



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 14, 2023**, which reads as follows:*

“G.R. No. 244245 (*Emmanuel S. Pascua, in his own behalf and as guardian of minor Christian Kay Pascua, Justo Emmanuel Pascua, Ma. Cristina Pascua, and Jason Russel Pascua v. Social Security System, Marikina Branch, represented by Emma J. Enriquez*).— Repugned in this instant Petition for Review *on Certiorari*<sup>1</sup> are the Decision<sup>2</sup> and the Resolution<sup>3</sup> dated 21 January 2019 of the Court of Appeals in CA-G.R. SP No. 154580. The Court of Appeals affirmed the Resolution<sup>4</sup> dated 18 October 2017 issued by the Social Security Commission (SSC) in SSC Case No. 9-19689-12, denying the Amended Petition<sup>5</sup> for adjustment of social security benefits accruing from the death of Cecilia T. Pascua (Cecilia).

ANTECEDENTS

On 14 February 2012, Cecilia, a member of the SSS<sup>6</sup> and registered owner of a single proprietorship, Jaecris Videoke Bar,<sup>7</sup> died as a result of multiple gunshot wounds she sustained in a shooting incident while serving as cashier in said *videoke* bar.<sup>8</sup> She was survived by her husband, petitioner Emmanuel S. Pascua (Emmanuel), and their children, namely, Justo Emmanuel, Ma. Cristina, Jason Russel, and Christian Kay, all surnamed Pascua.

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\* Also referred to as "Christian Kaye Pascua" in some parts of the *rollo*.

<sup>1</sup> *Rollo*, pp. 11-27.

<sup>2</sup> *Id.* at 29-37. The Decision dated July 31, 2018 was penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justices Jose C. Reyes, Jr. (retired Member of this Court), and Maria Elisa Sempio-Diy.

<sup>3</sup> *Id.* at 39-40; The Resolution dated January 21, 2019 was Penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justices Pedro B. Corales and Maria Elisa Sempio Diy.

<sup>4</sup> *Id.* at 68-73; The Resolution dated October 18, 2017 was penned by Commissioner Gonzalo T. Duque.

<sup>5</sup> *Id.* at 81-85.

<sup>6</sup> *Id.* at 89-92.

<sup>7</sup> *Id.* at 86-88.

<sup>8</sup> *Id.* at 98-101.

told that Cecilia had thirty-six (36) monthly contributions and hence, her primary beneficiaries, herein petitioners, are entitled to a monthly pension, with eighteen (18) months' pension to be paid in advance.<sup>9</sup>

On 14 July 2012, Emmanuel received through mail a check in the amount of Thirty-Four Thousand Nine Hundred Ninety-Nine and Ninety-Four Centavos (₱34,999.94). Upon inquiry with the Social Security System Marikina Branch, Emmanuel learned that said amount represents the lump sum of Cecilia's death benefits and that petitioners are no longer entitled to a monthly pension.<sup>10</sup>

Dissatisfied, Emmanuel requested for a manual verification of Cecilia's SSS contributions and re-evaluation of their claim for death benefits.<sup>11</sup> Subsequently, he sought reconsideration of the denial of their claim for monthly pension, averring that Cecilia's death was work-related and that she had the required 36 monthly contributions which would entitle her beneficiaries to a monthly pension.<sup>12</sup>

In a letter<sup>13</sup> dated August 30, 2012, respondent Social Security System, through its Marikina Branch Head, Emma J. Enriquez, denied petitioners' claim and explained that Cecilia only had thirty-four (34) monthly contributions prior to the semester of her death and as such, her beneficiaries are only entitled to a lump sum benefit. She further explained in said letter that for the primary beneficiaries to receive a monthly pension, the SSS law requires that a member must have paid at least 36 monthly contributions prior to the semester of her death.<sup>14</sup>

Aggrieved, petitioners filed a petition<sup>15</sup> for adjustment of Cecilia's SSS death benefits and entitlement to employees' compensation (EC) death benefit with the Social Security Commission (SSC). The case was docketed as SSC Case No. 9-19689-12.

