

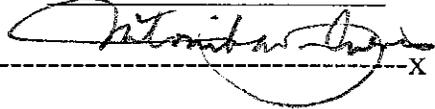
EN BANC

G.R. No. 253940 – BELINDA D.R. DOLERA, Petitioner, v. SOCIAL SECURITY SYSTEM, Respondent.

Promulgated:

October 24, 2023

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CONCURRING OPINION

CAGUIOA, J.:

I fully concur in the *ponencia* that the proviso “as of the date of disability” in Section 13-A(c) of Republic Act (R.A.) No. 8282¹ is void for violating the equal protection and the due process clauses of the Constitution.

As aptly described by the *ponencia*, R.A. No. 8282 is a social welfare legislation that is established to promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden.² In this regard, in ruling on the threshold issue of constitutionality of the proviso in Section 13-A(c) of R.A. No. 8282, the Court has to apply only the rational basis scrutiny. Rational basis scrutiny is applied to legislative or executive acts that have the general nature of economic or social welfare legislation.³ In our jurisdiction, the standard analysis of equal protection challenges, in particular, have generally followed the rational basis test, coupled with a deferential attitude to legislative classifications and a reluctance to invalidate a law, unless there is a showing of a clear and unequivocal breach of the Constitution.⁴ This “deference” comes from the recognition that classification is often an unavoidable element of the task of legislation which, under the separation of powers embodied in our Constitution, is primarily the prerogative of Congress.⁵

It is important to emphasize, however, that the deferential treatment of the Court is not absolute. The duty and power of the Court under the lens of rational basis is not intended as an intrusion into the wisdom of the

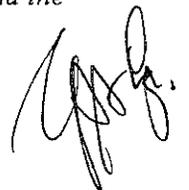
¹ An Act Further Strengthening the Social Security System Thereby Amending for this Purpose, Republic Act No. 1161 as Amended, Otherwise Known as the Social Security Law, approved on May 1, 1997.

² See *ponencia*, p. 7, citing Sec. 2 of R.A. No. 8282.

³ J. Nachura, Concurring and Dissenting Opinion in *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374 (2010).

⁴ *Central Bank (Now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. BSP and the Executive Secretary*, 487 Phil. 531 (2004).

⁵ J. Carpio-Morales, Dissenting Opinion in *Central Bank Employees Association, Inc. v. BSP and the Executive Secretary*, *id.*



legislature, but to correct any arbitrariness that may have attended the crafting of the law.⁶ While the Court recognizes Congress' wide discretion in providing for a valid classification, the deference stops where the classification violates a fundamental right, or prejudices persons accorded special protection by the Constitution. When these violations arise, the Court must discharge its primary role as the vanguard of constitutional guaranties, and require a stricter and more exacting adherence to constitutional limitations. Rational basis should not suffice.⁷

Here, the assailed proviso reckons the eligibility of primary beneficiaries to the survivorship benefits of the permanent total disability pensioner from the date of his or her disability. In the case of herein petitioner Belinda Dolera (Belinda), she was not considered by respondent Social Security Service (SSS) as a qualified primary beneficiary of her late husband, Leonardo, **despite** being his lawful wife, on the ground that they only got married after his permanent disability in 1980. Following the leading case of *Dycaico v. SSS*⁸ (*Dycaico*), the *ponencia* correctly observes that the assailed proviso creates two (2) groups of spouses: (1) those whose respective marriages to SSS members were contracted *prior* to the latter's disability; and (2) those whose respective marriages to SSS members were contracted *after* the latter's disability.⁹ In *Dycaico*, the Court concluded that while classifications such as these both refer to valid marriages and legitimate spouses, they do not rest on real and substantial distinctions.

To be sure, the equal protection clause permits classification. It does not require the universal application of the laws to all persons or things without distinction. What it simply requires is equality among equals as determined according to a valid classification. However, for such classification to be valid, it must pass the test of reasonableness. The test has four requisites: (1) The classification rests on substantial distinctions; (2) It is germane to the purpose of the law; (3) It is not limited to existing conditions only; and (4) It applies equally to all members of the same class.¹⁰

As with *Dycaico*, the proviso in Section 13-A(c) fails the second requisite above. The proviso clearly intends to also prevent the possibility of marriages entered after incurring a permanent disability for the dishonorable and fraudulent purpose of obtaining benefits. However, classifying dependent spouses and determining their entitlement to survivor's pension based on whether the marriage was contracted before or after the disability of the other spouse, **regardless of the duration of the said marriage**, also bears no conceivable relation to the achievement of the policy objective of R.A. No. 8282 "to provide meaningful protection to members and their

⁶ See *id.*

⁷ *Central Bank Employees Association, Inc. v. BSP and the Executive Secretary*, *supra* note 4.

