



P. L., J. M. v. I.O.M.A

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Country: Argentina

Region: Americas

Year: 2014

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Nación Argentina]

Health Topics: Child and adolescent health, Health care and health services, Health systems and financing, Mental health

Human Rights: Right to development, Right to education, Right to health, Right to life, Right to participation, Right to work

Facts

The plaintiff filed an appeal to the Supreme Court of Justice of the Province of Buenos Aires [Suprema Corte de la Provincia de Buenos Aires] against the health insurance of the Province of Buenos Aires [I.O.M.A] to obtain comprehensive coverage treatment in a special school [CEPP] for their disabled son that had Down's syndrome, where he attended since 1998. The plaintiff based the suit in article 42 of the National Constitution; article 36, incs. 5° and 8° of the Provincial Constitution; articles 1° and 2° of the provincial law 6982; article 1° of the provincial law 10 592 and resolution 2544/91 [dictated by the respondent] and in Supreme's Court Justice jurisprudence "I., C.F. c/ Provincia de Buenos Aires s/ amparo". The respondent defense was that as it was not adhered to the CEPP or did not have a convention with it, it was not obliged to provide complete coverage for their son's treatment, based on laws 6982 and its regulatory decree 7881/84 and that the assistance to disabled persons was regulated in accordance to its regulation and resolution 2544/91.

The Supreme Court of Justice of Province of Buenos Aires revoked the previous judgement and ordered I.O.M.A to provide full coverage of the plaintiff's treatment in the CEPP special school. Also imposed the procedural costs on both parties. The respondent filed an extraordinary appeal to the Supreme Court of Justice to revoke the previous judgement based on: arbitrary because it did a broad interpretation of the Court precedent, violating its right to a fair trial and right to property and that the judgement entails a serious danger to the institutions because it does not contemplate the solidarity principle and by benefiting only one person, the rest of the beneficiaries would be harmed. The plaintiff filed a complaint about the shared the procedural costs.

Decision and Reasoning

The Supreme Court of Justice admitted the extraordinary appeal and confirmed the previous judgement. The interpretation of the Supreme Court of Justice of Province of Buenos Aires was correct when he based his reasoning on an analogous precedent case that even though it only granted coverage for a limited period of time, the same reasoning should apply to this case even though is coverage for the whole treatment. The serious institutional danger was not proved by the respondent so that argument should be dismissed. The previous judgement was based on Constitutional and International Laws that guarantee the rights of the disabled people to be socially integrated, so it is not arbitrary the reasoning of the Supreme Court of Justice of the Province of Buenos Aires. The plaintiff's claim was dismissed because it is a procedural issue that exceeded the Supreme Court's competence.

Decision Excerpts

"[...] cabe destacar que la decisi3n impugnada no solo se bas3 en la remisi3n a la doctrina del citado precedente de Fallos: 331:2135, sino que tambi3n se sustent3 en las disposiciones de la Convenci3n sobre los Derechos de las Personas con Discapacidad, aprobada por la ley 26.378, cuyo art. 4.5 establece que sus prescripciones (algunas de ellas, como los arts. 24, 25 y 26, relacionadas directamente con la materia del presente caso) se aplicar3n "a todas las partes de los Estados federales sin limitaciones ni excepciones" (v. fs. 371 y siguientes) y en claras normas locales, de rango constitucional (art. 36) y legal (leyes 10.592 y 6982), dirigidas a garantizar a las personas con discapacidad su rehabilitaci3n, educaci3n y capacitaci3n en establecimientos especiales y a promover su inserci3n social y laboral." Paragraph 9

"[...] it should be noted that the challenged judgement was not only based in the doctrine of the quoted precedent of Fallos: 331:2135, but it was supported in articles of the Convention on the Rights of Persons with Disabilities, adopted by law 26 378, which its article 4.5 established that its legal requirements (some of them such as articles 24, 25 and 25 directly related with the issue in this case) would be applicable "to all federal States without limitations or exceptions" and in local norms, with constitutional rank (art 36) and legal (laws 10 592 and 6982) aimed to guarantee disables persons their rehabilitation, education, trainingshould take place in special establishments and promote their social and labor integration." Paragraph 9

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