

IN THE SUPREME COURT OF GUAM

PACITA AGUON,
individually, and on behalf of all those similarly situated,
Petitioner-Appellant,

v.

CARL T.C. GUTIERREZ, Governor of Guam,
MICHAEL J. REIDY, Acting Director of Administration,
Y'ASELA A. PEREIRA, Treasurer of Guam; **JOHN H. RIOS,** Director of
the Government of Guam Retirement Fund; **GERALD S.A. PEREZ,**
ODILIA M. BAUTISTA, JENNIFER MUNA-AGUON,
MARK J. HEATH and **PAUL D. UNTALAN,**
in their capacities as members of the Board of Trustees
of the Government of Guam Retirement Fund,
and DOES 1 through 50, inclusive,
Respondents-Appellees.

Supreme Court Case No. CVA01-010
Superior Court Case No. SP0207-97

OPINION

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Appeal from the Superior Court of Guam
Argued and submitted on June 18, 2002
Hagåtña, Guam

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BEFORE: F. PHILIP CARBULLIDO, Chief Justice,¹ FRANCES M. TYDINGCO-GATEWOOD, Associate Justice, and JOHN A. MANGLONA, Designated Justice.

CARBULLIDO, J.:

[1] Petitioner-Appellant Pacita Aguon (hereinafter “Aguon”) sought a mandate from the Superior Court directing Respondents-Appellants Carl T.C. Gutierrez, Governor of Guam, et al.² (hereinafter collectively referred to as “Respondents”) to implement a cumulative increase in her annual annuity pursuant to Title 4 GCA § 8122.1. Respondents filed a motion for summary judgment, which the lower court granted after finding that section 8122.1 conferred a supplemental and not cumulative benefit. Aguon appeals this grant of summary judgment and the underlying interpretation of section 8122.1. We agree with the lower court’s reading of section 8122.1 and affirm the grant of summary judgment.

I.

[2] Aguon filed a petition for a writ of a mandate in the Superior Court to compel Respondents to implement the annual increase in her annuity as set forth in Title 4 GCA § 8122.1 for the years 1990 to 1999.³ It is undisputed that Aguon received a \$1,500 supplement from the Retirement Fund for each year she was qualified to receive an annual annuity. However, Aguon believes that section 8122.1 does not simply supplement her annual annuity, but rather provides for a cumulative increase. Under this theory, if

¹ The Chief Justice recused himself from this matter. Justice Carbullido, as the senior member of the panel, was designated as the Acting Chief Justice.

² Michael J. Reidy, Acting Director of Administration; Y’asela A. Periera, Treasurer of Guam; John H. Rios, Director of the Retirement Fund; Gerald S.A. Perez, Odilia M. Bautista, Jennifer Muna-Aguon, Mark J. Heath, and Paul D. Untalan, as the Board of Trustees of the Government of Guam Retirement Fund

³ Section 8122.1 was enacted in 1990 by Public Law 20-150:4 and repealed in 1999 by Public Law 25-72:IV:5.

Aguon's annual annuity in 1990 was \$10,000, then she would be entitled to \$11,500 in 1990 (\$10,000 annuity + \$1,500 increase), \$13,000 in 1991 (\$11,500 payment from the previous year + \$1,500 increase), \$14,500 in 1992 (\$13,000 payment from the previous year + \$1,500 increase), and so on for each subsequent year.

[3] Respondents filed several motions, including a motion for summary judgment, which is the subject of the instant appeal. The trial court agreed with Respondents and found section 8122.1 conferred a supplemental rather than cumulative increase. Because Aguon received her supplemental increases during the years in question, the trial court concluded that section 8122.1 had been complied with and granted summary judgment for Respondents.

II.

[4] This court has jurisdiction over all final judgments of the Superior Court pursuant to Title 7 GCA § 3107 (1994).

III.

[5] A grant of summary judgment is reviewed *de novo*, *Iizuka Corp. v. Kawasho Int'l (Guam), Inc.*, 1997 Guam 10, ¶ 7, and is only proper in instances where there are no genuine issues of material fact, Guam R. Civ. P. 56(c). The parties here concede that there are no facts in dispute and that the issue presented on appeal is strictly one of statutory interpretation. Issues of statutory construction are questions of law reviewed *de novo*. *Ada v. Guam Tel. Auth.*, 1999 Guam 10, ¶ 10.

[6] “In cases involving statutory construction, the plain language of a statute must be the starting point.” *Pangelinan v. Gutierrez*, 2000 Guam 11, ¶ 23; *Am. Tobacco Co. v. Patterson*, 456 U.S. 63, 68, 102 S. Ct. 1534, 1537 (1982). In looking at the statute’s language, the court’s task is to determine whether or not the statutory language is “plain and unambiguous.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340, 117 S. Ct. 843, 846 (1997). “The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.” *Id.* at 341, 117 S. Ct. at 846.

