Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SUSAN CO DELA FUENTE, Petitioner,	**G.R. No. 224863**
	Present:
	PERALTA, *C.J.*, *Chairperson*, CAGUIOA, CARANDANG, ZALAMEDA, and GAERLAN, *JJ.*
- versus -	
FORTUNE LIFE INSURANCE CO., INC. Respondent.	Promulgated: DEC 02 2020

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DECISION

CARANDANG, *J.*:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court (Rules) assailing the Decision[2] dated February 17, 2016 and the Resolution[3] dated May 26, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 105012 filed by petitioner Susan Co Dela Fuente (Susan).

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1 *Rollo*, pp. 8-20.

2 Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Priscilla J. Baltazar-Padilla (Former Member of this Court) and Socorro B. Inting; id. at 105-117.

3 Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Priscilla J. Baltazar-Padilla (Former Member of this Court) and Melchor Quirino C. Sadang; id. at 131.

Antecedents

On February 17, 2011, Susan invested ₱2,000,000.00 in the lending business of Reuben Protacio (Reuben).[4] On March 3, 2011, she invested an additional ₱1,000,000.00.[5] On March 10, 2011, Reuben applied for a life insurance with respondent Fortune Life Insurance Co., Inc. (Fortune) in the amount of ₱15,000,000.00 with Susan as the revocable beneficiary.[6] On March 14, 2011, she again invested another ₱1,000,000.00.[7] On March 25, 2011, Policy No. 61761 was issued after the premium of ₱82,500.00 was paid.[8] The policy stated *inter alia* that:

> In case of death of the Insured by self-destruction within (2) years from the Policy Date or date of last reinstatement of this Policy, the pertinent provisions of the Insurance code, as amended, shall apply. Where the death of the Insured by self-destruction is not compensable, we shall refund the premiums actually paid less indebtedness.[9]

On March 28, 2011, Susan invested ₱12,000,000.00 in Reuben's lending business.[10]

About a month after the issuance of the policy, Susan submitted a copy of Policy No. 61761 with a face value of ₱15,000,000.00 to claim its proceeds.[11] Based on the Death Certificate[12] submitted, Reuben died on April 15, 2011 due to a gunshot wound on the chest.[13] Medico Legal Report No. M-239-2011 prepared by Dr. Voltaire P. Nulud (Dr. Nulud) confirmed that the cause of death of Reuben is "Gunshot wound, trunk."[14]

Fortune conducted an investigation and uncovered a Clinical Abstract[15] executed by Dr. Allen Pagayatan (Dr. Pagayatan) stating that he conducted an interview with Randolph Protacio (Randolph), brother of Reuben, within minutes after he brought Reuben to the emergency room of Makati Medical Center. Based on Dr. Pagayatan's interview, Randolph stated that prior to the shooting incident, Reuben intimated that he already wanted to die. When he thought that he had already pacified Reuben, Randolph left the room. Subsequently, he heard a gunshot and found Reuben bleeding.[16] Because of this information, Fortune denied the claim of Susan.[17] Fortune refunded Susan ₱80,643.00, which represents the amount of premiums paid on the policy less

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4 Records, pp. 32-33, 107-108.
5 Id. at 109-110.
6 Id. at 5.
7 Id. at 111-112.
8 Id. at 6-9, 410.
9 Id. at 9.
10 Id. at 36-39.
11 Id. at 534.
12 Id. at 10.
13 Id.
14 Id. at 372.
15 Id. at 297, 326.
16 Id. at 320-322.
17 Id. at 414.

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service charge[18] but Susan refused to accept it.[19] Thereafter, Susan filed a complaint for a sum of money and damages against Fortune.[20]

Incidentally, Rossana Ajon (Rossana), a business partner of Reuben, sent a letter to Fortune informing the latter that she already paid Susan the amount of ₱2,000,000.00. Rossana requested that the amount of ₱1,000,000.00 be segregated in the settlement to be made with Susan.[21]

In their Answer,[22] Fortune argued that Susan has no insurable interest over the life of Reuben since she had not invested yet in the business of Reuben. Fortune pointed out that when the policy was secured on March 25, 2011, Susan's investment was only in the amount of ₱3,000,000.00 and ₱2,000,000.00 was already refunded to her by Rossana. The rest of the investment in the amount of ₱12,000,000.00 was only invested by Susan after the policy took effect.[23] Even assuming that Susan has insurable interest over the life of Reuben to the extent of ₱15,000,000.00 or that she was legally appointed as the beneficiary of Reuben, Fortune insisted that Susan has no cause of action because Reuben's death was due to suicide which is an excepted risk under his policy.[24]