Subsequently, petitioners amended their petition and averred that under Section 13 of the Social Security Act of 1997,<sup>16</sup> there is no proscription for the inclusion of Cecilia's last two monthly contributions for the months of October and November 2011 in the computation of her death benefits. In this regard,

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<sup>9</sup> *Rollo*, p. 30, See Court of Appeals Decision dated July 31, 2018.

<sup>10</sup> *Id.*

<sup>11</sup> *Rollo*, pp. 103-104.

<sup>12</sup> *Id.* at 105.

<sup>13</sup> *Id.* at 108.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 75-77.

<sup>16</sup> SECTION 13. *Death Benefits.* — Upon the death of a member who has paid at least thirty-six (36) monthly contributions prior to the semester of death, his primary beneficiaries shall be entitled to the monthly pension: *Provided*, That if he has no primary beneficiaries, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to thirty-six (36) times the monthly pension. If he has not paid the required thirty-six (36) monthly contributions, his primary or secondary beneficiaries shall be entitled to a lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS or twelve (12) times the monthly pension, whichever is higher.

petitioners insisted that they are entitled to a monthly pension as Cecilia passed away with the minimum 36 monthly contributions to her credit.<sup>17</sup>

In its Answer,<sup>18</sup> the respondent Social Security System denied petitioners' averments and clarified that, based on its system, while Cecilia had 36 monthly contributions, the last two were made in October and November 2011. Since her SSS contributions for the months of October and November 2011 were within the semester of her death, they are excluded in the computation of the required 36 monthly contributions to qualify for a monthly pension, pursuant to the provisions of Section 13 of the Social Security Act of 1997.

On December 15, 2014, petitioners filed an Amended Petition,<sup>19</sup> impleading Pinnacle Manpower Services, Inc. (Pinnacle), Alisto Services, Inc. (Alisto), and Basnig Services, Inc. (Basnig), former employers of Cecilia, as party-respondents.

In an Order dated May 9, 2017, the impleaded parties were dropped as party-respondents for failure to acquire jurisdiction over them after diligent efforts to serve them summons proved futile.<sup>20</sup>

The parties were then directed to file their verified Position Papers and supporting documents and affidavits, if any.<sup>21</sup>

In their Manifestation in Lieu of Position Paper,<sup>22</sup> the petitioners postulated that in computing the SSS contributions of Cecilia, respondent failed to include Cecilia's monthly contributions from the start of her employment in 1989 with Basnig. In support of their Amended Petition, they submitted the following documents: 1) Certificate of Premium Payments (SSS Form R-315),<sup>23</sup> purportedly showing that Cecilia was an employee of Basnig, Alisto, and Pinnacle; 2) Employment Certificate<sup>24</sup> dated February 18, 2005 as proof that Cecilia worked for three years in Taiwan as caretaker; 3) copy of the birth certificate of Cecilia's eldest son, Justo Emmanuel, to show that it was unlikely for her to have been employed by Pinnacle only in June 1992 since she was to give birth the following month;<sup>25</sup> and 4) copies of Form RS-5<sup>26</sup> showing that Cecilia is a self-employed member of the Social Security System. Petitioners insisted that Cecilia's employment with Basnig, Alisto, Pinnacle, and the one in Taiwan, should have been taken into consideration in the computation of her death benefits. Corollary thereto, they maintained that

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<sup>17</sup> *Rollo*, pp. 81-85.

<sup>18</sup> *Id.* at 109-113.

<sup>19</sup> *Id.* at 116-118.

<sup>20</sup> *Id.* at 32; See Court of Appeals Decision dated July 31, 2018.

<sup>21</sup> *Id.*

<sup>22</sup> *Rollo*, pp. 121-124.

<sup>23</sup> *Id.* at 126-127.

<sup>24</sup> *Id.* at 130.

<sup>25</sup> *Id.* at 132.

<sup>26</sup> *Id.* at 137-148

petitioners should not be made to suffer for these employers' failure to remit her SSS contributions.

