SECOND DIVISION

G.R. No. 209741 – SOCIAL SECURITY COMMISSION, Petitioner, **v. EDNA A. AZOTE,** Respondent.

Promulgated:

15 APR 2015

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DISSENTING OPINION

LEONEN, *J.*:

We are asked in this case to sustain the action of the Social Security Commission as it makes conjectures and then proceeds to adjudicate on the marital status of a claimant. There is no conflicting claim made against respondent Edna Azote's claim. We are asked to sustain an action by the Social Security Commission against an individual much in need of financial succor who is asking the State to honor the declaration of a beneficiary of one who has since deceased.

I, thus, disagree with the ponencia in disallowing the claim of Edna Azote (Edna) for death benefits on the ground that she failed to sufficiently establish the legality of her marriage to deceased Social Security System member Edgardo Azote in consideration of his first marriage to Rosemarie (the designated wife in the 1982 Form E-4).

The latest Form E-4 (1994) submitted by the deceased to the Social Security System prior to his death designated Edna as his wife-beneficiary. In my view, the 1994 Form E-4 should supersede the earlier one. As correctly ruled by the Court of Appeals, the 1994 Form E-4 designating Edna as his wife manifested the deceased's intention to revoke his formal declaration in the 1982 Form E-4.

This conclusion is consistent with Section 24 (c) of Republic Act No. 8282,[1] which states that "records and reports duly accomplished and submitted to the Social Security System by the employer or the member . . . [are] presumed correct as to the data and other matters stated therein . . . [and will be] made the basis for the adjudication of the claim"[2] *unless*

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[1] Rep. Act No. 8282 (1997), 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.

[2] Rep. Act No. 8282 (1997), sec. 24 (c).

corrected before the right to the benefit being claimed accrued.[3] There is nothing in Republic Act No. 8282 expressly prohibiting the change of beneficiary. On the contrary, Section 24 (c), by implication, acknowledges a member's right to change beneficiaries.

Social security benefits are paid to members (or their beneficiaries) by reason of their membership in the System for which they contribute their money to a general common fund.[4] These benefits ripen as vested rights of members and their declared so that they are assured minimum financial assistance whenever the hazards of disability, sickness, old age, and death provided for in the law occur.[5] As a property interest of the member under compulsory coverage of Republic Act No. 8282,[6] *a member's designation of a beneficiary in his Form E-4 should not easily be set aside, absent any adverse claim, in the distribution of the death benefits under the law.*

In *Tecson v. SSS,*[7] this court allowed Tecson — a friend and co-worker of the deceased — to claim the death benefits giving regard to the deceased's express desire to extend the benefits of his contributions to his friend and co-worker, to the exclusion of his wife:

> It should be remembered that the benefits or compensation allowed an employee or his beneficiary under the provisions of the Social Security Act are paid out of funds which are contributed in part by the employees and in part by the employers' (commercial or industrial companies members of the System). . . . As these funds are obtained from the employees and the employers, without the Government having contributed any portion thereof, it would be unjust for the System to refuse to pay the benefits to those whom the employee has designated as his beneficiaries. The contribution of the employee is his money; the contribution of the employer is for the benefit of the employee. Hence the beneficiary should primarily be the one to profit by such contributions. This is what is expressly provided in above-quoted Section 13 of the law.
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> It should also be noted that the Social Security System is not a law of succession. Its purpose is to provide social security, which means funds for the beneficiary, if the employee dies, or for the employee himself and his dependents if he is unable to perform his task because of illness or disability, or is laid off by reason of the termination of the employment, or because of temporary lay-off due to strike, etc. It should also be remembered that the beneficiaries of the System are those who are dependent upon the employee for support. . . .
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3 Rep. Act No. 8282 (1997), sec. 24 (c).

4 *Valencia v. Manila Yacht Club,* 138 Phil. 761 (1969) [Per J. Reyes, J.B.L., En Banc], *citing Rural Transit Employees Association, et al. v. Bachrach Transportation Co., Inc., et al.*, 129 Phil. 503 [Per J. Reyes, J.B.L., En Banc].

5 *Benguet Consolidated Inc. v. SSS,* 119 Phil. 890 (1964) [Per J. Barrera, En Banc].

6 *Dycaico v. Social Security System,* 513 Phil. 23 (2005) [Per J. Callejo, Sr., En Banc]. *See also GSIS v. Montesclaros*, 478 Phil. 573 (2004) [Per J. Carpio, En Banc].

7 113 Phil. 703 (1961) [Per J. Labrador, En Banc].

> . . . It was subsequently known that Lim Hoc had a wife and children in Communist China; the omission by him of their existence and names in the records of the employer must have been due to the fact that they were not at the time, at least, dependent upon him. If they were actually dependents, their names would have appeared in the record of the employer. The absence in the record of his employee of their existence and names must have been due to the lack of communication, of which We can take judicial notice, between Communist China and the Philippines, or to the express desire of Lim Hoc to extend the benefits of his contributions to the System to his "friend and co-worker", to the exclusion of his wife[.]