Ruling of the Regional Trial Court

On February 27, 2015, the Regional Trial Court (RTC) rendered its Decision[25] the dispositive portion of which states:

> **WHEREFORE,** premises considered, judgment is hereby rendered in favor of the plaintiff **SUSAN CO DELA FUENTE** and against the defendant **FORTUNE LIFE INSURANCE CO., INC.** ordering the latter to pay the former the following:
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> 1. **FIFTEEN MILLION PESOS (Php 15,000,000.00)** plus interest at the rate of **twelve percent (12%)** per annum from May 18. 2011 until fully paid;
> 2. **FIFTY THOUSAND PESOS (Php 50,000.00)** as and by way of attorney's fees; and
> 3. Costs of suit.
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> **SO ORDERED.**[26] (Emphasis in the original)

The RTC found no merit in the contention of Fortune that the information Randolph gave to Dr. Pagayatan is an exception to the hearsay rule for being part of *res gestae*. For the RTC, the statement cannot be treated as spontaneous because a considerable amount of time had lapsed from the

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18 Id. at 415.
19 Id. at 418.
20 Id. at 1-4.
21 Id. at 31-33.
22 Id. at 19-27.
23 Id. at 22-23, 36-39
24 Id. at 24-25.
25 Penned by Presiding Judge Elpidio R. Calis; *rollo*, pp. 37-45.
26 Id. at 45.

moment the deceased was found bleeding and the time the alleged statement was given to Dr. Pagayatan at the hospital. The RTC declared that such considerable amount of time was more than enough for Randolph to deliberate on the matter which rendered the information given regarding the case of Reuben's death fall beyond the ambit of spontaneity.[27]

The RTC did not give credence to the testimony of Dr. Raquel Fortun (Dr. Fortun) as her findings were only based on documents provided by Fortune. She did not examine the body of Reuben nor present additional evidence to convince the RTC that Reuben took his own life. The RTC ruled that her testimony regarding the presence of gun powder or residue on the shooter's hand has no weight because her qualifications and expertise restrict her from testifying on the subject matter.[28]

For the RTC, Susan was able to establish that she is entitled to the proceeds of the policy. On the other hand, the RTC found that Fortune failed to establish by preponderance of evidence its defense that Reuben committed suicide.[29]

The RTC awarded interest of 12% *per annum* from May 18, 2011 until fully paid because of Fortune's unreasonable refusal to pay Susan's claim.[30] The RTC held that Fortune's strong reliance on the unsubstantiated statements of Randolph relayed to Dr. Pagayatan to justify its obstinate refusal to pay the claim of Susan was a clear sign of wanton disregard of its obligations arising from the contract of insurance.[31]

In an Order[32] dated May 8, 2015, the RTC denied the Motion for Reconsideration[33] of Fortune for lack of merit.[34]

Ruling of the Court of Appeals

On February 17, 2016, the CA rendered its Decision[35] the dispositive portion of which states:

> **WHEREFORE,** premises considered, the appeal is **GRANTED.** The assailed decision dated February 27, 2015 of the RTC, Branch 133, Makati City is hereby **VACATED** and **SET ASIDE** and a new one is entered ordering the **DISMISSAL** of the complaint.
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> **SO ORDERED.**[36] (Emphasis in the original)

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27 Id. at 44.
28 Id.
29 Records, pp. 540-542.
30 Id. at 542.
31 Id.
32 Penned by Presiding Judge Elpidio R. Calis; id. at 608.
33 Id. at 548-577.
34 Id. at 608
35 Supra note 2.
36 *Rollo*, p. 116.

The CA held that the evidence on record proved that Reuben committed suicide. The photos taken at the crime scene did not show any cleaning kit which would have proved the claim of Susan that Reuben was cleaning his gun before his death. Not even a piece of cloth was found at the scene of the crime, as confirmed by the statement of PO3 Serquena and SPO1 Rico Caramat.[37]

The CA ruled that the statement Randolph gave to Dr. Pagayatan was spontaneously given and found no reason for him to concoct or fabricate his narration of the events. Between the statement of Randolph given to Dr. Pagayatan at the emergency room and his statement given to the police after a considerable length of time, the CA declared that the former should be given more weight because it was given spontaneously and at a time when Randolph still had no chance to think and make up a story. The CA stated that if the statement of Randolph to Dr. Pagayatan made several minutes after the incident is considered inadmissible, there is more reason to consider as inadmissible the statement Randolph gave to the police after a considerable length of time. By then, he already had the opportunity to fabricate his account to conceal the real story behind Reuben's death.[38]