In due course, the Social Security Commission rendered its October 18, 2017 Resolution<sup>27</sup> denying the petition for adjustment of SSS benefits accruing from the death of Cecilia on the ground that petitioners were unable to prove by substantial evidence that Cecilia's previous employers - Alisto, Basnig, and Pinnacle - were remiss in their obligation to remit Cecilia's SSS contributions. The Social Security Commission further emphasized that Cecilia's semester of death is from October 2011 to March 2012, and records disclosed that she had 36 monthly contributions, including the 35<sup>th</sup> and 36<sup>th</sup> contributions for the months of October and November 2011. Thusly, since these last two contributions fall within the semester of her death, they are excluded in determining the number of required contributions, pursuant to the provisions of Section 13, in relation to Section 8, paragraphs (l), (o), and (p) of the Social Security Act of 1997.<sup>28</sup> Finally, the Social Security Commission denied petitioners' claim for entitlement to employees' compensation benefits as it had no jurisdiction to determine whether the death of Cecilia is work-related. The *fallo* of the SSC Resolution ordains -

**WHEREFORE, PREMISES CONSIDERED,** the petition for adjustment of SS benefit accruing from the death of SSS member Cecilia T. Pascua is hereby **DENIED** for lack of merit and the petition for entitlement of Employees Compensation benefits is **DISMISSED** for lack of jurisdiction.

**SO ORDERED.**<sup>29</sup>

Aggrieved, petitioners filed a Petition for Review before the Court of Appeals, docketed as CA-G.R. SP No. 154580, reiterating their averments before the Social Security Commission.

On July 31, 2018, the Court of Appeals rendered the now-assailed *Decision*,<sup>30</sup> affirming the findings of the Social Security Commission. The Court of Appeals ratiocinated that since petitioners were claiming entitlement to the benefits provided by law, it was incumbent upon them to prove by substantial evidence that Cecilia previously worked for Basnig, Alisto, and Pinnacle; her length of service with each company; and her employers' failure to pay or remit her SS contributions. The Court of Appeals accentuated that without any proof of employment submitted by petitioners, it cannot be

<sup>27</sup> Id. at 68-73.

<sup>28</sup> SEC. 8. Terms defined – For the purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:

x x x x

(l) Contingency – The retirement, death, disability, injury or sickness, and maternity of the member.

x x x x

(o) Semester – a period of two (2) consecutive quarters ending in the quarter of contingency.

(p) Quarter – a period of three (3) consecutive calendar months ending on the last day of March, June, September, and December.

x x x x

<sup>29</sup> *Rollo*, p. 73

<sup>30</sup> Id. at 29-37.

presumed that Cecilia worked for said companies and that they failed to remit her monthly contributions during the period of her employment with them. Moreover, the Court of Appeals held that with only less than 36 monthly contributions credited in Cecilia's name prior to the semester of her death, the Social Security Commission correctly adjudged that petitioners are only entitled to a lump sum benefit, which has already been granted to petitioners.

By the same token, petitioners' subsequent bid for reconsideration was struck down by the Court of Appeals through the challenged *Resolution*.<sup>31</sup>

Crestfallen, petitioners filed a Petition for Review on *Certiorari*<sup>32</sup> before this Court, intransigently asseverating that Cecilia had contributed more than 36 monthly contributions prior to the semester of her death, which entitles them, as her beneficiaries, to a monthly pension. The petitioners adamantly insist that Cecilia's employment with Basnig, Alisto, and Pinnacle should have been taken into consideration in the computation of her death benefits, as petitioners sufficiently presented substantial evidence showing Cecilia's employment with them. Accordingly, the Court of Appeals should have considered the affidavit<sup>33</sup> of Ma. Luisa P. Magora, Cecilia's sister-in-law and alleged former co-worker while Cecilia was with Alisto, the Certificate of Premium Payments<sup>34</sup> by Basnig and Alisto, and Cecilia's ID<sup>35</sup> at Pinnacle, which clearly evinced that she worked for both Alisto and Pinnacle for more than three years.

