**CASELAW NO. 22/2018/AL**

*This case law was adopted by the Judicial Council on 17 October 2018 and promulgated under Decision No. 269/QD-CA dated 6 November 2018 of the Chief Justice of the Supreme People’s Court.*

**Source of the case law:**

Appellate Civil Judgment No. 313/2016/DS-PT dated 16 March 2016 of the People’s Court of Ho Chi Minh City regarding dispute on life insurance policies between the plaintiff being Mr. Dang Van L (whose authorized representative was Mr. Tran Xuan H) against the defendant being Life insurance company limited C (whose authorized representative was Mr. Hoang P and persons representing lawful rights and interests were Mr. Dinh Quang T and Mr. Dinh Ngoc T).

**Location of contents of the case law:**

Paragraphs 4, 8, 9, 10 and 11 of section *“Findings of the Court”.*

**Overview of the case law:**

* ***Background of the case law:***

Life insurance policy, insurance rules, and request for insurance have unclear terms on declaration of medical conditions of the insured persons. The declared information is not the basis for the parties to determine the formation of life insurance policies.

* ***Legal resolution:***

In this case, it must be determined that insurance buyers do not breach the obligation on information disclosure when signing insurance policies and insurance applications.

**Applicable provisions of laws relating to the case law:**

* Article 407.2 of the Civil Code 2005 (corresponding to Article 405.2 of the Civil Code 2015)

* Article 409.4 of the Civil Code 2005 (corresponding to Article 404.3 of the Civil Code 2015)

* Article 21 of the Law on Insurance Business 2000 amended and supplemented in 2010.

**Key words of the case law:**

*“Insurance policy”, “Insurance rules”, “Application for insurance”, “Breach of obligation on information disclosure”, “Unclear request for declaration information”, “Medical conditions”.*

### CONTENTS OF THE CASE

* According to the Statements of Claims dated 10 November 2010 and on 8 December 2010, Mr. Dang Van L being the plaintiff requested that:

The People's Court of District 1 compel Life Insurance Company Limited C (hereinafter referred to as *“Company C”)* to pay him an amount of VND405,000,000 and the interest amount arising up to the time when the judgment becomes effective, which was the amount that Company C must compensate in respect of the two insurance policies purchased by his wife with codes as follow:

* 1. Policy No. S11000009505 purchased on 14 October 2008 with the compensation amount of VND250,000,000.

* 1. Policy No. S11000040924 purchased on 25 March 2009 with the compensation amount of VND190,000,000.

The company had paid him an advance of VND50,000,000.

* According to the amended and supplemented Statement of Claims dated 30 May 2011, Mr. Dang Van L requested that:

Compel Company C to pay him the amount of VND470,000,000 and the interest amount arising up to the time when the judgment becomes effective. The interest amount was provisionally calculated to be VND43,000,000.

* 1. Policy No. S11000009505 purchased on 14 October 2008 with the compensation amount of VND287,000,000.

* 1. Policy No. S11000040924 purchased on 25 March 2009 with the compensation amount of 190,000,000.

* According to the amended Statement of Claims dated 22 June 2011, Mr. Dang Van L made the following amendments to the Statement of Claims as below:

To compel Company C to pay him the total amount of VND203,772,500 for the 02 insurance Contracts No. S11000009505 and S11000040924 and to continue performing Policy No. S11000009505 purchased on 14 October 2008. To return the two original Contracts No. S11000009505 and S11000040924, specifically:

As to Thinh Tri Thanh Tai Bao Gia Contract, up to this time the Company must pay the insurance compensation in case of death (Article 4.1.2) being 50% of the insurance compensation equivalent to VND35,000,000.

Right to annual cash support (Article 4.4) being 10% of the insurance compensation amount, equivalent to 7,000,000.

Also, to continue performing Policy No. S11000009505 and make payment of the benefits when due as recorded in the contract.

* Refundable life insurance policies.

Right to insurance compensation in case of death (Article 4.1): VND190,000,000 (Company C already paid an amount of VND50,000,000).

The interest amount provisionally calculated up to this time was the overdue interest from the company’s late payment, which amounted to VND21,772,500.

* According to the supplemented Statement of Claims dated 18 April 2015, Mr. Dang Van L requested:

To compel Company C to pay him the amount of VND405,000,000 and the interest amount arising up to the time when the judgment becomes effective.