Although Dr. Fortun did not perform an autopsy on the body of Reuben, the CA gave credence to her testimony as she based her findings on the same medico-legal report and investigation report Susan presented as evidence. For the CA, Dr. Fortun merely interpreted the results of official records. The genuineness and authenticity of these documents were never assailed. The CA believed the explanation of Dr. Fortun that gunshot residues on a shooter's hand is not always visible even with sensitive testing. The CA gave weight to the opinion of Dr. Fortun that the trajectory of the bullet which went "straight front to back" supported the conclusion that the gun shot was deliberate and self-inflicted.[39]

The CA denied the Motion for Reconsideration[40] Susan filed in a Resolution[41] dated May 26, 2016.

In her petition,[42] Susan insists that Reuben's death is compensable because he died when he accidentally fired his gun while cleaning it. Susan argues that the CA erred in holding that the absence of a gun cleaning kit in the room where Reuben was found lifeless disproves that the latter accidentally shot himself while cleaning his gun.[43] Susan also avers that the testimony of Dr. Pagayatan on the information Randolph relayed to him is inadmissible and cannot be considered as part of *res gestae* as this was not

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37 Id. at 110.
38 Id. at 112-113.
39 Id. at 114.
40 Id. at 118-128.
41 Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence Associate Justices Priscilla J. Baltazar-Padilla (Former Member of this Court) and Melchor Quirino C. Sadang; id. at 131-132.
42 Id. at 8-20.
43 Id. at 12-13.

spontaneously given. Susan emphasizes that it took more than 15 minutes from the time the shooting happened in the house of Reuben and the moment Randolph allegedly gave the information to Dr. Pagayatan at the emergency room.[44] Susan likewise claims that the testimony of Dr. Fortun is biased and weak since she is an expert witness hired by Fortune.[45] Susan posits that instead of discrediting Dr. Nulud for entertaining the possibility that Reuben killed himself, the CA should have appreciated his open-mindedness and should have looked at it as signs of impartiality and disinterestedness.[46] After all, Dr. Nulud's opinion is based on the absence of muzzle imprint of the gun barrel on the skin of the deceased, the direction and trajectory of the bullet in the victim's body, and the negative result of the paraffin examination on the victim's hands.[47]

In its Comment,[48] Fortune highlights that Susan belatedly filed her motion for reconsideration on the Decision of the CA. Susan moved for reconsideration of the Decision of the CA that she received on March 1, 2016 only on March 17, 2016 (Thursday), or 16 days after the receipt of the assailed Decision.[49] Fortune maintains that the death of Reuben is an excepted risk. Based on the pictures taken and the testimonies of the responding officers and investigator, there appears to be no cleaning kit nor any piece of cleaning material which Reuben could have used in purportedly cleaning his gun.[50] Fortune asserts that the possibility that the insured could have been using his own clothes or his hand when he was cleaning his gun cannot be raised in a motion for reconsideration.[51] Fortune likewise claims that the CA correctly held that the statement Randolph made to Dr. Pagayatan qualified as part of *res gestae*, an exception to the hearsay rule. Fortune argues that Randolph's statement to Dr. Pagayatan was spontaneously given and under circumstances which would bar him from inventing the same.[52] Fortune also submits that the CA correctly gave credence to the testimony of Dr. Fortun, a known forensic pathologist, who opined that Reuben committed suicide.[53]

In her Reply,[54] Susan insists that Fortune is now barred by laches in questioning the timeliness of the filing of the petition because the belated filing of the Motion for Reconsideration was not raised in the Comment/ Opposition to Susan's Motion for Reconsideration.[55] Susan also reiterates her argument that the statement of Randolph cannot be admitted as part of *res gestae.*[56]

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44 Id. at 13-15.
45 Id. at 16-18.
46 Id. at 18.
47 Id.
48 Id. at 135-141.
49 Id. at 135.
50 Id. at 137-138.
51 Id. at 138.
52 Id. at 138-139.
53 Id. at 139-140.
54 Id. at 146-152.
55 Id. at 146-147.
56 Id. at 149-150.

Issues

The issues to be resolved in this case are:
(1) whether Fortune is now barred by laches from questioning the timeliness of the filing of the petition because the issue on the belated filing of the Motion for Reconsideration was not raised in the Comment/ Opposition to Susan's Motion for Reconsideration;
(2) whether the insurer carries the burden of proving that the insured's death was caused by suicide or self-destruction; and
(3) whether Susan, as creditor of Reuben and beneficiary of the policy, is entitled to the entire face value of the policy in the amount of ₱15,000,000.00 despite the fact that her insurable interest at the time the policy took effect was only ₱4,000,000.00 and Rossana had already returned ₱2,000,000.00.

