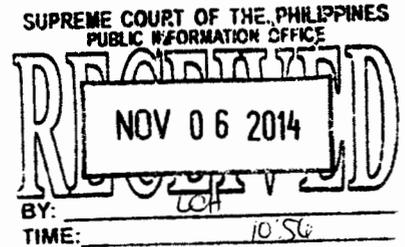




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **September 29, 2014**, which reads as follows:*

“G.R. No. 206674 (Erlinda V. Alvarez II, attorney-in-fact for Rachel V. Alvarez, et. al. v. Sun Life of Canada [Philippines], Inc.) – On December 1, 2003, respondent Sun Life of Canada (Philippines), Inc. issued Participating Life Insurance Policy No. 031376350 to petitioner Erlinda V. Alvarez II covering the life of her mother Erlinda V. Alvarez, the insured, with a face value of ₱500,000.00 payable upon the death of said insured.¹ Since the insured was found to have been suffering from high blood pressure, she was classified as high-risk, which required petitioner to pay a higher premium.

On April 27, 2005, the insured passed away. Thereafter, respondent sent petitioner a letter dated April 29, 2005 requiring the submission of documents to facilitate her claim under the policy, one of which was an authorization of any physician, medical practitioner, hospital, other medical or medically-related facility who has attended to the insured to give the respondent details on the prior medical history thereof.²

Discovering several medical conditions which pre-dated the application for the policy, respondent sent petitioner another letter dated September 13, 2005, declaring the policy void and denying petitioner’s claim therefrom.³ Specifically, it discovered that in 2003, the insured sought consultations with the following: (1) University of Santo Tomas (UST) Hospital, which found her to be suffering from stable angina, atherosclerosis, and lateral wall ischemia; and (2) AIM Imaging Medical Services, which likewise found her to be suffering from lateral wall ischemia. Respondent explained that had it been informed of the foregoing medical history in the insured’s application for insurance at the time of the application for the policy, it would have issued the same with a higher rating. It stated, however, that the premiums paid by petitioner will be refunded.

¹ *Rollo*, p. 8.

² *Id.*

³ *Id.* at 9.

On December 6, 2005, petitioner, through its counsel, nevertheless sent a letter to respondent demanding the payment of the insurance claim on the policy, which respondent further denied. Disgruntled, petitioner filed a complaint, on December 18, 2006, for breach of contract and damages against respondent before the Regional Trial Court (RTC) of Makati City.

In its Decision⁴ dated June 30, 2011, the RTC found no concealment or misrepresentation on the part of the insured and ruled in favor of petitioner. It held that the insured was able to disclose to respondent her general condition when she gave affirmative answers to the following questions: (1) have you ever had, been told to have, or sought advice for: a.) high blood pressure, chest pain/discomfort, heart murmur, stroke, circulatory or heart disorder?; (2) other than previously stated, have you, within the past 5 years: a.) consulted any doctor or other health practitioner?; b.) submitted to ECG, X-rays, blood tests or other test?; and (3) have any of your parents, brothers, or sisters had high blood pressure or diabetes prior to age 60 or any hereditary disorder? Moreover, the insured provided specifications thereto in stating that she was discovered to have high blood pressure in 1995; her last general check-up in Makati Medical Center in 2003 showed normal results, except for a slight increase in her cholesterol; she started taking lecit E at the age of 50; and that both her parents were discovered to have high blood pressure before the age of 60 and died of a stroke while her brother died of liver cirrhosis. Hence, according to the RTC, the affirmative answers negated the existence of concealment and should have prompted respondent to further examine the health of the insured.

On appeal, however, the Court of Appeals (CA), on December 14, 2012, reversed the lower court's Decision.⁵ It ruled that the insured's concealment of her chest pain, lateral wall ischemia, and stable angina entitled respondent to rescind the contract of insurance, especially because the information that the insured failed to disclose were material and relevant to the approval and issuance of the insurance policy. Respondent's acceptance of the premiums paid by petitioner, according to the CA, cannot be deemed as a waiver of its right to rescind the contract. Furthermore, it took into consideration the two-year incontestability clause in the contract of insurance and held that since the insured died on April 27, 2005, the incontestability period of two years from the issuance of the policy on December 1, 2003 had not yet set in. Thus, respondent was not barred from rescinding the contract on the ground of concealment or misrepresentation.