In its Comment,<sup>36</sup> respondent Social Security System avouches that the Court of Appeals did not commit a reversible error in affirming the Resolution of the Social Security Commission denying petitioners' request for the adjustment of benefits accruing from Cecilia's death. It contends that Cecilia died on February 14, 2012, and applying Section 13, in relation to Section 8, paragraphs (l), (o) and (p) of the Social Security Act of 1997, the semester of her death is from October 2011 to March 2012 - that is, a period of two consecutive quarters ending in the quarter of contingency. Since the 35<sup>th</sup> and 36<sup>th</sup> contributions fall in the months of October and November 2011 and are within the semester of her death, they are excluded in the counting of the minimum number of required contributions, as it is specific in the law that only contributions prior to the semester of death should be considered. Thus, in effect, Cecilia only had 34 monthly contributions prior to the semester of her death, and as such, her primary beneficiaries are not entitled to a monthly pension but only to the lump sum benefit, which was already given to petitioners. In the same vein, respondent postulates that petitioners did not proffer sufficient and convincing proof to support their allegation that Cecilia previously worked with Alisto, Basnig, and Pinnacle and that they were remiss in their obligation to remit Cecilia's SSS contributions.

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<sup>31</sup> Id. at 39-40.

<sup>32</sup> Id. at 11-27.

<sup>33</sup> Id. at 128.

<sup>34</sup> Id. at 106-107

<sup>35</sup> Id. at 104.

<sup>36</sup> Id. at 172-176.

Perceivably, the pivotal issue for the Court's resolution is whether or not Cecilia has contributed more than 36 monthly contributions prior to the semester of her death as to entitle petitioners to monthly death pension benefits.

## OUR RULING

### *The petition is bereft of merit.*

Generally, only questions of law may be raised in a Rule 45 petition.<sup>37</sup> Although jurisprudence has provided several exceptions<sup>38</sup> to these rules, the exceptions must be alleged, substantiated, and proved by the parties so this Court may evaluate and review the facts of the case. Parties praying that this Court review the factual findings of the Court of Appeals must demonstrate and prove that the case falls under the exceptions to the rule. They have the burden of proving to this Court that a review of the factual findings is necessary.<sup>39</sup>

In this case, the issue of whether petitioners submitted substantial evidence to prove that Cecilia has contributed more than 36 monthly contributions prior to the semester of her death is a question of fact that is beyond the ambit of a petition for review on *certiorari* under Rule 45. Both the Social Security Commission and the Court of Appeals correctly adjudged that petitioners failed to proffer substantial evidence to prove that they are entitled to monthly death pension benefits.

The law in force at the time of Cecilia's death is Republic Act (RA) No. 8282, or the Social Security Act of 1997 (approved on May 1, 1997), which is the amendatory law of RA No. 1161 or the Social Security Law. Section 13 of the Social Security Act of 1997 provides –

SECTION 13. Death Benefits. — Upon the death of a member who has paid at least thirty-six (36) monthly contributions prior to the semester of death, his primary beneficiaries shall be entitled to the monthly pension: Provided, That if he has no primary beneficiaries, his secondary beneficiaries shall be entitled to a lump sum benefit equivalent to thirty-six (36) times the monthly pension. If he has not paid the required thirty-six (36) monthly contributions, his primary or secondary beneficiaries shall be

<sup>37</sup> *Social Security Commission v. Court of Appeals, et al.*, G.R. No. 221621, June 14, 2021.

<sup>38</sup> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. [*Spouses Miano, Jr. v. Manila Electric Company (MERALCO)*, 800 Phil. 118, 123 (2016)].

<sup>39</sup> *Pascual v. Burgos*, 776 Phil. 167, 184 (2016).

entitled to a lump sum benefit equivalent to the monthly pension times the number of monthly contributions paid to the SSS or twelve (12) times the monthly pension, whichever is higher. (Underscoring supplied)

Appositely, Section 8 (l), (o) and (p) elucidates the meaning of the terms “contingency”, “semester” and “quarter” as follows:

SECTION 8. *Terms Defined.* — For the purposes of this Act, the following terms shall, unless the context indicates otherwise, have the following meanings:

x x x x

(l) *Contingency* - The retirement, death, disability, injury or sickness, and maternity of the member.

x x x x

(o) *Semester* — A period of two (2) consecutive quarters ending in the quarter of contingency.