To compel Company C to return him the original insurance Contracts No. S11000009505 and S11000040924 which had been taken from his family.

* According to the Answer No. 008/2011/CV dated 28 January 2011, the defendant being Company C presented that:

Its client being Ms. Truong Thi H, before entering into the two insurance policies, had a history of stomach pain and high cholesterol but failed to disclose the same in the questionnaire in the application for insurance. If Company C had been aware of Ms. Truong Thi H’s history of stomach pain and high cholesterol, it would have refused to enter into the insurance policies with her. As a consequence, Company C’s refusal to make payment of the insurance compensation and decision to cancel the two insurance policies entered into with Ms. H had basis(pursuant to Article 11.2 of the Rules and terms of the contract) and were in compliance with the law (in accordance with Article 19 of the Law on Insurance Business).

Company C requested People’s Court of District 1 to reject the claims of Mr. L.

* According to the reply document No. 024/2011/CV dated 16 May 2011, the defendant being Company C presented that:

* 1. As to the claim for Company C to pay the amount of VND405,000,000 and the interest amount arising from both Contracts No. S11000009505 and S11000040924, Company C maintained its position. Company C had already fulfilled all of its payment obligations as specified in the two aforesaid contracts. Accordingly, Mr. Dang Van L’s claims has no basis pursuant to the provisions in the Rules and terms of the insurance policies and regulations of the law. As a result, Company C proposed that the court reject Mr. L’s claim.

* 1. As to the claim for Company C to return the two original insurance Contracts No. S11000009505 and S11000040924, Company C agreed to return Mr. L the 02 original insurance policies.

* According to the testimony dated 14 April 2011: on 9 May 2011, Mr. Luong Thi T being the person with related rights and obligations presented that:

She was the biological mother of Ms. Truong Thi H who passed away on 9 January 2010. She requested Company C to pay her and her family the insurance compensation. She agreed to assign her son-in-law being Mr. Dang Van L the insurance compensation to which she was entitled, for Mr. L have sole discretion and ease in settling the dispute with Company C.

* According to the testimony dated 14 April 2011, Ms. Dang Kieu L being the person with related rights and obligations presented that:

She was the biological daughter of Ms. Truong Thi H who passed away on 9 January 2010. She was entitled to part of the insurance compensation that the insurance company had to pay Ms. H and her in accordance with the law. Therefore, she requested Company C to pay her the amount of insurance compensation to which she was entitled as inheritance that the company pay insurance compensation in case of her mother’s death. She agreed to gift her father being Mr. Dang Van L the insurance compensation and her part of the inheritance from her mother and Mr. L was is authorized to handle the dispute against Company C to claim the insurance compensation for her mother being Ms. H.

* According to the testimony dated 9 May 2011, Mr. Dang Van L being the lawful representative of Mr. Dang Linh N presented that:

The Court was requested to promptly conduct a hearing to secure justice and honor for his family as well as many other Vietnamese people who bought life insurance from Company C as well as other life insurance companies.

* The representative of the People’s Procuracy of District 1 expressed his comments as to the compliance of the civil procedural laws by the participants in the civil proceedings as follow:

The judge had complied with the regulations of the Civil Procedure Code.

The nature of the dispute, the case still being within the statute of limitation, and the evidence being fully collected were correctly determined.

Service of the documents of the proceedings to the Procuracy and other participants in the proceedings was conducted in accordance with Article 147 of the Civil Procedure Code.

The legal status of the involved parties was correctly determined, the decision to conduct a hearing was issued and the submission of the case file to the Procuracy for examination was made in a timely manner in accordance with the law.

The time limit for hearing preparation was prolonged, which violated Article 179 of the Civil Procedure Code.

At the hearing, the Council of Adjudicators conducted the procedures in timely manner. The venue and participants were recorded in the decision to conduct a hearing; the rules for hearing complied with the law. During the hearing, the judge ensured that the involved parties would have the opportunity to present their cases.

As to the compliance of the law of the participants in the proceedings: As from the acceptance of jurisdiction over the case as well as in today’s hearing, the plaintiff, defendant and persons with related rights and obligations had complied with civil procedural laws.

