SECOND DIVISION

G.R. No. 268308 – ELPIDIO QUE, Petitioner, **v. PHILIPPINE HEART CENTER, DR. AVELINO P. AVENTURA, and FIRST ASSOCIATED MEDICAL DISTRIBUTION CO., INC.,** Respondents.

Promulgated:

APR 0 2 2025

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CONCURRING OPINION

LEONEN, *J.*:

I agree with the *ponente* that respondent Dr. Avelino P. Aventura (Dr. Aventura) was not negligent in his duty as the attending physician of Quintin Que (Quintin), the father of petitioner Elpidio Que. However, I clarify the doctrine regarding medical malpractice cases involving foreign specialist doctors and specialist hospitals and the doctrine of informed consent.

In a medical malpractice case, the plaintiff must prove the following elements with a preponderance of evidence:

> Whoever alleges a fact has the burden of proving it. This is a basic legal principle that equally applies to civil and criminal cases. In a medical malpractice case, the plaintiff has the duty of proving its elements, namely: (1) a *duty* of the defendant to his patient; (2) the defendant's *breach* of this duty; (3) *injury* to the patient; and (4) *proximate causation* between the breach and the injury suffered. In civil cases, the plaintiff must prove these elements by a preponderance of evidence.[1] (Emphasis in the original, citation omitted)

The duty of a medical professional is to observe the "standard of care and exercise the degree of skill, knowledge, and training ordinarily expected of other similarly trained medical professionals acting under the same circumstance."[2] In some cases, it is described as the "norm observed by other reasonably competent members of the profession practicing the same field of medicine."[3] Expert testimony is usually needed to establish this standard of care:

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1 *Borromeo v. Family Care Hospital, Inc.*, 779 Phil. 1, 12 (2016) [Per J. Brion, Second Division].
2 *Id.* at 12–13.
3 *Id.* at 13.

> A medical professional has the duty to observe the *standard of care* and exercise the degree of skill, knowledge, and training ordinarily expected of other similarly trained medical professionals acting under the same circumstances. A breach of the accepted standard of care constitutes negligence or malpractice and renders the defendant liable for the resulting injury to his patient.
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> *The standard is based on the norm observed by other reasonably competent members of the profession practicing the same field of medicine.* Because medical malpractice cases are often highly technical, expert testimony is usually essential to establish: (1) the standard of care that the defendant was bound to observe under the circumstances; (2) that the defendant's conduct fell below the acceptable standard; and (3) that the defendant's failure to observe the industry standard caused injury to his patient.
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> The expert witness must be a similarly trained and experienced physician. Thus, a pulmonologist is not qualified to testify as to the standard of care required of an anesthesiologist and an autopsy expert is not qualified to testify as a specialist in infectious diseases.[4] (Emphasis supplied, citations omitted)

When assessing the required standard of care for physicians, the circumstance of a hospital being classified as a specialist must be considered. Since a specialist hospital offers highly specialized medical services, the standard of care expected from the specialists ought to be higher and measured against those they are similarly situated with.

In this case, the Philippine Heart Center is a specialist hospital. It was created in recognition of the need for specialized medical services for those suffering from heart and allied diseases in the Philippines.[5] Thus, the standard of care required at present should be based on the testimony of expert witnesses learned in the same specialties.

The legal duty to perform the required standard of care is created once a physician-patient relationship is established:

> A physician-patient relationship is created when a patient engages the services of a physician, and the latter accepts or agrees to provide care to the patient. The establishment of this relationship is consensual, and the acceptance by the physician essential. The mere fact that an individual approaches a physician and seeks diagnosis, advice or treatment does not create the duty of care unless the physician agrees.
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> The consent needed to create the relationship does not always need to be express. In the absence of an express agreement, a physician-patient relationship may be implied from the physician's affirmative action to diagnose and/or treat a patient, or in his participation in such diagnosis and/or treatment. The usual illustration would be the case of a patient who

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4 *Id.* at 12-13.

5 Presidential Decree No. 673 (1975), Creating the Philippine Heart Center for Asia.

> goes to a hospital or a clinic, and is examined and treated by the doctor. In this case, we can infer, based on the established and customary practice in the medical community that a patient-physician relationship exists.
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> Once a physician-patient relationship is established, the legal duty of care follows. The doctor accordingly becomes duty-bound to use at least the same standard of care that a reasonably competent doctor would use to treat a medical condition under similar circumstances.
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> Breach of duty occurs when the doctor fails to comply with, or improperly performs his duties under professional standards. This determination is both factual and legal, and is specific to each individual case.[6] (Citations omitted)

This duty to observe the required standard of care continues even after an attending physician recommends a foreign specialist doctor to a patient for the performance of a specialized procedure. The physician-patient relationship between the attending physician and the patient still exists if the patient continues to rely on the attending physician's expertise.

