is done only within the uterus. Therefore, a more extensive operation needed in this case of pregnancy in order to remove the fetus.[15]

Feeling aggrieved, respondents went to the PRC on appeal. On November 22, 2000, the PRC rendered a Decision[16] reversing the findings of the Board and revoking petitioner's authority or license to practice her profession as a physician.[17]

Petitioner brought the matter to the CA in a Petition for Review under Rule 43 of the Rules of Court. Petitioner also dubbed her petition as one for *certiorari*[18] under Rule 65 of the Rules of Court.

In the Decision dated July 4, 2003, the CA held that the Petition for Review under Rule 43 of the Rules of Court was an improper remedy, as the enumeration of the *quasi-judicial* agencies in Rule 43 is exclusive.[19] PRC is not among the quasi-judicial bodies whose judgment or final orders are subject of a petition for review to the CA, thus, the petition for review of the PRC Decision, filed at the CA, was improper. The CA further held that should the petition be treated as a petition for *certiorari* under Rule 65, the same would still be dismissed for being improper and premature. Citing Section 26[20] of Republic Act (R.A.) No. 2382 or the Medical Act of 1959, the CA held that the plain, speedy and adequate remedy under the ordinary course of law which petitioner should have availed herself of was to appeal to the Office of the President.[21]

Hence, herein petition, assailing the decision of the CA on the following grounds:

1. THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN HOLDING THAT THE PROFESSIONAL REGULATION[S] COMMISSION (PRC) WAS EXCLUDED AMONG THE QUASI-JUDICIAL AGENCIES CONTEMPLATED UNDER RULE 43 OF THE RULES OF CIVIL PROCEDURE;

2. EVEN ASSUMING, *ARGUENDO,* THAT PRC WAS EXCLUDED FROM THE PURVIEW OF RULE 43 OF THE RULES OF CIVIL PROCEDURE, THE PETITIONER WAS NOT PRECLUDED FROM FILING A PETITION FOR CERTIORARI WHERE THE DECISION WAS ALSO ISSUED IN EXCESS OF OR WITHOUT JURISDICTION, OR WHERE THE DECISION WAS A PATENT NULLITY;

3. HEREIN RESPONDENTS-SPOUSES ARE NOT ALLOWED BY LAW TO APPEAL FROM THE DECISION OF THE BOARD OF MEDICINE TO THE PROFESSIONAL REGULATION[S] COMMISSION;

4. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING FOR IMPROPER FORUM THE PETITION

FOR REVIEW/PETITION FOR CERTIORARI WITHOUT GOING OVER THE MERITS OF THE GROUNDS RELIED UPON BY THE PETITIONER;

5. PRC'S GRAVE OMISSION TO AFFORD HEREIN PETITONER A CHANCE TO BE HEARD ON APPEAL IS A CLEAR VIOLATION OF HER CONSTITUTIONAL RIGHT TO DUE PROCESS AND HAS THE EFFECT OF RENDERING THE JUDGMENT NULL AND VOID;

6. COROLLARY TO THE FOURTH ASSIGNED ERROR, PRC COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK OF JURISDICTION, IN ACCEPTING AND CONSIDERING THE MEMORANDUM ON APPEAL WITHOUT PROOF OF SERVICE TO HEREIN PETITIONER, AND IN VIOLATION OF ART. IV, SEC. 35 OF THE RULES AND REGULATIONS GOVERNING THE REGULATION AND PRACTICE OF PROFESSIONALS;

7. PRC COMMITTED GRAVE ABUSE OF DISCRETION IN REVOKING PETITIONER'S LICENSE TO PRACTICE MEDICINE WITHOUT AN EXPERT TESTIMONY TO SUPPORT ITS CONCLUSION AS TO THE CAUSE OF RESPONDENT EDITHAT [SIC] RAMOLETE'S INJURY;