(p) *Quarter* — A period of three (3) consecutive calendar months ending on the last day of March, June, September and December.

x x x x

In this case, records evince that Cecilia died on 14 February 2012.<sup>40</sup> Applying the aforequoted provisions of the Social Security Act of 1997, the semester of Cecilia’s death - which is a period of two consecutive quarters ending in the quarter of contingency - is from October 2011 to March 2012. According to the Employee Static Information issued by respondent SSS,<sup>41</sup> Cecilia had 36 monthly contributions to her credit with the 35<sup>th</sup> and 36<sup>th</sup> contributions falling in October and November 2011, and thus, considered within the semester of her death. Since the law is clear that only contributions prior to the semester of death are considered to entitle the primary beneficiaries to a monthly pension, the 35<sup>th</sup> and 36<sup>th</sup> contributions are excluded in the counting of the minimum number of required contributions. In effect, Cecilia only had 34 monthly SSS contributions prior to the semester of her death and as such, herein petitioners, as her primary beneficiaries, are not entitled to a monthly pension but only to a lump sum benefit, which has already been received by them.

The rule is well-settled that whoever claims entitlement to the benefits provided by law should establish his or her right thereto by substantial evidence.<sup>42</sup> While petitioners insist that Cecilia previously worked for Alisto, Basnig and Pinnacle and that these employers failed to remit Cecilia’s monthly contributions to the SSS, the records are barren of evidence showing Cecilia’s length of service with each of them and their failure to remit her

<sup>40</sup> *Rollo*, p. 98.

<sup>41</sup> *Id.* at 114.

<sup>42</sup> *Social Security Commission v. Azote*, 758 Phil. 225, 235 (2015).

SSS contributions. It is a cardinal rule that mere allegation is not evidence and is not equivalent to proof.<sup>43</sup> The documents submitted by petitioners such as the affidavit<sup>44</sup> of Luisa P. Magora, Cecilia's sister-in-law and alleged co-worker while she was with Alisto, and Cecilia's Identification Card<sup>45</sup> issued by Pinnacle in January 1993, fall short of establishing the length of her employment with said companies, much less, that there was failure on the part of these companies to remit her contributions. It bears accentuating also that respondent SSS conducted a manual verification to ensure that all payments in favor of Cecilia are recorded and posted in their records. Unfortunately, only 36 monthly contributions were discovered and only 34 months were considered in the computation of Cecilia's death benefits. Contrary to petitioners' asseverations, there was no additional contribution found. Moreover, the three companies aforementioned no longer exist and their representatives cannot be located anymore despite diligent efforts.<sup>46</sup>

For petitioners' failure to establish by substantial evidence that Cecilia continuously worked for Alisto, Basnig and Pinnacle and that they remitted her monthly contributions to the SSS during the period of her employment with them, petitioners cannot claim that Cecilia's employment with these companies be considered in their entitlement to monthly death pension benefits.

In sooth, the Court finds that the Court of Appeals did not commit any error in affirming the SSC Resolution. It is jurisprudentially settled that findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but finality, especially when affirmed by the Court of Appeals.<sup>47</sup>

**WHEREFORE**, the Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 31 July 2018 and the *Resolution* dated 21 January 2019 of the Court of Appeals in CA-G.R. SP No. 154580 are **AFFIRMED**.

**SO ORDERED.**"

By authority of the Court:

Misael Domínguez  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *Jan 10/18/2023*

<sup>43</sup> See *Spouses Nocuencia v. Bensi*, A. C. No. 12609, February 10, 2020.

<sup>44</sup> *Rollo*, p. 128

<sup>45</sup> *Id.* at 104.

<sup>46</sup> *Id.* at 71, See SSC Resolution dated October 18, 2017.

<sup>47</sup> See *Bañez v. SSS*, 739 Phil. 148, 155 (2014).



June 14, 2023

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Diliman, 1104 Quezon City

COURT OF APPEALS  
CA G.R. SP No. 154580  
1000 Manila

Atty. Ronald C. Parungao  
Counsel for Respondent  
NCR East Legal Department  
11/F SSS Bldg., East Avenue  
1101 Diliman, Quezon City

SOCIAL SECURITY COMMISSION  
12/F SSC Building  
Ayala Avenue cor. Rufino St.  
1200 Makati City  
(SSC Case No. 09-19689-12)

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