Ruling of the Court

Fortune is now barred from raising the belated filing of the motion for reconsideration in its Comment to Susan's petition filed in this Court.

At the outset, We must address the claim of Susan that Fortune is now barred by laches from questioning the timeliness of the filing of her petition since the issue on the belated filing of her Motion for Reconsideration was not raised in the Comment/Opposition to Susan's Motion for Reconsideration. The CA entertained Susan's Motion for Reconsideration despite having been filed 16 days from the receipt of the assailed Decision of the CA or one day after the last day to file her Motion for Reconsideration in violation of Section 1, Rule 52 of the Rues of Court (Rules) which clearly provides:

> Section 1. *Period for filing.* – A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.

A motion for reconsideration of a judgment or final resolution should be filed within 15 days from notice. The 15-day reglementary period for filing a motion for reconsideration is non-extendible and if no appeal or motion for reconsideration is timely filed, the judgment or final resolution shall be entered by the clerk in the book of entries of judgment as provided under Section 10, Rule 51 of the same Rules.

Nevertheless, under exceptional circumstances, such as when stringent application of the rules will result in manifest injustice, the Court may set aside technicalities[57] and proceed with the petition for review on *certiorari*. The present petition deserves the liberality of the Court considering that the substantial issues Susan raised will ultimately affect the final disposition in

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57 *Philippine Bank of Communications v. Court of Appeals*, 805 Phil. 964, 971 (2017).

this case. Susan stands to lose the money she invested in Reuben's business simply because she was one day late in filing her Motion for Reconsideration. To Our mind, this is too harsh a penalty for a day's delay. Therefore, the rules should be relaxed to afford both parties an opportunity for a just and proper disposition of the case.

Moreover, considering that Fortune did not interpose any objection on the timeliness of the filing of Susan's motion for reconsideration in its Comment/ Opposition, Fortune can no longer raise the belated filing of the motion for reconsideration in its Comment to Susan's petition filed in this Court.

The burden of proving an excepted risk or condition that negates liability lies on the insurer and not on the beneficiary.

Susan essentially assails the appreciation made by the CA of the pieces of evidence presented in concluding that Reuben's death was caused by a self-inflicted gunshot wound. In *United Merchants Corp. v. Country Bankers Insurance Corp.*,[58]

> An insurer who seeks to defeat a claim because of an exception or limitation in the policy has the burden of establishing that the loss comes within the purview of the exception or limitation. If loss is proved apparently within a contract of insurance, the burden is upon the insurer to establish that the loss arose from a cause of loss which is excepted or for which it is not liable, or from a cause which limits its liability.[59]

In the context of life insurance policies, the burden of proving suicide as the cause of death of the insure to avoid liability rests on the insurer. Therefore, Fortune must prove suicide to defeat Susan's claim.

In the present case, We find that Fortune failed to discharge its burden of proving, by preponderance of evidence, that Reuben's death was caused by suicide, an excluded risk in his policy. The CA primarily relied on the testimony of Dr. Pagayatan which the CA considered *res gestae*, and the testimony of Dr. Fortun in concluding that Reuben committed suicide. However, these pieces of evidence cannot be given credence by the Court.

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58 690 Phil. 734, 747-748 (2012).

59 Id.

Dr. Pagayatan's testimony on the statement Randolph allegedly gave moments after Reuben was brought to the hospital is inadmissible.

We do not agree with the ruling of the CA that the statement given by Randolph, which was repeated in court by Dr. Pagayatan, is admissible. It is not the *res gestae* contemplated by the Rules.

Section 36 of Rule 130 of the Rules provides that "a witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules." *Res gestae*, one of the exceptions to the hearsay rule, is found in Section 42 of Rule 130 which states:

> Section 42. Part of res gestae. – Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the res gestae. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance may be received as part of the res gestae.

In *People v. Dianos*[60] the Court explained that the exclamations and statements contemplated in this exception are:

> x x x made by either the **participants, victims,** or **spectators** to a crime, *immediately before, during or immediately after the commission of the crime*, when the circumstances are such that the statements constitute nothing but *spontaneous* reaction or utterance inspired by the excitement of the occasion there being no opportunity for the declarant to deliberate and to fabricate a false statement become admissible in evidence against the otherwise hearsay rule of inadmissibility.[61] (Emphasis supplied; italics in the original)

Here, Dr. Pagayatan was neither a participant, victim, or spectator to the death of Reuben. He merely repeated in court what was relayed to him by Randolph who was also not a participant, victim or spectator to the act in controversy. He is not the declarant envisioned by the Rules as he had no personal knowledge of the fact that Reuben took his own life. Nobody witnessed Reuben take his own life. The information Randolph relayed to Dr. Pagayatan, which the latter testified on during trial, cannot be admitted as proof of the veracity of said information. This is not the *res gestae* statement contemplated by the Rules. Thus, the CA committed error in admitting and giving credence to Dr. Pagayatan's testimony on the matter.