In the first-instance judgment, it was ruled that:

* In application of:

* + Article 25.3, Article 33.1(a), Article 35.1(a), and Article 245 of the Civil Procedure Code 2004 as amended and supplemented in 2011;

* + Article 21 and Article 29 of the Law on Insurance Business being effective as from 1 April 2001;

* + Article 305 and Article 407 of the Civil Code being effective as from 1 January 2006;

* + Ordinance on court costs and fees being effective as from 1 July 2009

* + Joint Circular No. 01/TTLT dated 19 June 1997 of the Ministry of Justice - Ministry of Finance - Supreme People’s Court - Supreme People's Procuracy;

* + Decision No. 2868/QD-NHNN dated 29 November 2010 of the State Bank of Vietnam.

* To rule:

1. To accept the plaintiff's claims.

* + Compel Life Insurance Company Limited C to pay Mr. Dang Van L the insurance compensation amount of VND300,875,342 (three hundred million eight hundred seventy five thousand three hundred forty two Dong)

* + Life Insurance Company Limited C must return to Mr. Dang Van L the Thinh Tri Thanh Tai Bao Gia insurance policy dated 14 October 2008 and refundable life insurance policy dated 25 March 2009.

* + Insurance Policy No. S11000009505 dated 14 October 2008 (Thinh Tri Thanh Tai Bao Gia) will continue to be performed and the maturiy benefits

can be resolved when Dang Linh N reaches the age of 22 and is still alive on the maturity date.

Enforce immediately the judgment becoming effective with the supervision of the competent civil judgment enforcement agency.

As from the date on which Mr. Dang Van L applies to enforce the judgment, if Life Insurance Company Limited C fails to pay the aforementioned amount of money, then it shall also have to Mr. L an interest amount based on the basic interest rate announces by the State Bank corresponding to the period of time of delay of enforcement of the judgment.

1. In terms of court fees: Life Insurance Company Limited C shall bear the court fees for the first-instance procedures being VND15,043,767.

As the plaintiff was not obliged to pay the court fees of the first-instance procedures, it would be refunded the court fees of VND11,925,000 consisting of VND10,100,000 in Money Receipt No. 05237 dated 5 January 2011, VND200,000 in Money Receipt No. 05621 dated 26 April 2011 and VND1,625,000 in money receipt No. 05737 dated 5 January 2011 of the Civil Judgment Enforcement Agency of District 1, Ho Chi Minh City.

1. With regard to the right to appeal

* + Mr. Tran Xuan H – authorized representative of Mr. L, Ms. T and Ms. Kieu L, was present at the hearing but absent when the judgment was announced. Therefore, Mr. L, Ms. T and Ms. Kieu L have the right to appeal within 15 days from the date on which they are duly served the judgment.

* + Life Insurance Company Limited C has the right to appeal within 15 days from the announcement date of the judgment.

In case the judgment was to be enforced in accordance with Article 2 of the Law on Civil Judgment Enforcement, the judgment creditor and judgment debtor have the right to agree on the enforcement and right to apply for enforcement, voluntary enforcement, or compulsory enforcement in accordance with Articles 6, 7 and 9 of the Law on Civil Judgment Enforcement. The statute of limitation for civil judgment enforcement is subject to Article 30 of the Law on Civil Judgment Enforcement.

On 9 September 2015, the defendant - Life Insurance Company Limited C (hereinafter referred to as *“Company C”)* submitted an appeal against the first-instance judgment in its entirety.

At the appellate hearing:

The plaintiff did not withdraw the Statement of Claims and the appellants did not withdraw the appeal. The involved parties did not reach any mutual agreement on settlement of the case.

The appellant being Company C, who is represented by Mr. Hoang P as the authorized representative and lawyer protecting the lawful rights and interests, presented that:

When entering into the insurance policies with Company C, Ms. Hmade untruthful declarations. In her application for insurance, Ms. H had declared untruthfully on the two following points:

1. Consultation minutes No. 42/BV-99 by B Hospital dated 3 September 2009 indicated that Ms. H had a 2-year history of stomach pain. Company C asserted that this content had been declared by Ms. H and noted by the doctor in the aforesaid consultation minutes. Therefore, it could be determined that Ms. H had stomach pain since 3 September 2017, which was before Ms. H signed the insurance policy. Company C asserted that the phrase stomach disorders included all diseases related to the stomach, including stomach pain. At question No. 54 of Application for insurance dated 25 March 2009: *“Gastrointestinal tract, gastrointestinal bleeding, hepatitis, colitis, dyspnea, difficulty in swallowing, or disorders in the stomach, intestine or gallbladder?”*, Ms. H checked the No box (meaning that Ms. H had no stomac disorder), which was an untruthful declaration.