⁸ 513 Phil. 23 (2005).

⁹ See *ponencia*, pp. 8-9.

¹⁰ See *Biraogo v. The Philippine Truth Commission of 2010*, *supra* note 3.



beneficiaries against the hazard of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burden.” Hewing again to the illustration given in *Dycaico*, it may happen that an SSS member who qualified for a permanent disability benefit at a relatively young age may decide to marry subsequently and henceforth remain married for a long time before death. Despite this, his or her surviving spouse would not be entitled to the survivorship benefits since he or she is not a primary beneficiary as of the date of disability of the SSS member following Section 13-A(c) of R.A. No. 8282. The arbitrariness and discriminatory nature of the assailed proviso is, at once, apparent.

Furthermore, the assailed proviso offends the due process clause of the Constitution for creating a conclusive presumption against spouses whose respective marriages to the SSS members were contracted *after* the latter’s disability.

In another seminal case also cited in the *ponencia*, *GSIS, Cebu City Branch v. Montesclaros*,¹¹ the Court significantly held that in a pension plan where employee participation is mandatory, the prevailing view is that employees have contractual or vested rights in the pension where the pension is part of the terms of employment. Retirees enjoy a protected property interest whenever they acquire a right to immediate payment under pre-existing law.¹² Thus, where the employee retires and meets the eligibility requirements, he or she acquires a vested right to benefits that is protected by the due process clause. The Court extended this protection to benefits likewise provided and guaranteed under the relevant law in said case, Presidential Decree No. 1146,¹³ or the “Revised Government Insurance Act of 1977,” to survivors of deceased government employees and pensioners. Since a dependent spouse is one of the beneficiaries of survivorship benefits under the law, the Court determined that a widower’s or widow’s right to receive pension following the demise of his or her spouse is also part of the latter’s contractual compensation.

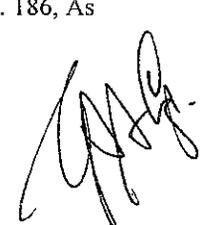
Here, it is also compulsory upon all employees not over 60 years of age and their employers to be covered by the SSS. Section 18 of R.A. No. 8282 provides for the mandatory deductions and withholding of the employee’s contribution by the employer, while Section 19 of R.A. No. 8282 provides for the mandatory payment by an employer of his or her contribution as well. Considering, therefore, the mandatory salary deductions from covered employees, the pensions do not constitute mere gratuity but form part of compensation.¹⁴ Simply put, these pensions are vested property rights of retired employees or their primary beneficiaries that are protected by Section 1, Article III of the Constitution, which

¹¹ 478 Phil. 573 (2004).

¹² *Id.*

¹³ Amending, Expanding, Increasing and Integrating the Social Security and Insurance Benefits of Government Employees and Facilitating the Payment Thereof Under Commonwealth Act No. 186, As Amended, and for Other Purposes, approved on May 31, 1977.

¹⁴ See *GSIS, Cebu City Branch v. Montesclaros*, *supra* note 11.



provides that “no person shall be deprived of life, liberty or property without due process of law.”

In striking down the proviso in *Dycaico*, which reckoned the eligibility of the primary beneficiaries to receive the pension of the deceased SSS member from the date of the latter’s retirement, the Court explained that it makes an outright confiscation of benefits due a surviving spouse, whose marriage with a retired SSS member was contracted after the latter’s retirement, without an opportunity to be heard. The proviso, according to the Court, created the presumption that marriages contracted after the retirement date of SSS members were entered into for the purpose of securing the benefits under R.A. No. 8282. Worse, it was a conclusive presumption because surviving spouses were not afforded any opportunity to disprove the presence of the illicit purpose. The proviso thusly presumed a fact which was not necessarily or universally true. As the Court pointed out, such kind of presumption was characterized in the United States as an “irrebuttable presumption,” and statutes creating permanent and irrebuttable presumptions have long been disfavored under the due process clause.

The situation of the petitioner in *Dycaico* squarely applies to herein petitioner as well. In *Dycaico*, therein petitioner’s late husband retired under the SSS Law in 1989 when they were still merely co-habiting. In January 1997, petitioner *Dycaico* and her husband finally got married; however, her husband died a few months thereafter in June 1997. The Court gave credence to *Dycaico*’s explanation that her marriage to her husband was intended to legalize their relationship and not to commit fraud. The Court observed that they, in fact, had been living together since 1980 and their eldest child during that time was already 24 years old.

