



G., M. D. C. v. ACA Salud Cooperativa de Prestaci3n de Servicios M3dicos

CSJ 2597/2015/CS1

Country: Argentina

Region: Americas

Year: 2015

Court: Supreme Court of Justice [Corte Suprema de Justicia de la Naci3n Argentina]

Health Topics: Health care and health services, Health systems and financing

Human Rights: Right to health, Right to life

Facts

The plaintiff filed a suit against ACA Salud Cooperativa de Prestaciones de Servicios M3dico Asistenciales Limitada to provide a therapeutic companion and comprehensive coverage for the treatment that she carried out in the Anorexia and Bulimia Prevention Association [Asociaci3n de Lucha contra la Bulimia y la Anorexia - ALUBA].

The Provincial First Instance Court of Necochea [Juzgado de Garant3as n3 1 del Departamento Judicial de Necochea] found that it didn't have jurisdiction to solve the claim because the respondent was a health insurance company that provided health services, an activity regulated by federal law according to article 38 of federal law 23.661. The case was sent by the Provincial First Instance Court to the Federal First Instance Court of Necochea [Juzgado Federal de Primera Instancia de Necochea] that found that it was not competent to solve the case because law 24 240 (consumer defense law) classified the health insurance contract as a consumer relationship, and it was not a matter of exclusive federal jurisdiction, so it send the case to the Supreme Court of Justice to decide which court was competent.

Decision and Reasoning

The Supreme Court of Justice held that the competent court was the Federal First Instance Court of Necochea [Juzgado Federal de Primera Instancia de Necochea] because even though the reformed legislation of consumer defense included the health services contracts as a consumer contract, the law that regulated the extent of the health insurances companies obligations and rights was the federal law 23.661. As it is a federal subject then the case should be decided by a federal court.

Decision Excerpts