1. At the appellate hearing, Company C provided a copy of the photo of biochemical blood test dated 22 September 2008 collected by Company C from the records of periodic health examination for employees of Preschool C where Ms. H had previously worked. Company C asserted that on 22 September 2008, Ms. H did a blood test but she did not declare the same in item 61 of the application for insurance, which was Ms. H intentionally making an untruthful declaration.

From the two aforesaid points, it could be determined that Ms. H had declared untruthful information and breached the obligation on information disclosure. Consequently, pursuant to Article 11.2 of the Rules on terms of insurance policy, Company C cancelled the 02 aforementioned insurance policies and the two contracts were invalid.

In addition, on 15 September 2010, Mr. L received the amount of VND50,000,000 and signed a Payment invoice and confirmation of the fulfillment of insurance responsibility. With this confirmation, Mr. L agreed to terminate the Insurance Policy No. S11000009505 và Insurance Policy No. S11000040924, and acknowledged that Company C had made full payment of the insurance compensation and had no further responsibility to resolve the right to insurance compensation under the two insurance policies.

Therefore, Company C had no obligation to pay the insurance compensation to Mr. L, and so it proposed that the appellate court to amend the first-instance judgment in the direction of not accepting the plaintiff’s claims.

The plaintiff being Mr. Dang Van L through Mr. Tran Xuan H presented that:

According to the common understanding, *“stomach pain”* and *“stomach disorder”* are two different concepts, and there are no documents and evidence showing that stomach pain is stomach disorder. Each year Ms. H had periodic health examinations organized by her employer where she worked. However, it is common that most organizations and workplaces do the same for their employees. When participating in the health examination, the examined persons do not know or are not required to know which measures or methods that the examination and treatment organization might apply. Besides, the periodic health examination did not indicate that Ms. H had any diseases had any relationship to Company C’s refusal to sign the insurance policies. Therefore, Company C asserting that Ms. H provided untruthful information as the reasonf for its refusal to pay Ms. H the insurance compensation has no basis. The appellate court should uphold the first-instance judgment.

The persons with related rights and obligations being Ms. Luong Thi T, Ms. Dang Kieu L, Dang Linh N (with Mr. Dang Van L as the lawful representative of his son who is still a minor) by their authroized representative Mr. Tran Xuan H presented that:

The persons with related rights and obligations shared the same opinions as the plaintiff and the Council of Adjudicators should uphold the first-instance judgment.

The representative of the People’s Procuracy of Ho Chi Minh City participating in the hearing opined as follows:

In terms of formality: the appeal of the involved party was made within the time limit specified by law and thus valid, the court should accept the appeal. The Council of Adjudicators and peoples participating in court proceedings had complied with the law during the dispute resolution process during the appellate stage.

In terms of contents: based on the contents of the appeal that Company C and the lawyer protecting the lawful rights and interests of Company C presented, there is insufficient basis to determine that Ms. H made untruthful declarations and breached the obligation on information disclosure. Therefore, there is insufficient basis to accept the appeal by Company C. The Council of Adjudicators should upload the first-instance judgment.