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60 357 Phil. 871, 885 (1998).

61 Id.

The testimony of Dr. Fortun failed to prove that Reuben's death was caused by suicide.

The CA also erroneously gave credence to the testimony of Dr. Fortun despite the fact that she did not perform an autopsy on the body of Reuben which had already been cremated.[62] Though Dr. Fortun is a renowned expert in the field of forensic pathology, her analysis and opinion were confined to documentary evidence, including the medico-legal report,[63] investigation report,[64] and photographs that We consider insufficient to conclude with certainty that Reuben took his own life. Her conclusions and suppositions were not reached through a comprehensive examination of Reuben, the weapon involved, nor the scene of the incident.

Between the testimony of Dr. Fortun, who admitted that she did not conduct a post-mortem examination on Reuben, and Dr. Nulud, who actually conducted an autopsy on Reuben and prepared the medico-legal report, the latter should be given more weight. While Fortune tried to discredit the findings of Dr. Nulud during his cross-examination by pointing out that he had no training in forensic or clinical pathology,[65] it cannot be denied that he is competent to conduct an autopsy considering the 9600 medico-legal cases, 8,246 autopsies he had previously handled and 2,627 gunshot wound cases.[66] Even Dr. Fortun recognized that the conduct of an autopsy could have been a better basis to make a conclusive finding on the matter of death of Reuben.[67] Therefore, Dr. Nulud is in a better position to know the circumstances surrounding the death of Reuben.

According to Dr. Nulud, the trajectory of the wound is "posterior ward, upward and medial ward."[68] In Dr. Nulud's Judicial Affidavit which was adopted as his direct-examination, he explained his findings in Medico-Legal Report No. M-239-2011, as revealed in the following exchange:

> 26. Q. So according to you, the cause of the death of Reuben Protacio is gunshot wound whose point of entry was left anterior mid-line with an area of smudging, measuring c6x5 cm., 115 cm from the heel, directed posterior-ward, upward and medialward, fracturing the sternum of the level of 5th thoracic rib and 8th thoracic vertebra, lacering the pericardial sac, right ventricle of the heart and thoracic aorta, making a point of exit at the vertebra region, measuring 1.8 x 1 cm., along the posterior midline, 118 cm from the heel. and exited at the vertebra region along the posterior mid-line. Based on those findings of your,

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62 Records, pp. 358, 421.
63 Id. at 372.
64 Id. at 422-424.
65 TSN dated July 8, 2013, p. 8.
66 Id. at 8-9; records, p. 135.
67 TSN dated December 1, 2014, pp. 8-10.
68 Records, pp. 14, 24.

can you tell whether said wound was self inflicted or not?

A. It is not self inflicted.

27. Q. What made you say that?

A. Based on my experience, I could categorically say that the wound is not self inflicted, due to the following reason: (1) the distance range of the firearm from the wound's point of entry which resulted in the absence of muzzle imprinting of the gun barrel on the skin; (2) the direction/ trajectory of the bullet in the victim[']s body; (3) and the negative result of the paraffin exam on the victim's hands.[69]

Fortune failed to refute the findings of Dr. Nulud. Fortune even furnished Dr. Fortun the report prepared by Dr. Nulud so that she can form her own opinion on the cause of Reuben's death.

Relying on Dr. Nulud's sketch[70], Dr. Fortun illustrated in her own anatomic sketch[71] a similar trajectory of the bullet and expounded on this matter in her Judicial Affidavit as follows:

75. Q: Earlier during the testimony of Dr. Nulud he made an illustration of the trajectory, can you confirm the accuracy of the said illustration?

A:Yes. This illustration is consistent with the description of Dr. Nulud.

76. Earlier marked as Exhibit 35.

77. Q: Dr. Nulud is his testimony also stated that the trajectory of the bullet in the victim's body indicates that the wound was not self-inflicted, what is your opinion on this?