Aggrieved, petitioner filed the instant Petition for Review denying the CA's finding of concealment and reiterating the findings of the RTC that the affirmative answers of the insured in her application should have prompted respondent to further examine the health of the insured.

⁴ Penned by Judge Eugene C. Paras, *id.* at 67-76.

⁵ Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Rosalinda Asuncion-Vicente and Agnes Reyes-Carpio, concurring; *id.* at 7-16.

The petition lacks merit.

Section 27 of the Insurance Code provides that a concealment, whether intentional or unintentional, entitles the injured party to rescind a contract of insurance. Concealment, according to the same Code, is a neglect to communicate that which a party knows and ought to communicate. A party to an insurance contract, therefore, is obliged to communicate all facts within his knowledge which are material to the same, to be determined by the probable and reasonable influence of the facts upon the party to whom the communication is due, in forming his estimate of the disadvantages of the proposed contract, or in making his inquiries.⁶

In the case at hand, it is undisputed that prior to the approval of the insured's insurance policy and during the stage of her application, she did not disclose the fact that she consulted with the UST Hospital and the AIM Imaging Medical Services which diagnosed her to be suffering from stable angina, atherosclerosis, and lateral wall ischemia. Such fact, as the CA aptly noted, is material to the contract in view of its effect on the respondent in forming its estimate of whether to deny or approve the application as well as in prescribing the amount of premium thereon.

Given this materiality of the UST Hospital's and AIM's findings, the insured was necessarily obliged to disclose the same to respondent. She, however, failed to do so. In her defense, the RTC ruled that the affirmative answers to the questions found in her application sufficiently gave respondent her general condition and thus, negated the existence of concealment.

We disagree. The fact that the insured gave affirmative answers in the application form does not relieve her from the obligation to disclose the diagnoses of the UST Hospital and AIM. It must be noted that while she admitted in her application form that she had consulted with a doctor within the past 5 years, she only disclosed her general check-up in Makati Medical Center in 2003 which showed normal results except for a slight increase in her cholesterol and nothing more. If she was able to provide information thereon, we do not see why she was unable to disclose her consultations with the UST Hospital and the AIM, which were all made in the same year of 2003. No explanation was given to clarify the same. This concealment, therefore, by insured effectively entitled respondent to rescind the contract of insurance.

Furthermore, We agree with the CA in holding that respondent was not barred from rescinding the contract on the ground of concealment in light of the two-year incontestability clause in the contract of insurance,

⁶ Sections 28 and 31 of the Insurance Code.

which is in accordance with Section 48 of the Insurance Code.⁷ The insured herein died on April 27, 2005 while the insurance policy was issued on December 1, 2003. Hence, since the incontestability period of two years had not yet set in, respondent was not barred from rescinding the contract on the ground of concealment or misrepresentation, receipt of premium payments from petitioner, notwithstanding.⁸

WHEREFORE, premises considered, the petition is **DENIED** for failure of petitioners to show any reversible error in the assailed CA decision.

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
 Division Clerk of Court
 10/17/14

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The Presiding Judge
 REGIONAL TRIAL COURT
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 (Civil Case No. 06-1080)

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⁷ Section 48 of the Insurance Code provides:
 Sec. 48. Whenever a right to rescind a contract of insurance is given to the insurer by any provision of this chapter, such right must be exercised previous to the commencement of an action on the contract.

After a policy of life insurance made payable on the death of the insured shall have been in force during the lifetime of the insured for a period of two years from the date of its issue or of its last reinstatement, the insurer cannot prove that the policy is void ab initio or is rescindible by reason of the fraudulent concealment or misrepresentation of the insured or his agent.

⁸ *Florendo v. Philam Plans, Inc.*, G.R. No. 186983, February 22, 2012, 666 SCRA 618, 628.