The attending physician—as the one who diagnosed the patient, suggested the course of treatment, and recommended the foreign specialist doctor who will perform the treatment—cannot simply assert that they are not liable for the result of the procedure performed by the foreign specialist. If it is proven that the foreign specialist doctor acted with negligence, then the burden is on the recommending doctor to prove that he acted with the required standard of care under the circumstances, else he will be held liable.

Thus, the attending physician must make an individual assessment of the patient's case. Their responsibility is not only limited to disclosing all the relevant information on the recommended procedure, but there should also be a showing that the doctor has done all that can be reasonably required to mitigate the risks in the performance of the specialized procedure.

Based on the records, Quintin was diagnosed with coronary artery disease in three major vessels of his heart and an aneurysm of the thoracic aorta. Dr. Aventura's assessment was that Quintin was in a critical stage since his three major vessels were 70% blocked.[7] Because of this, Quintin was advised to undergo an "open-method surgery" since the vessels "could burst anytime."[8] Given that the coronary artery disease was determined to be more life-threatening, on June 20, 1999, Dr. Aventura and the team performed a three-vessel coronary aorta bypass surgery on Quintin at the Philippine Heart Center.[9] Dr. Aventura advised Quintin to come back a month after the triple

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6 *Casumpang v. Cortejo*, 755 Phil. 466, 485–486 (2015) [Per J. Brion, Second Division].
7 *Rollo*, p. 112.
8 *Id.* at 998.
9 *Id.* at 933.

bypass surgery for the treatment of the aneurysm. However, Quintin came back three months later.[10]

It was then discovered that the aneurysm had rapidly grown, and that the treatment needed to be immediate since it could "rupture anytime and result to death."[11] After being presented with all the options, Quintin and his family decided to proceed with the endovascular stenting procedure.[12]

On February 14, 2000, the procedure was performed by Dr. Eric Verhoeven. As the attending physician, Dr. Aventura was present while it was being performed. However, the endovascular stenting procedure failed. Quintin suffered a stroke and eventually passed away on February 27, 2000.[13] His cause of death was found to be cerebral infarction, and the antecedent cause was due to cerebrovascular thromboembolism.[14]

Throughout this process, Dr. Aventura not only provided all the relevant information and recommended the best course of treatment, but he was also present to supervise the stenting procedure and all the events leading up to it.

Quintin was 74 years old and had comorbidities during his diagnosis.[15] Based on this and on the fact that the aneurysm grew rapidly, Dr. Aventura informed Quintin and his family of all the available options, the nature of the procedures, and the risks involved in undertaking the procedure:[16] (1) aneurysmectomy, which has higher risks and mortality since it will require opening his chest again;[17] and (2) endovascular stent procedure, which has lesser risks since it is a less invasive procedure that requires an "incision of an artery in the groin where a catheter carrying the stent will be inserted."[18] He presented endovascular stenting as a new and promising development in medical science based on articles and literature. Although it was not yet being done in the Philippines, the procedure was already commonly done in other countries.[19] Dr. Aventura also informed Quintin that since he is not a specialist in stent procedure, a foreign specialist would perform it.[20]

In preparation for the procedure, Quintin also underwent several tests, such as a CT scan, angiogram, and aortogram.[21] Dr. Aventura gave the measurement of the aorta to First Associated Medical Distribution Co., Inc.

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10 *Id.* at 999.
11 *Id.*
12 *Id.*
13 *Id.* at 1000.
14 *Id.* at 118.
15 *Id.* at 961–962.
16 *Id.* at 1005.
17 *Id.* at 114, 999.
18 *Id.* at 106, 999.
19 *Id.* at 963.
20 *Id.* at 1005.
21 *Id.* at 999.

and eventually to the product specialist Medtronic International Limited of Singapore for the stenting device. During the endovascular stent procedure, Dr. Aventura was there as the attending physician.[22]

Dr. Edgar S. Tuazon and Dr. Peter R. Figueroa, specialists in cardiovascular and endovascular surgery, testified that based on Quintin's medical records, they would recommend stenting rather than open repair, taking into account Quintin's advanced age, pre-existing pulmonary disease, and recent history of bypass surgery.[23] They also testified that a stroke was one of the inherent risks involved in the stenting procedure.[24] According to them, if Quintin did not consent to endovascular stenting, the aneurysm is like a "time bomb" that can rupture anytime and would lead to his death.[25]

Based on these circumstances, Dr. Aventura, as the attending physician, has performed the standard of care required from a cardiothoracic surgeon as established by expert testimony.

