

EN BANC

[G.R. NO. 161357, November 30, 2005]

ELENA P. DYCAICO, PETITIONER, VS. SOCIAL SECURITY SYSTEM AND SOCIAL SECURITY COMMISSION, RESPONDENTS.

D E C I S I O N

CALLEJO, SR., J.:

Before the Court is the petition for review under Rule 45 of the Rules of Court filed by Elena P. Dycaico which seeks to reverse and set aside the Decision^[1] dated April 15, 2003 of the Court of Appeals (CA) in CA-G.R. SP

No. 69632. The assailed decision affirmed the Resolution dated February 6, 2002 of the Social Security Commission (SSC), denying the petitioner's claim for survivor's pension accruing from the death of her husband Bonifacio S. Dycaico, a Social Security System (SSS) member-pensioner. Likewise sought to be reversed and set aside is the appellate court's Resolution dated December 15, 2003, denying the petitioner's motion for reconsideration.

The case arose from the following undisputed facts:

Bonifacio S. Dycaico became a member of the SSS on January 24, 1980. In his self-employed data record (SSS Form RS-1), he named the petitioner, Elena P. Dycaico, and their eight children as his beneficiaries. At that time, Bonifacio and Elena lived together as husband and wife without the benefit of marriage.

In June 1989, Bonifacio was considered retired and began receiving his monthly pension from the SSS. He continued to receive the monthly pension until he passed away on June 19, 1997. A few months prior to his death, however, Bonifacio married the petitioner on January 6, 1997.

Shortly after Bonifacio's death, the petitioner filed with the SSS an application for survivor's pension. Her application, however, was denied on the ground that under Section 12-B(d) of Republic Act (Rep. Act) No. 8282 or the Social Security Law^[2] she could not be considered a primary beneficiary of Bonifacio as of the date of his retirement. The said proviso reads:

Sec. 12-B. *Retirement Benefits.* –

...

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension.

Applying this proviso, the petitioner was informed that the –

Records show that the member [referring to Bonifacio] was considered retired on June 5, 1989 and monthly pension was cancelled upon our receipt of a report on his death on June 19, 1997. In your death claim application, submitted marriage contract with the deceased member shows that you were married in 1997 or after his retirement date; hence, you could not be considered his primary beneficiary.

In view of this, we regret that there is no other benefit due you. However, if you do not conform with us, you may file a formal petition with our Social Security Commission to determine your benefit eligibility.

[3]

On July 9, 2001, the petitioner filed with the SSC a petition alleging that the denial of her survivor's pension was unjustified. She contended that Bonifacio designated her and their children as primary beneficiaries in his SSS Form RS-1 and that it was not indicated therein that only legitimate family members could be made beneficiaries. Section 12-B(d) of Rep. Act No. 8282 does not, likewise, require that the primary beneficiaries be legitimate relatives of the member to be entitled to the survivor's pension. The SSS is legally bound to respect Bonifacio's designation of them as his beneficiaries. Further, Rep. Act No. 8282 should be interpreted to promote social justice.

On February 6, 2002, the SSC promulgated its Resolution affirming the denial of the petitioner's claim. The SSC refuted the petitioner's contention that primary beneficiaries need not be legitimate family members by citing the definitions of "primary beneficiaries" and "dependents" in Section 8 of Rep. Act No. 8282. Under paragraph (k) of the said provision, "primary beneficiaries" are "[t]he dependent spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children ..." Paragraph (e) of the same provision, on the other hand, defines "dependents" as the following: "(1) [t]he legal spouse entitled by law to receive support from the member; (2) [t]he 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) [t]he parent who is receiving regular support from the member." Based on the foregoing, according to the SSC, it has consistently ruled that entitlement to the survivor's pension in one's capacity as primary beneficiary is premised on the legitimacy of relationship with and dependency for support upon the deceased SSS member during his lifetime.