### FINDINGS OF THE COURT

1. After reviewing the materials in the case file, which have been verified at the hearing and based on the outcome of the argument sessions at the hearing, the Council of Adjudicators ruled that:
2. In terms of procedures: the appeal by Company C was submitted within the time limit specified by law. Company C implemented the appellate procedures in accordance with the law, and thus there is basis to accept its appeal.
3. In terms of contents: In consideration of the defendant’s appeal which requested rejection of the plaintiff’s Statement of Claims, the Council of Adjudicators found that:
4. In question No. 54 of Application for insurance dated 25 March 2009: *“Gastrointestinal tract, gastrointestinal bleeding, hepatitis, colitis, dyspnea, difficulty in swallowing, or disorders in the stomach, intestine or gallbladder”*, Ms. H checked the No box. At consultation minutes No. 42/BV-99 by B Hospital dated 3 September 2009, Ms. H disclosed that she had had a history of stomach pain for 2 years. Pursuant to the consultation minutes, Ms. H had stomach pain from 3 September 2007 which was prior to the point of time when she signed the insurance policies. Company C asserts that the phrase stomach disorder includes all diseases related to the stomach including stomach pain. However, at the appellate hearing, the defendant failed to provide any evidence to prove and did not provide any scientific explanation to determine that stomach pain is stomach disorder.
5. According to Article 407.2 of the Civil Code 2005: *“In cases where a template contract contains unclear provisions, the party presenting the template contract shall bear any adverse consequences of the interpretation of such provisions”.*
6. According to Article 409.4 of the Civil Code 2005: *“When a contract contains a provision or language that is difficult to understand, such provision or language must be interpreted according to customs at the place where the contract is entered into”.*
7. Article 21 of the Law on Insurance Business: *“Where an insurance contract contains unclear provisions, such provisions shall be interpreted in favor of the insurance buyer”.*
8. Pursuant to the aforesaid regulations of the laws, in case the parties have different interpretations or there exist provisions that are unclear or difficult to understand in the contract, such provisions shall be interpreted in favor of Ms. H. Therefore, there is insufficient basis to determine that stomach pain was included in stomach disorder as presented by Company C.
9. Considering that the application for insurance contained no question about stomach pain, these is no basis for Company C to assert that Ms. H had stomach pain without declaring the same as intentionally making an untruthful declaration and breaching the obligation on information disclosure.
10. In question No. 61 of Application for insurance dated 25 March 2009: *“Within the past 5 years, have you done diagnostic examinations such as X-rays, ultrasound, electrocardiography, blood tests, biopsy? Or do you have any sickness or illness which was examined and treated at hospitals, which is not listed above?”*, Ms. H checked the No box. At the appellate hearing, Company C provided the biochemical blood test dated 22 September 2008 wherein the patient’s name was Ms. Truong Thi H. Company C confirmed that this document had been collected from the periodic health examination records for employees of Preschool C where Ms. H worked. Company C asserted that on 22 September 2008, Ms. H did a blood test but did not declare the same in question No. 61 of the Application for insurance, which was Ms. H intentionally making an untruthful declaration. Considering that periodic health examinations are regularly and periodically conducted by organizations and agencies, when participating periodic health examinations, the examined persons do not know or are not required to know which measures or methods that the examination and treatment organization might apply. Besides, the periodic health examination did not indicate that Ms. H had any diseases had any relationship to Company C’s refusal to sign the insurance policies. Therefore, there is insufficient basis to determine that Ms. H felt abnormal, conducted a blood test, and then purchased the insurance from Company C.
11. As such, there is insufficient basis to determine that Ms. H had been dishonest in entering into the insurance policies. Equally, there is no basis to determine that Ms. H’s checking the No boxes in questions No. 54 and 61 of the Application for insurance would have any direct impact upon Company C’s consideration to enter into the insurance policies with Ms. C.
12. In addition, the rules and terms of refundable life insurance product and Thinh Tri Thanh Tai Bao Gia insurance product of Company C provided that:
13. *“Article 11.2. In case the insurance buyer or the insured person deliberately conceals or declares untruthful information, which seriously impact the decision and evaluation to provide the insurance, the company is entitled to cancel the contract which is considered to be invalid from the outset”.* With regard to the terms *“seriously impact”* in the aforesaid clause, in today’s hearing, Company C was not able to provide any clear explanation as to the nature of impact to be considered serious as well as the defendant’s presentations on whether the insurance would be sold when deciding to pay insurance compensation in case the insurance buyers had a history of stomach pain and high cholesterol. In the Answer No. 008 dated 28 January 2011, Company C asserted that *“If it been aware that Ms. Truong Thi H had stomach pains and high cholesterol, then Company C would have refused to enter into the insurance policies*”. At the first-instance and appellate hearings, Company C’s representative and lawyer protecting its lawful rights and interests asserted that if Company C had known of Ms. H’s stomach pain and high cholesterol, it would have considered whether or not it would enter into the policies. This showed that Company C did not have specific criteria to resolve the aforesaid case. Therefore, the terms *“seriously impact”* should be understood as illnesses that lead to refusal and being unable to purchase the insurance policy instead of accepting Company C’s interpretation that it may or may not sell the insurance as presented by Company C. As this clause was unclear, pursuant to Article 407.2 of the Civil Code which specify *“In cases where a template contract contains unclear provisions, the party presenting the template contract shall bear any adverse consequences of the interpretation of such provisions”* and Article 21 of the Law on Insurance Business which specify: *“Where an insurance contract contains unclear provisions, such provisions shall be interpreted in favor of the insurance buyer”,* it should be understood and interpreted in favor of Ms. H.
14. In fact, Ms. Nguyen Thi Diem P being a witness in this case presented that: She had purchased the periodic preference insurance product from Company C based on life insurance policy No. S11000297923. At the time when she entered into the insurance policy, she had informed Company C that she had been using stomach pain medication, she sometimes had stomach pain in the past 3 years, and she had health examination with Triglyceride 2.2 mmol/l. According to the result of verification by the People’s Court of District 1 at the People’s Hospital of District 1 on 28 July 2015, Triglyceride 2.2 mmol/l is higher than normal.
15. In consideration of Ms. Nguyen Thi Diem P’s case in purchasing life insurance from Company C, she declared that she had stomach pain and cholesterol that is higher than normal, however, Company C still sold insurance to Mr. P at standard premiums. This showed that stomach pain and indications of high cholesterol were considered as not a serious impact; thus, Company C sold the insurance at standard premiums similar to other cases. Consequently, insurance buyers not declaring stomach pain and high cholesterol would also not seriously impact Company C’s decision in evaluating whether or not to accept entering into the insurance policy. Accordingly, the insurance buyer did not breach Article 11.2 of the Rules and terms of the products issued by Company C as determined by the first-instance court, which has basis.
16. Company C asserted that it had fulfilled all obligations as specified in the two insurance policies. As to this dispute, Company C and Mr. L had settled, which was evidenced in the Payment invoice and confirmation of the fulfillment of insurance responsibility dated 15 September 2010. In section 3 of the aforesaid payment invoice, Mr. L confirmed that Company C had made full payment and thus is no longer responsible for resolving the right to insurance compensation in these two insurance policies. In section 4, Mr. L committed that. from now on, he would not take any actions against Company C and Company C is not required to perform any responsibilities and obligations in respect of policies No. S11000009505 and S11000040924. In considering Mr. L’s signing on Payment invoice and confirmation of the fulfillment of insurance responsibility dated 15 September 2010, it did not deprive Mr. L’s right to initiate a lawsuit if Mr. L believes that this agreement would adversely affect his lawful rights and interests.
17. From the aforesaid findings, there is basis to determine that the first-instance court’s acceptance of the plaintiff’s claims had basis and correct in accordance with law. Therefore, there is no basis to accept Company C’s appeal, and the first-instance judgment is upheld.
18. As the involved parties submitted no appeal and the People’s Procuracy submitted no protest against the first-instance judgment, it shall become effective.
19. In terms of appellate civil court fees, Company C must pay the appellate civil court fee in the amount of VND200,000 as the first-instance judgment was upheld.

