



Policlínica Privada de Medicina y Cirugía S.A. v. Municipalidad de la Ciudad de Buenos Aires

P. 169.XXXIII

Country: Argentina

Region: Americas

Year: 1998

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, Hospitals

Human Rights: Right to housing, Right to social security

Facts

Policlínica Privada de Medicina y Cirugía S.A. (Policlínica) brought a guarantee of protection of individual constitutional rights (amparo protection) against the resolution of the Health Secretary of the then Municipality of the City of Buenos Aires.

Policlínica had sought to transfer a minor, who was receiving intensive care treatment in the Petitioner's premises, to a public hospital. The minor had allegedly exhausted her private insurance benefits, and the private hospital was not willing to continue providing intensive care. However, the public hospital also refused to admit the minor, because the minor and her father were covered by private health insurance. As an "innovative precautionary measure", the Municipality issued a resolution blocking the transfer and requiring Policlínica to continue providing care until the civil case determining the extent of the minor and her father's health care plan was concluded.

Policlínica challenged this resolution. The appeals court found in favor of Petitioner and revoked the resolution, ordering the Health Secretary to allow an immediate transfer to a public hospital. The Health Secretary appealed the decision and requested extraordinary measures, claiming that the appeals court ruled arbitrarily and the revocation of the resolution constituted a violation of article 2(b) of Law N° 16.986, which declares any legal protection appeal inadmissible where the challenged act emanates from the Judicial Power. The Health Secretary also claimed that the decision placed the economic interests of Petitioner before the rights of the child.

Decision and Reasoning

The Supreme Court dismissed the appeal. It found that the Health Secretary failed to show arbitrariness in the lower court's decision and existence of a federal question that would justify the intervention of the Court in a matter outside its extraordinary competence.

The Supreme Court also found that local authorities could not force private hospitals to keep a patient hospitalized after their term of coverage had ended, and that in such cases, the State had an obligation to provide public health care to the patient after they were no longer able to access private care. This obligation derived from article 20 of the Constitution of the Autonomous City of Buenos Aires, which created a right to comprehensive health care and an obligation to prioritize health as a social investment, and from article 26 of the Convention on the Rights of the Child, ratified by Law N° 23.849, which guarantees all children the right to benefit from social security and the adoption of necessary measures to achieve the full realization of that right. While article 20 of the Buenos Aires Constitution authorized the authorities to seek compensation for services provided to persons with private insurance, it could not be interpreted as a justification for denying public sector health services to such individuals.

The Court therefore held that the authorities had failed to refute the lower courts' decision.

Decision Excerpts