Under Section 12-B(d) of Rep. Act No. 8282, the primary beneficiaries who are entitled to survivor's pension are those who qualify as such as of the date of retirement of the deceased member. Hence, the petitioner, who was not then the legitimate spouse of Bonifacio as of the date of his retirement, could not be considered his primary beneficiary. The SSC further opined that Bonifacio's designation of the petitioner as one of his primary beneficiaries in his SSS Form RS-1 is void, not only on moral considerations but also for misrepresentation. Accordingly, the petitioner is not entitled to claim the survivor's pension under Section 12-B(d) of Rep. Act No. 8282.

Aggrieved, the petitioner filed with the CA a petition for review of the SSC's February 6, 2002 Resolution. In the assailed Decision, dated April 15, 2003, the

appellate court dismissed the petition. Citing the same provisions in Rep. Act No. 8282 as those cited by the SSC, the CA declared that since the petitioner was merely the common-law wife of Bonifacio at the time of his retirement in 1989, his designation of the petitioner as one of his beneficiaries in the SSS Form RS-1 in 1980 is void. The CA further observed that Bonifacio's children with the petitioner could no longer qualify as primary beneficiaries because they have all reached twenty-one (21) years of age. The decretal portion of the assailed decision reads:

WHEREFORE, premises considered, the *Petition* is DISMISSED and the assailed 06 February 2002 *Resolution* of respondent Commission is hereby AFFIRMED *in toto*. No costs.

SO ORDERED.^[4]

The petitioner sought reconsideration of the said decision but in the assailed Resolution dated December 15, 2003, the appellate court denied her motion. Hence, the petitioner's recourse to this Court.

The petitioner points out that the term "primary beneficiaries" as used in Section 12-B(d) of Rep. Act No. 8282 does not have any qualification. She thus theorizes that regardless of whether the primary beneficiary designated by the member as such is legitimate or not, he or she is entitled to the survivor's pension. Reliance by the appellate court and the SSC on the definitions of "primary beneficiaries" and "dependents" in Section 8 of Rep. Act No. 8282 is allegedly unwarranted because these definitions cannot modify Section 12-B(d) thereof.

The petitioner maintains that when she and Bonifacio got married in January 1997, a few months before he passed away, they merely intended to legalize their relationship and had no intention to commit any fraud. Further, since Rep. Act No. 8282 is a social legislation, it should be construed liberally in favor of claimants like the petitioner. She cites the Court's pronouncement that "the sympathy of the law on social security is toward its beneficiaries, and the law, by its own terms, requires a construction of utmost liberality in their favor."^[5]

The SSS, on the other hand, contends that Section 12-B(d) of Rep. Act No. 8282 should be read in conjunction with the definition of the terms "dependents" and "primary beneficiaries" in Section 8 thereof. Since the petitioner was not as yet the legal spouse of Bonifacio at the time of his retirement in 1989, she is not entitled to claim the survivor's pension accruing at the time of his death. The SSS insists that the designation by Bonifacio of the petitioner and their illegitimate children in his SSS Form RS-1 is void.

According to the SSS, there is nothing in Rep. Act No. 8282 which provides that "should there be no primary or secondary beneficiaries, the benefit accruing from the death of a member should go to his designated common-law spouse" and that "to rule otherwise would be to condone the designation of common-law spouses as beneficiaries, a clear case of circumventing the SS Law and a violation of public policy and morals."^[6] Finally, the SSS is of the opinion that Section 12-B(d) of Rep. Act No. 8282 is clear and explicit; hence, there is no room for its interpretation, only for application.

In the Resolution dated July 19, 2005, the Court required the parties, as well as the

Office of the Solicitor General, to file their respective comments on the issue of whether or not the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 violates the equal protection and due process clauses of the Constitution. The Court believes that this issue is intertwined with and indispensable to the resolution of the merits of the petition.

In compliance therewith, in its comment, the SSC argues that the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 does not run afoul of the equal protection clause of the Constitution as it merely determines the reckoning date of qualification and entitlement of beneficiaries to the survivorship pension. It asserts that this classification of beneficiaries is based on valid and substantial distinctions that are germane to the legislative purpose of Rep. Act No. 8282.