A: The trajectory of a bullet describes its path inside the body in reference to a person in an anatomic position i.e. standing straight, legs apart and arms away from the trunk with palms forward. **Trajectory alone does not indicate whether a gunshot wound is self-inflicted or not. In Mr. Protacio's case however the bullet went straight front to the back supporting a deliberate self-inflicted shot, not random gunfire such as in an accident.**[72] (Emphasis and underscoring supplied)

However, when Dr. Fortun was pressed about the implication of the trajectory of the bullet, she did not disregard the possibility that the shooting was accidental as shown in the following exchange:

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69 Id. at 136-137.
70 Id. at 370-371.
71 Id. at 392-394.
72 Id. at 62-63.

Q. In question no. 77 according to you, in the case of Mr. Protacio because the bullet went straight from the front to the back it is indicative of a deliberate self-inflicted shot?

A. Yes, sir.

Q. Are you saying that it is impossible for an accidental shooting for the bullet to go through from the frount to back?

A. **Not impossible sir.**[73]

Noticeably, Dr. Fortun contradicted her own statement that trajectory alone does not indicate that a gunshot wound is self-inflicted by hastily concluding that the trajectory of the bullet in Reuben's case showed that it was not an accident.

Moreover, the admission of Dr. Fortun that she also considered the purported information supplied by Randolph to Dr. Pagayatan that Reuben wanted to end his life[74] is another reason for Us not to give credence to her testimony. She does not have personal knowledge about this information as she did not personally talk to Randolph, Dr. Pagayatan, or any of Reuben's house helpers.[75] We have already settled that the purported statement made by Randolph to Dr. Pagayatan which the latter included in his Clinical Abstract is not a *res gestae* statement that may be admitted by the Court as an exception to the hearsay rule.

Likewise, the RTC correctly ruled that Dr. Fortun's testimony regarding the presence of gun powder or residue on Reuben's hand carries no weight because her qualifications and expertise restrict her from testifying on it.[76] In her cross-examination, Dr. Fortun admitted that forensic chemistry is not her expertise as revealed in the following exchange:

Q. Do you agree that there are people whose duties include the determination of the presence of gun powder nitrate such as a forensic chemical officer?

A. Yes, sir.

Q. And are you a forensic chemical officer?

A. **No, sir, forensic chemistry is not my line.**[77] (Emphasis supplied)

The Final Investigation Report[78] prepared by PO3 Rico P. Caramat (PO3 Caramat), the investigator on the case, made the following conclusion:

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73 TSN dated December 1, 2014, p. 17.
74 Id. at 18.
75 Id. at 19.
76 Records, p. 541.
77 TSN dated December 1, 2014, p. 15.
78 Records, pp. 187-189.

> 1. Based on the foregoing facts and the forensic examination conducted, and the absence of direct witness who actually saw what had transpired inside the bedroom of the deceased, the fact remains that prior to the death of REUBEN PROTACIO, he told his brother that he is cleaning his gun after which a shot rang out and REUBEN was discovered with a gunshot wound on his body, thus his death. With this it could be surmised that REUBEN PROTACIO died of an **accidental gunshot wound.**
>
> 2. As far as this office is concerned[,] this case is considered close[d], without prejudice should new evidence surfaces (sic) to prove otherwise.[79] (Emphasis supplied)

In the Judicial Affidavit of PO3 Caramat which was adopted as his direct-examination, PO3 Caramat identified the Final Investigation Report marked as Exhibit U that he prepared and adopted his findings therein.[80] PO3 Caramat concluded that Reuben died of an accidental gunshot based on the absence of an eye witness and the information Reuben gave to Randolph prior to the incident. When pressed on how he arrived at his conclusion, PO3 Caramat explained that:

> THE WITNESS:
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> A: Sir, my conclusion arriving to this statement of the brother that he saw his brother cleaning the gun.
>
> ATTY. OCO:
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> Q: So, your report merely based on the testimonies of the brother, the drivers and the house helper of the deceased. Correct?
>
> A: Yes, sir.[81]

Taking into consideration all the evidence presented, We are convinced that Reuben's death was caused by an accident and not a deliberate self-inflicted gunshot. We are inclined to give more credence to the testimonies and reports prepared by the police investigators and medico-legal officer, Dr. Nulud than the testimony of Dr. Fortun, since they personally examined Reuben, the scene of the incident, and the weapon used.

Susan is entitled to the value of Reuben's outstanding obligation.

The critical question to be resolved now is the extent of Fortune's liability to Susan in light of the fact that the amount of Reuben's obligation at the time of his death exceeded the face value of the policy and Susan had already recovered ₱2,000,000.00 from Rossana.

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79 Id. at 189.
80 TSN dated February 17, 2014, pp. 10-11.
81 Id. at 29.