A physician also has the duty to disclose the material risks of a procedure based on the doctrine of informed consent.[26] In *Dr. Li v. Spouses Soliman*,[27] physicians may be held liable when they fail to obtain an informed consent of the patient before performing any medical procedure:

> Reiterating the foregoing considerations, *Cobbs v. Grant* deemed it as integral part of physician's overall obligation to patient, the duty of reasonable disclosure of available choices with respect to proposed therapy and of dangers inherently and potentially involved in each. However, the physician is not obliged to discuss relatively minor risks inherent in common procedures when it is common knowledge that such risks inherent in procedure of very low incidence. Cited as exceptions to the rule that the patient should not be denied the opportunity to weigh the risks of surgery or treatment are emergency cases where it is evident he cannot evaluate data, and where the patient is a child or incompetent. The court thus concluded that the patient's right of self-decision can only be effectively exercised if the patient possesses adequate information to enable him in making an intelligent choice. The scope of the physician's communications to the patient, then must be measured by the patient's need, and that need is whatever information is material to the decision. The test therefore for determining whether a potential peril must be divulged is its materiality to the patient's decision.
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> *Cobbs v. Grant* further reiterated the pronouncement in *Canterbury v. Spence* that for liability of the physician for failure to inform patient, there must be causal relationship between physician's failure to inform and the injury to patient and such connection arises only if it is established that, had revelation been made, consent to treatment would not have been given.

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22 *Id.* at 1005.
23 *Id.* at 1007–1008.
24 *Id.* at 142.
25 *Id.*
26 *Li v. Spouses Soliman*, 666 Phil. 29, 57 (2011) [Per J. Villarama, Jr., *En Banc*].
27 666 Phil. 29 (2011) [Per J. Villarama, Jr., *En Banc*].

> There are four essential elements a plaintiff must prove in a malpractice action based upon the doctrine of informed consent: "(1) the physician had a duty to disclose material risks; (2) he failed to disclose or inadequately disclosed those risks; (3) as a direct and proximate result of the failure to disclose, the patient consented to treatment she otherwise would not have consented to; and (4) plaintiff was injured by the proposed treatment." The gravamen in an informed consent case requires the plaintiff to "point to significant undisclosed information relating to the treatment which would have altered her decision to undergo it."
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> The element of ethical duty to disclose material risks in the proposed medical treatment cannot thus be reduced to one simplistic formula applicable in all instances. Further, in a medical malpractice action based on lack of informed consent, "the plaintiff must prove both the duty and the breach of that duty through expert testimony.["] Such expert testimony must show the customary standard of care of physicians in the same practice as that of the defendant doctor.[28] (Citations omitted)

The main inquiry in an informed consent case is whether there is significant undisclosed information regarding the treatment that would have altered the patient's decision to undergo it.[29]

In medical malpractice cases based on the doctrine of informed consent, a plaintiff must prove: "(1) the physician had a duty to disclose material risks; (2) he failed to disclose or inadequately disclosed those risks; (3) as a direct and proximate result of the failure to disclose, the patient consented to treatment she otherwise would not have consented to; and (4) plaintiff was injured by the proposed treatment."[30] To ensure that the nature of the procedure and its associated risks are clearly communicated to the patient, consent forms should indicate how this information was conveyed to the patient before it was signed.

Here, the two consent forms signed by Quintin adequately showed the extent of information given to the patient before consenting to the endovascular stenting procedure.

The first consent form, "Consent for Endovascular Stenting"[31] describes the entirety of the endovascular stenting procedure. It further states:

> As expected in all invasive procedures, there are risks involved. But when your attending physician asks for a procedure like this[,] he has decided that the risks are far [outweighed] by the benefits of the information obtained through such procedure. If you have any further questions, you may discuss

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28 *Id.* at 56–58.
29 *Id.* at 57.
30 *Id.*
31 *Rollo*, p. 395.

> them with your attending physician or any member of the catheterization team who will perform the study.
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> *I have read and understood the foregoing. The nature and possible consequences have been explained to me.*[32] (Emphasis supplied)

The second consent form, "Consent to Operation, Administration of Anesthesia, and the Rendering of Other Medical Services,"[33] states in part:

> *I attest that the procedure has been fully explained to me and I understand what will be done to me/above patient.*[34] (Emphasis supplied)

The records further support that Quintin and his family were sufficiently informed about the nature and risks of the endovascular stenting procedure.

Petitioner admitted that respondent Dr. Aventura discussed the treatment options with the patient and his family.[35] Petitioner and his family also narrated that they were informed that the stenting procedure has "fewer risks of hemorrhage or rupture of the aneurysm itself, and a smaller chance of paralysis" than the open surgery.[36] Although the risks were described to be lesser, they still exist. Petitioner further testified that respondent Dr. Aventura presented medical literature about stents, displayed diagrams, and even sketched the device to illustrate how it functions when deployed.

Aside from this, it is reasonable to expect that Quintin and his family are aware that trying a relatively new technology involves certain risks.

Thus, petitioner failed to identify any undisclosed information regarding the endovascular stent procedure that could have influenced Quintin's decision to proceed with it.

FOR THESE REASONS, I vote to **DENY** the Petition.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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32 *Id.*
33 *Id.* at 396.
34 *Id.*
35 *Id.* at 1013.
36 *Id.* at 933.