The SSC also impugns the marriage of the petitioner to Bonifacio after his retirement stating that it was contracted as an afterthought to enable her to qualify for the survivorship pension upon the latter's death. It further alleges that there is no violation of the due process clause as the petitioner was given her day in court and was able to present her side.

The SSS filed its separate comment and therein insists that the petitioner was not the legitimate spouse of the deceased member at the time when the contingency occurred (his retirement) and, therefore, she could not be considered a primary beneficiary within the contemplation of Rep. Act No. 8282. The SSS posits that the statute's intent is to give survivorship pension only to primary beneficiaries at the time of the retirement of the deceased member. Rep. Act No. 8282 itself ordains the persons entitled thereto and cannot be subject of change by the SSS.

The Solicitor General agrees with the stance taken by the SSS that the proviso "as of the date of his retirement" merely marks the period when the primary beneficiary must be so to be entitled to the benefits. It does not violate the equal protection clause because the classification resulting therefrom rests on substantial distinctions. Moreover, the condition as to the period for entitlement, *i.e.*, as of the date of the member's retirement, is relevant as it set the parameters for those availing of the benefits and it applies to all those similarly situated. The Solicitor General is also of the view that the said proviso does not offend the due process clause because claimants are given the opportunity to file their claims and to prove their case before the Commission.

For clarity, Section 12-B(d) of Rep. Act No. 8282 is quoted anew below:

Sec. 12-B. *Retirement Benefits.* –

...

(d) Upon the death of the retired member, his primary beneficiaries as of the date of his retirement shall be entitled to receive the monthly pension. ...

Under Section 8(k) of the same law, the "primary beneficiaries" are:

1. The dependent spouse until he or she remarries; and
2. The dependent legitimate, legitimated or legally adopted, and illegitimate children.

Further, the "dependent spouse" and "dependent children" are qualified under paragraph (e) of the same section as follows:

1. The legal spouse entitled by law to receive support until he or she remarries; and
2. The dependent 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 years of age, he is congenitally or while still a minor has been permanently incapacitated and incapable of self-support, physically or mentally.

The SSS denied the petitioner's application for survivor's pension on the sole ground that she was not the legal spouse of Bonifacio "as of the date of his retirement;" hence, she could not be considered as his primary beneficiary under Section 12-B(d) of Rep. Act No. 8282.

The Court holds that the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282, which qualifies the term "primary beneficiaries," is unconstitutional for it violates the due process and equal protection clauses of the Constitution.^[7]

In an analogous case, *Government Service Insurance System v. Montesclaros*,^[8] the Court invalidated the proviso in Presidential Decree (P.D.) No. 1146^[9] which stated that "the dependent spouse shall not be entitled to said pension if his marriage with the pensioner is contracted within three years before the pensioner qualified for the pension." In the said case, the Court characterized retirement benefits as property interest of the pensioner as well as his or her surviving spouse. The proviso, which denied a dependent spouse's claim for survivorship pension if the dependent spouse contracted marriage to the pensioner within the three-year prohibited period, was declared offensive to the due process clause. There was outright confiscation of benefits due the surviving spouse without giving him or her an opportunity to be heard. The proviso was also held to infringe the equal protection clause as it discriminated against dependent spouses who contracted their respective marriages to pensioners within three years before they qualified for their pension.

For reasons which shall be discussed shortly, the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 similarly violates the due process and equal protection clauses of the Constitution.

The proviso infringes the equal protection clause

As illustrated by the petitioner's case, the proviso "as of the date of his retirement" in Section 12-B(d) of Rep. Act No. 8282 which qualifies the term "primary beneficiaries" results in the classification of dependent spouses as primary beneficiaries into two groups:

- (1) Those dependent spouses whose respective marriages to SSS members were contracted *prior* to the latter's retirement; and