Edna established her right to the benefits through substantial evidence. She presented her marriage certificate and the baptismal certificates of her children. Being public documents, these constitute *prima facie* proof of their contents, and, therefore, her claim to death benefits as legal wife and dependent of Edgardo should have been approved.[8]

SSS v. Vda. De Bailon[9] cites Arturo M. Tolentino, a recognized authority in civil law, as having commented:

> Where a person has entered into two successive marriages, a presumption arises in favor of the validity of the second marriage, and the burden is on the party attacking the validity of the second marriage to prove that the first marriage had not been dissolved; it is not enough to prove the first marriage, for it must also be shown that it had not ended when the second marriage was contracted. *The presumption in favor* of the innocence of the defendant from crime or wrong and *of the legality of his second marriage, will prevail over the presumption of the continuance of life of the first spouse or of the continuance of the marital relation with such first spouse.*[10] (Emphasis supplied)

There was yet no attack on the validity of the deceased's marriage to Edna. No adjudicatory process was pending. Certainly the Social Security Commission was not invoked as the forum to test the validity of her marriage. The validity of that marriage passed unchallenged. No right was asserted by the proper real party in interest under the superceded forms submitted by the claimant. The Social Security System *motu proprio* conducted its investigation based solely on the conflicting information in the 1982 and 1994 forms submitted by the deceased. It made pronouncements

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8 In *Suarnaba v. Workmen's Compensation Commission*, 175 Phil. 8 (1978) [Per J. Santos, Second Division], this court held that the parish certificate attesting to the marriage of petitioner and the deceased, other parol evidence, and the presumption that "a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage" clearly show that the petitioner is the legal wife of the deceased employee and, therefore, her claim to compensation benefits as legal wife and dependent of the deceased should have been approved, especially where no other person claimed to be the wife of the deceased employee.

9 529 Phil. 249 (2006) [Per J. Carpio Morales, Third Division].

10 Id. at 262–263, *citing* 1 A. TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 282 (1999 ed.).

without any complaint and without affording all the parties the usual due process rights accorded to them. It made a judgment as to the marital status of the claimant when it did not have jurisdiction to do so. This action is null and void many times over.

In these circumstances, the presumption in favor of the validity of the second marriage must prevail, and sound reason requires that it be not lightly impugned and discredited by the alleged prior marriage stated in the 1982 Form E-4.

The Social Security Commission cited *SSS v. De Los Santos*[11] and *Signey v. SSS*[12] to justify its position that it can pass upon the validity of marriages to determine who are entitled to social security benefits. However, in those cases, there were two conflicting claimants both claiming to be wives of the deceased, although in *Signey*, the first wife subsequently executed a waiver of the benefits being claimed. The Commission necessarily had to rule on the validity of marriages in order to determine who had a better right to the death benefits.

There is only one claimant in this case. No one contests her claim.

The question on the validity of Edna's designation as wife-beneficiary or the legality of her marriage to the deceased is not yet upon us. The alleged first wife has neither challenged the same nor claimed death benefits, and thus, there appears to be no controversy yet. We are asked to disturb their domestic peace. Certainly, this amounts to unreasonable state intrusion on the autonomy that we should respect in intimate relationships. Their inherent rights to privacy must impose on us the deserved judicial restraint from making a determination on this matter. Ruling on the validity of Edna's marriage to the deceased would be premature and anticipatory.

These cases are problematic because of the absence of a divorce law.

Divorce is not alien in our jurisdiction. Our new Civil Code has repealed the earlier provisions on divorce, which we used to have under Act No. 2710 on grounds of conjugal infidelity of one spouse.[13] Divorce

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11 585 Phil. 684 (2008) [Per J. Reyes, R. T., Third Division].

12 566 Phil. 617 (2008) [Per J. Tinga, Second Division].

13 Act No. 2710 (1917), An Act to Establish Divorce.

Sec. 1. A petition for divorce can only be filed for adultery on the part of the wife or concubinage on the part of the husband, committed in any of the forms described in article four hundred and thirty-seven of the Penal Code.

. . . .

Sec. 11. The dissolution of the bonds of matrimony shall have the following effects:

First. The spouses shall be free to marry again.

Second. The minor children shall remain in the custody of the innocent spouse unless otherwise directed by the court in the interest of said minors, for whom said court may appoint a guardian.

between Filipinos has remained unrecognized even under the Family Code of the Philippines.[14]

Instead of divorce, the present Family Code only provides for *legal separation* (Title II),[15] and even this expressly prescribes that "the marriage bonds shall not be severed."[16] Under our present laws, the extinguishment of a valid marriage must be grounded only upon the death of either spouse or that which is expressly provided by law (for defective marital unions).[17] In the alternative, estranged couples undergo the expensive labyrinth of claiming "psychological incapacity" under article 36 of the Family Code to be awarded an order to declare their marriage a nullity ab initio.

There are many second marriages like that of Edgardo and Edna, which was celebrated in Legazpi City and accepted by all parties concerned. They have lived together as husband and wife without issue for 13 long years until the husband's death in 2005. By all indications, they have established a strong family foundation. This case shows that without divorce, our laws remain insensitive to a multitude of intimate relations. As people with autonomous and private choices that do no harm to society, they are wholly and immoderately disregarded. This case, like many others, should be basis for Congress to seriously consider the respect due to voluntary adult choices of our people. A divorce law is no longer a luxury; it has become a just and inevitable necessity.

ACCORDINGLY, I vote to **DENY** the Petition. The Decision dated August 13, 2013 and Resolution dated October 29, 2013 of the Court of Appeals should be **AFFIRMED**.

MARVIC M.V.F. LEONEN
Associate Justice

Third. The children shall, with regard to their parents, retain all rights granted to them by law as legitimate children; but upon the partition of the estate of said parents they shall bring to collation everything received by them under the provisions of the second paragraph of section nine.

14 Exec. Order No. 209 (1987), The Family Code of the Philippines.

15 Exec. Order No. 209 (1987), Title II.

16 Exec. Order No. 209 (1987), Title II, art. 63 (1).

17 Exec. Order No. 209 (1987), Title I, chapter 3. Void and Voidable Marriages.