



R., S. E. v. Provincia Servicios de Salud S.A.

R. 9. XLIX

Country: Argentina

Region: Americas

Year: 2014

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

Health Topics: Aging, Disabilities, Health care and health services, Health systems and financing, Hospitals, Medicines

Human Rights: Right to health, Right to life

Facts

The plaintiff, a woman that suffered a hemorrhagic stroke that left her in a coma since 1999, filed a suit against the Provincia Servicios de Salud S.A for breach of contract. The plaintiff signed a contract with the respondent called "Plan Verde" [Green Plan] that stated that in case of hospitalization and surgery hospitalization, the insurance would provide an individual room with private bathroom without any time limitations. After 3 months of hospitalization, the health insurance issued the domiciliary hospitalization for the patient because they claimed that the unlimited provision of the hospitalization would be provided in case of surgery or clinical hospitalization but not for rehabilitation. The plaintiff didn't own a property.

The Federal First Instance Civil and Commercial Court [Juzgado Nacional de Primera Instancia en lo Civil y Comercial Federal n° 6] admitted the complain. The respondent appealed to the Federal Civil and Commercial Court of Appeal [Cámara Nacional de Apelaciones en lo Civil y Comercial Federal] which revoked the First Instance Civil and Commercial Court's judgement and dismissed the complain. The plaintiff filed an extraordinary appeal with the Supreme Court of Justice.

Decision and Reasoning

The Supreme Court of Justice held that Court of Appeal judgement was arbitrary because it did not address the fact that the contract between the parties included an obligation of the respondent to provide comprehensive coverage in case of clinical or surgery hospitalization. The Court of Appeal only stated that there was a contract between the parties and that the domiciliary hospitalization was a valid way for the respondent to comply with the contract. It did not address this specific clause that obliged the respondent or the fact that it was an adhesion contract.

The Supreme Court evaluated if the obligation of the respondent was fulfilled with domiciliary hospitalization given the characteristics of the case. The domiciliary hospitalization didn't provide the plaintiff with the same level of care as the hospitalization because there was no permanent nurse assigned but only daily visits from a health worker to take care of the patient who needed constant care given her condition. At the same time, the Court of Appeal didn't take into account the socioeconomic context of the patient that didn't have a property to stay, violating articles 17, 18 and 19 of the National Constitution.

For those reasons, the Supreme Court admitted the extraordinary appeal, revoked the previous judgement and send the case to the Court of Appeal to decide according to these considerations.

Decision Excerpts

"Resulta claro que muchos problemas vinculados con el derecho a la salud presentan como una variable a considerar los efectos del acuerdo celebrado entre las partes." Paragraph IV

"It is clear that many problems linked to the right to health present a factor to consider the effects of the agreement celebrated between the parties." Paragraph IV