Fortune argued that even if it is liable to Susan, the extent of its liability should only be limited to ₱1,000,000.00 because when the policy took effect, her investment only amounted to ₱3,000,000.00 and ₱2,000,000.00 had already been returned to her by Rossana.[82] Fortune pointed out that the additional investments amounting to ₱12,000,000.00 were made after the policy took effect.[83] For Fortune, the policy was assigned to Susan only up to the extent of the debt at the time the policy took effect.[84] This argument is erroneous.

It must be clarified that at the time the policy took effect, the investment Susan made was already ₱4,000,000.00.[85] After the policy took effect, Susan invested ₱12,000,000.00 more to Reuben's business. The argument of Fortune is belied by the Endorsement Letter[86] wherein Ma. Teresa B. Catapang (Catapang), Senior Manager – New Business Division of Fortune, stated:

> Policy Number : 61761
> Insured : REUBEN M. PROTACIO
>
> This certifies that the above policy contract is assigned to SUSAN CO DELA FUENTE-UG7 Megaplaza Bldg. ADB Ave. Ortigas Ctr. Pasig as creditor, **up to the extent of the indebtedness, the balance if any, to the designated beneficiaries**.
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> Done at Makati City, Philippines, this 25th day of March, 2011.[87] (Emphasis supplied)

Nowhere in the Endorsement Letter[88] is it stated that the insurer shall only be liable to the beneficiary for the amount owing to Susan at the time the policy took effect. Instead, what is clear is that Susan, as the creditor of Reuben and the designated beneficiary of his policy, is entitled to her claim up to the extent of his indebtedness.

The policy of the State against wagering contracts is apparent in Section 3 of the Insurance Code, as amended, requiring the presence of insurable interest for a contract of insurance to be valid. This is meant to eliminate the temptation of taking out a policy for speculative or evil purposes. Insurance policies should be obtained in good faith, and not for the purpose of speculating upon the hazard of a life in which one has no interest in. Paragraph (c), Section 10 of the same Code enumerates the kinds of insurable interest contemplated in Section 3, to wit:

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82 Id. at 22.
83 Id. at 23.
84 Id.
85 Id. at 107-112.
86 Id. at 429.
87 Id.
88 Id.

> Section 10. Every person has an insurable interest in the life and health:
>
> x x x x
>
> (c) **Of any person under a legal obligation to him for the payment of money**, or respecting property or services, **of which death or illness might delay or prevent the performance**; and
>
> x x x x[89] (Emphasis supplied)

Therefore, a debtor may name his creditor as a beneficiary on a life insurance policy taken out in good faith and maintained by the debtor. Likewise, a creditor may take out an insurance policy on the life of his debtor. However, there are marked differences in the implication of these two scenarios.

In the United States (US) Supreme Court case of *Crotty v. Union Mutual Life Ins. Co. of Maine*,[90] a person obtained an insurance policy upon his life with a stipulation that the amount of the policy should be payable to the insured if he survived the stipulated term; or, if he should die within that term, then "to Michael Crotty, his creditor, if living; if not, then to the said executors, administrators or assigns." When his creditor Crotty brought a suit against the insurer, the US Supreme Court declared that:

> x x x [I]f a policy of insurance be taken out by a debtor on his own life, naming a creditor as beneficiary, or with a subsequent assignment to a creditor, the general doctrine is that, on payment of the debt, the creditor loses all interest therein, and the policy becomes one for the benefit of the insured, and collectible by his executors or administrators.[91]

Professor Sulpicio Guevara, an eminent author in insurance law, highlighted the differences between a policy taken by a creditor on the life of his debtor and a policy taken by the debtor on his own life and made payable to his creditor. Reconciling the case of *Crotty* and Philippine insurance law, Professor Guevara explained that:

> x x x [A] distinction should be made between a policy taken by a debtor on his life and made payable to his creditor, and one taken by a creditor on the life of his debtor. Where a debtor in good faith insures his life for the benefit of his creditor, full payment of the debt does not invalidate the policy; in such case, the proceeds should go to the estate of the debtor.[92]

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89 Republic Act No. 10607, Section 10.

90 144 U.S. 621.