In light of the aforementioned reasons,

Pursuant to Article 132.1 and Article 275.1 of the Civil Procedure Code;

Pursuant to Article 30.1 of the Ordinance on court costs and fees 2009

### RULES

1. To not accept the appeal of the defendant being Life Insurance Company Limited C.
2. To uphold First-instance Judgment No. 1211.2015/TLST-Ds dated 26 August 2015 of People’s Court of District 1, Ho Chi Minh City.
   1. To accept the plaintiff’s claims
   * Compel Life Insurance Company Limited C must pay Mr. Dang Van L the insurance compensation amount of VND300,875,342 (three hundred million eight hundred seventy five thousand three hundred and forty two Dong)/
   * Life insurance Company Limited C must return to Mr. Dang Van L the two insurance policies, namely Thinh Tri Thanh Tai Bai Gia insurance policy dated 14 October 2008 and refundable life insurance policy dated 25 March 2009.
   * Insurance Policy No. S11000009505 dated 14 October 2008 (Thinh Tri Thanh Tai Bao Gia) will continue to be performed and the maturiy benefits can be resolved when Dang Linh N reaches the age of 22 and is still alive on the maturity date.
   1. Enforce immediately the judgment becoming effective with the supervision of the competent civil judgment enforcement agency.
   2. As from the date on which Mr. Dang Van L applies to enforce the judgment, if Life Insurance Company Limited C fails to pay the aforementioned amount of money, then it shall also have to Mr. L an interest amount based on the basic interest rate announces by the State Bank corresponding to the period of time of delay of enforcement of the judgment.
3. First-instance civil court fees: Life Insurance Company Limited C shall bear the firstinstance civil court fee in the amount of VND15,043,767. Mr. Dang Van L shall not be obliged to pay the same and he will be refunded the advance court fee of VND11,925,000 consisting of VND10,100,000 pursuant to Money Receipt No. 05237 dated 5 January 2011, VND200,000 pursuant to Money Receipt No. 05621 dated 26 April 2011 and VND1,625,000 pursuant to Money Receipt No. 05737 dated 5 January 2011 of the Civil Judgement Enforcement Agency of District 1, Ho Chi Minh

City.