In the instant case, Belinda and Leonardo were common-law spouses in 1979, a year before Leonardo became disabled and started receiving his permanent total disability pension from the SSS. In 1981, they got married and lived together as husband and wife for 28 years until the death of Leonardo in 2009. Surely, their marriage, much like that of the *Dycaicos*’, can hardly qualify as a sham that was merely entered into for the sole purpose of obtaining benefits upon the anticipated death of the other spouse.¹⁵ The SSS, however, automatically disqualified Belinda from being considered as his primary beneficiary pursuant to the assailed proviso in Section 13-A(c) of R.A. No. 8282 alone, which reckons the eligibility of primary beneficiaries to the survivorship benefits from the date of the pensioner’s disability. In short, Belinda was not afforded the chance to present evidence to prove that her marriage to her husband was contracted in good faith and that she is his *bona fide* primary beneficiary to his survivor’s pension. Consequently, Belinda was deprived of the survivor’s benefits, a property interest.

¹⁵ See *Dycaico v. SSS*, *supra* note 8.



All told, I agree with the *ponencia* in declaring as void the proviso “as of the date of disability” in Section 13-A(c) of R.A. No. 8282 for violating the equal protection clause and the right to due process of Belinda and those similarly situated dependent spouses of retired SSS members. The reckoning point in determining the beneficiaries of Leonardo should be the time of his death and not the time of his disability.

It is well to remember that in cases involving social legislation, doubts should be liberally construed in favor of the intended beneficiary of the law.¹⁶ As the Court has emphasized, time and again, retirement laws, specifically, are liberally construed in favor of the retiree because their objective is to provide for the retiree’s sustenance and, hopefully, even comfort, when he or she no longer has the capability to earn a livelihood.¹⁷ It goes without saying that this rationale holds true for the retiree’s dependent beneficiaries.

Finally, I agree further that the SSS should process the claim of Belinda for survivorship pension in accordance with the *ponencia*. In this regard, however, the favorable grant thereof to Belinda is not *ipso facto*, in the absence of established substantial evidence that she is the one entitled thereto.¹⁸ Under R.A. No. 8282, the spouse becomes the primary beneficiary of the SSS member if he or she is dependent on the latter during his or her lifetime, continues to be so after the SSS member’s death, and remains unmarried. Thus, in *SSS v. Aguas*,¹⁹ the Court held that a claimant to a survivorship pension must show his or her qualification as a primary beneficiary:

On the claims of Rosanna, it bears stressing that for her to qualify as a primary beneficiary, she must prove that she was “the legitimate spouse dependent for support from the employee.” **The claimant-spouse must therefore establish two qualifying factors: (1) that she is the legitimate spouse, and (2) that she is dependent upon the member for support.** In this case, Rosanna presented proof to show that she is the legitimate spouse of Pablo, that is, a copy of their marriage certificate which was verified with the civil register by petitioner. **But whether or not Rosanna has sufficiently established that she was still dependent on Pablo at the time of his death remains to be resolved. Indeed, a husband and wife are obliged to support each other, but whether one is actually dependent for support upon the other is something that has to be shown; it cannot be presumed from the fact of marriage alone.**

In a parallel case involving a claim for benefits under the GSIS law, the Court defined a *dependent* as “one who derives his or her main support from another. Meaning, relying on, or subject to, someone else for support; not able to exist or sustain oneself, or to perform anything without the will, power, or aid of someone else.” It should be noted that the GSIS law likewise defines a *dependent spouse* as “the legitimate

¹⁶ *Salabe v. Social Security Commission, et al.*, 880 Phil. 29, 59 (2020).

¹⁷ *Id.*, citing *Philippine National Bank v. Dalmacio*, 813 Phil. 127, 138 (2017).

¹⁸ *See SSS v. Aguas, et al.*, 518 Phil. 538 (2006).

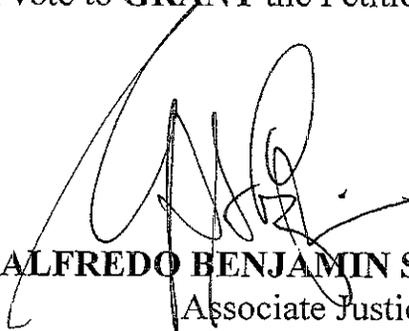
¹⁹ *Id.*



spouse dependent for support upon the member or pensioner.” In that case, the Court found it obvious that a wife who abandoned the family for more than 17 years until her husband died, and lived with other men, was not dependent on her husband for support, financial or otherwise, during that entire period. Hence, the Court denied her claim for death benefits.²⁰ (Emphasis and underscoring supplied; Italics in the original)

As the facts of the case show that the claim of Belinda was denied solely on the basis of Section 13-A(c) of R.A. No. 8282, her qualification as a dependent spouse has not yet been determined and must perforce be established by the SSS.

In view of the foregoing, I vote to **GRANT** the Petition.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

²⁰ *Id.* at 553–554. Citations omitted.