91 Id.

92 Guevara, Sulpicio, The Philippine Insurance Law 4th Edition (1961), p. 35.

Meanwhile, in a situation where an insurance is taken by a creditor on the life of his debtor, Professor Guevara adopted the ruling in *Godsall v. Boldero*[93] and rationalized that:

> x x x [T]he insuring creditor could only recover such amount as remains unpaid at the time of the death of the debtor, - such that, if the whole debt has already been paid, then recovery on the policy is no longer permissible.[94]

Noticeably, the actual investment of Susan at the time of Reuben's death is ₱16,000,000.00 of ₱1,000,000.00 more than the face value of the policy. The intention of the parties in entering into several memoranda of agreement reflecting the investment contracts, and in taking out an insurance policy on the life of Reuben with Susan as the beneficiary is to secure Reuben's debt. To Our mind, in taking out a policy on his own life and paying its premium, Reuben intended to use it as a collateral for his debt at least to the amount of the policy's face value. The insurable interest of Susan is not limited to just what Reuben owed her at the time the policy took effect. Instead, she becomes entitled to the value of Reuben's outstanding obligation at the time of his death the maximum recoverable amount of which is the face value of the policy.

Nevertheless, taking into consideration the state's policy against wagering contracts and the principle of equity, the ₱2,000,000.00 which Susan received from Rossana should be deducted from ₱16,000,000.00, the total outstanding obligation of Reuben at the time of his death. The face value of the policy, ₱15,000,000.00 should be the maximum amount that Susan may receive. Therefore, the amount of Fortune's liability to Susan should be computed as follows:

Investment on February 17, 2011[95]	Php	2,000,000.00
Investment on March 3, 2011[96]		1,000,000.00
Investment on March 14, 2011[97]		1,000,000.00
Investment prior to effectivity date of policy	Php	4,000,000.00
Add: Investment on March 28, 2011[98]		6,000,000.00
Investment on March 28, 2011[99]		6,000,000.00
Total Investment of Susan	Php	16,000,000.00
Less: Amount paid by Rossana Ajon to Susan Dela Fuente	(	2,000,000.00)
Total outstanding obligation of Fortune to Susan		**Php 14,000,000.00**

Limiting the extent of Fortune's liability to Susan is consistent with the

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93 9 East 72 (1807).
94 Id.
95 Records, pp. 32-33, 107-108.
96 Id. at 109-110.
97 Id. at 111-112.
98 Id. at 36-37, 113-114.
99 Id. at 38-39.

ruling in the case of *Crotty*.[100] Though the case of *Crotty* may not be on all fours with the one at bar, its principle is instructive in resolving Susan's claim. Having already received ₱2,000,000.00 of the ₱16,000,000.00 Susan invested in Reuben business, she can now only recover up to the balance of his outstanding obligation, ₱14,000,000.00.

Attorney's fees

With respect to the award of attorney's fees, the Civil Code allows attorney's fees to be awarded if, as in this case, exemplary damages are imposed. Considering the protracted litigation of this dispute, an award of ₱50,000.00 as attorney's fees is awarded to Susan.

Legal interest

In accordance with the Court's ruling in the case of *Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*,[101] Susan is entitled to legal interest. In *Nacar,* the Court, modified the imposable interest rates on the basis of Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, which took effect on July 1, 2013, thus:

> II. With regard particularly to an award of interest in the concept of actual and compensatory damages, the rate of interest, as well as the accrual thereof, is imposed, as follows:
>
> 1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be **6% *per annum*** to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.
>
> 2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion of the court* at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty. Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the

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100 144 U.S. 621.

101 716 Phil. 267, 278-279 (2013).

> computation of legal interest shall, in any case, be on the amount finally adjudged.
>
> 3. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be **6% *per annum*** from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.
> And in addition to the above, judgments that have become final and executory prior to July 1, 2013, shall not be disturbed and shall continue to be implemented applying the rate of interest fixed therein.[102] (Emphasis and italics in the original; citation omitted)

Applying the guidelines in the case of *Nacar* to the present case, 12% interest rate *per annum* shall be imposed on the principal amount due from the time of judicial demand, *i.e.*, from the time of the filing of the complaint, until June 30, 2013. Thereafter, from July 1, 2013, until full satisfaction of the monetary award, the interest rate shall be 6% *per annum*.

WHEREFORE, the Decision dated February 17, 2016 and the Resolution dated May 26, 2016 of the Court of Appeals in CA-G.R. CV No. 105012 are **SET ASIDE**. Respondent Fortune Life Insurance Co., is **ORDERED** to pay petitioner Susan Co Dela Fuente the following:

a. ₱14,000,000.00 representing Reuben's outstanding obligation;
b. ₱50,000.00 as attorney's fees; and
c. costs of suit

Interest at twelve percent (12%) *per annum* of the total monetary awards, computed from the date of the filing of the complaint for damages to June 30, 2013 and six percent (6%) *per annum* from July 1, 2013 until their full satisfaction shall also be imposed on the total judgment award.

SO ORDERED.

ROSMARI D. CARANDANG
Associate Justice

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102 Id.

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Chief Justice