1. Appellate civil court fees: Life Insurance Company Limited C shall bear appellate civil court fees in the amount of VND200,00 (two hundred thousand Dong) which shall be deducted from the advance court fee that Life Insurance Company Limited C had paid as recorded in the Money Receipt No. AE/2014/0005146 dated 10 September 2015 of the Civil Judgement Enforcement Agency of Ho Chi Minh City. Life Insurance Company Limited C had fully paid the appellate advance court fees.

In case the judgment was to be enforced in accordance with Article 2 of the Law on Civil Judgment Enforcement, the judgment creditor and judgment debtor have the right to agree on the enforcement and right to apply for enforcement, voluntary enforcement, or compulsory enforcement in accordance with Articles 6, 7 and 9 of the Law on Civil Judgment Enforcement. The statute of limitation for civil judgment enforcement is subject to Article 30 of the Law on Civil Judgment Enforcement.

The appellate judgment becomes effective as from the date thereof.

**CONTENTS OF THE CASE LAW**

*“[4] In question No. 54 of Application for insurance dated 25 March 2009: “Gastrointestinal tract, gastrointestinal bleeding, hepatitis, colitis, dyspnea, difficulty in swallowing, or disorders in the stomach, intestine or gallbladder”, Ms. H checked the No box. At consultation minutes No. 42/BV-99 by B Hospital dated 3 September 2009, Ms. H disclosed that she had had a history of stomach pain for 2 years. Pursuant to the consultation minutes, Ms. H had stomach pain from 3 September 2007 which was prior to the point of time when she signed the insurance policies. Company C asserts that the phrase stomach disorder includes all diseases related to the stomach including stomach pain. However, at the appellate hearing, the defendant failed to provide any evidence to prove and did not provide any scientific explanation to determine that stomach pain is stomach disorder.*

1. *Pursuant to the aforesaid regulations of the laws, in case the parties have different interpretations or there exist provisions that are unclear or difficult to understand in the contract, such provisions shall be interpreted in favor of Ms. H. Therefore, there is insufficient basis to determine that stomach pain was included in stomach disorder as presented by Company C.*
2. *Considering that the application for insurance contained no question about stomach pain, these is no basis for Company C to assert that Ms. H had stomach pain without declaring the same as intentionally making an untruthful declaration and breaching the obligation on information disclosure.*
3. *In question No. 61 of Application for insurance dated 25 March 2009: “Within the past 5 years, have you done diagnostic examinations such as X-rays, ultrasound, electrocardiography, blood tests, biopsy? Or do you have any sickness or illness which was examined and treated at hospitals, which is not listed above?”, Ms. H checked the No box. At the appellate hearing, Company C provided the biochemical blood test dated 22 September 2008 wherein the patient’s name was Ms. Truong Thi H. Company C confirmed that this document had been collected from the periodic health examination records for employees of Preschool C where Ms. H worked. Company C asserted that on 22 September 2008, Ms. H did a blood test but did not declare the same in question No. 61 of the Application for insurance, which was Ms. H intentionally making an untruthful declaration. Considering that periodic health examinations are regularly and periodically conducted by organizations and agencies, when participating periodic health examinations, the examined persons do not know or are not required to know which measures or methods that the examination and treatment organization might apply. Besides, the periodic health examination did not indicate that Ms. H had any diseases had any relationship to Company C’s refusal to sign the insurance policies. Therefore, there is insufficient basis to determine that Ms. H felt abnormal, conducted a blood test, and then purchased the insurance from Company C.*

*As such, there is insufficient basis to determine that Ms. H had been dishonest in entering into the insurance policies. Equally, there is no basis to determine that Ms. H’s checking the No boxes in questions No. 54 and 61 of the Application for insurance would have any direct impact upon Company C’s consideration to enter into the insurance policies with Ms. C”.*