8. PRC COMMITTED AN EVEN GRAVER ABUSE OF DISCRETION IN TOTALLY DISREGARDING THE FINDING OF THE BOARD OF MEDICINE, WHICH HAD THE NECESSARY COMPETENCE AND EXPERTISE TO ESTABLISH THE CAUSE OF RESPONDENT EDITHA'S INJURY, AS WELL AS THE TESTIMONY OF THE EXPERT WITNESS AUGUSTO MANALO, M.D.; [and]

9. PRC COMMITTED GRAVE ABUSE OF DISCRETION IN MAKING CONCLUSIONS OF FACTS THAT WERE NOT ONLY UNSUPPORTED BY EVIDENCE BUT WERE ACTUALLY CONTRARY TO EVIDENCE ON RECORD.[22]

The Court will first deal with the procedural issues.

Petitioner claims that the law does not allow complainants to appeal to the PRC from the decision of the Board. She invokes Article IV, Section 35 of the Rules and Regulations Governing the Regulation and Practice of Professionals, which provides:

> Sec. 35. The respondent may appeal the decision of the Board within thirty days from receipt thereof to the Commission whose decision shall be final. **Complainant, when allowed by law, may interpose an appeal from the Decision of the Board within the same period.** (Emphasis supplied)

Petitioner asserts that a careful reading of the above law indicates that while the respondent, as a matter of right, may appeal the Decision of the Board to the Commission, the complainant may interpose an appeal from the decision of the Board only when so allowed by law.[23] Petitioner cited Section 26 of Republic Act No. 2382 or "The Medical Act of 1959," to wit:

> Section 26. *Appeal from judgment.* The decision of the Board of Medical Examiners (now Medical Board) shall automatically become final thirty

> days after the date of its promulgation unless the respondent, during the same period, has appealed to the Commissioner of Civil Service (now Professional Regulations Commission) and later to the Office of the President of the Philippines. If the final decision is not satisfactory, the respondent may ask for a review of the case, or may file in court a petition for *certiorari*.

Petitioner posits that the reason why the Medical Act of 1959 allows only the respondent in an administrative case to file an appeal with the Commission while the complainant is not allowed to do so is double jeopardy. Petitioner is of the belief that the revocation of license to practice a profession is penal in nature.[24]

The Court does not agree.

For one, the principle of double jeopardy finds no application in administrative cases. Double jeopardy attaches only: (1) upon a valid indictment; (2) before a competent court; (3) after arraignment; (4) when a valid plea has been entered; and (5) when the defendant was acquitted or convicted, or the case was dismissed or otherwise terminated without the express consent of the accused.[25] These elements were not present in the proceedings before the Board of Medicine, as the proceedings involved in the instant case were administrative and not criminal in nature. The Court has already held that double jeopardy does not lie in administrative cases.[26]

Moreover, Section 35 of the Rules and Regulations Governing the Regulation and Practice of Professionals cited by petitioner was subsequently amended to read:

> Sec. 35. The **complainant/respondent** may appeal the order, the resolution or the decision of the Board within thirty (30) days from receipt thereof to the Commission whose decision shall be final and executory. Interlocutory order shall not be appealable to the Commission. (Amended by Res. 174, Series of 1990).[27] (Emphasis supplied)

Whatever doubt was created by the previous provision was settled with said amendment. It is axiomatic that the right to appeal is not a natural right or a part of due process, but a mere statutory privilege that may be exercised only in the manner prescribed by law.[28] In this case, the clear intent of the amendment is to render the right to appeal from a decision of the Board available to both complainants and respondents.

Such conclusion is bolstered by the fact that in 2006, the PRC issued Resolution No. 06-342(A), or the New Rules of Procedure in Administrative Investigations in the Professional Regulations Commission and the Professional Regulatory Boards, which provides for the method of appeal, to wit:

> Sec. 1. **Appeal; Period Non-Extendible.-** The decision, order or resolution of the Board shall be final and executory after the lapse of fifteen (15) days from receipt of the decision, order or resolution without an appeal being perfected or taken by either the respondent or the complainant. **A party aggrieved by the decision, order or resolution may file a notice of appeal from the decision, order or resolution of the Board to the Commission within fifteen (15)**