[7] We start our analysis of section 8122.1 with a literal reading of the statute’s language. The language of section 8122.1 is as follows:

The *annual annuity* of every retired employee, including retired employees receiving a disability retirement annuity, survivors, or dependent receiving or who subsequently receive a retirement annuity from the Retirement Fund, shall be *increased* by One Thousand Five Hundred Dollars (\$1,500) per year effective as of May 1, 1990, such increases to be funded from the General Fund and not from the Retirement Fund.

4 GCA § 8122.1 (emphasis added).

[8] The trial court found that the plain language of section 8122.1 entitled Aguon to a \$1,500 increase of her “annual annuity,” and that the term “annual annuity” did not include amounts issued as increases in prior years. Appellant’s Excerpts of Record, tab 2, p. 8 (Decision and Order, Nov. 12, 1997). Aguon believes that the trial court improperly read into the plain language of the statute the term “supplement” in place of the term “increase.” She argues that a plain reading of the statute mandates that annuities be increased by \$1,500 each year; in other words, every year the retiree is entitled to receive \$1,500 more than the total amount paid the previous year. Respondents counter by arguing that the plain language of section 8122.1 only allows for a \$1,500 increase to the retiree’s “annual annuity,” the amount of which is

set by Title 4 GCA § 8122, and that the amounts paid as an increase do not become part of the “annual annuity.” Respondents also note that the language of the statute clearly identifies a separate funding source for the increases, and argued that “[b]ecause the \$1,500 comes from the General Fund, it cannot be an increase in amount of the basic annuity, which can come only from the Retirement Fund.” Brief of Appellees Gutierrez, et al., p. 5.

[9] We find that the wording of the statute, specifically the terms “increase” and “annual annuity,” can be subject to both parties’ interpretations, and is therefore ambiguous. *Wis. Bankers Ass’n (Inc.) v. Mut. Sav. & Loan Ass’n of Wis.*, 291 N.W.2d 869, 875 (Wis. 1980) (“A statute, phrase, or word is ambiguous when capable of being interpreted by reasonably well-informed persons in either of two or more senses.”). However, the language of the statute cannot be read in isolation, and must be examined within its context. *United States v. Am. Trucking Ass’ns*, 310 U.S. 534, 542, 60 S. Ct. 1059, 1063 (1940) (“To take a few words from their context and with them thus isolated to attempt to determine their meaning, certainly would not contribute greatly to the discovery of the purpose of the draftsmen of a statute”); *Gutierrez v. Ada*, 528 U.S. 250, 255, 120 S. Ct. 740, 744 (2000) (“words and people are known by their companions.”). *Sumitomo Constr. Co. v. Gov’t of Guam*, 2001 Guam 23, ¶ 17. A statute’s context includes looking at other provisions of the same statute and other related statutes. *Portland Gen. Elec. Co. v. Bureau of Labor & Indus.*, 859 P.2d 1143, 1146 (Or. 1993). With respect to the statute at hand, there are two separate points to which this court directs its attention.

[10] First, section 8122.1, which provides for the disputed increases, is separate and distinct from the statutes that determine various annuity amounts. Sections 8122 (basic annuity), 8125 (disability annuity), and 8135 (survivor annuity) each deal with measuring the amount of an annuity payment. The \$1,500

increase is not found within any of the subsections of these statutes, but is instead separately set forth in another section. If the \$1500 increase were intended to be an increase to the annuity amount itself, as asserted by Aguon, then it should be located within those sections that deal with calculating annuity payments. For example, sections 8122(b) and 8135(b) provide retirees within an “automatic increase in his annual annuity.” Although there is nothing in the record before us showing how these provisions have been implemented, we find the language of these subsections are more susceptible to the interpretation Aguon is now trying to impose on section 8122.1. If the section 8122.1 increases were similarly intended to become part of the annuity amount, then it should share the language and location of these subsections.

[11] Second, section 8122.1 is identical in language and subject matter to three other annuity increases given over the course of twenty-four years: (1) \$1,200, implemented in 1978⁴; (2) \$700, implemented in 1980⁵; and (3) \$838, implemented in 1985⁶. “[Q]uestions of statutory interpretation may be aided by reference to the prevailing interpretation of other statutes that share the same language and either have the

⁴ This increase was enacted by Public Law 14-87:11 and reads:

Notwithstanding other provisions of law to the contrary, the amount of each service retirement annuity, disability annuity and survivor’s annuity paid pursuant to the provisions of Chapter III, Title V of the Government Code shall be increased One Thousand Two Hundred Dollars (\$1,200) per year

Guam Pub. L. 14-87:11 (Dec. 23, 1977).

⁵ This increase was enacted by Public Law 15-135:4 and reads:

Notwithstanding other provisions of law to the contrary, the amount of each service retirement annuity, disability annuity and survivor’s annuity paid pursuant to the provisions of Chapter III, Title V of the Government Code shall be increased Seven Hundred Dollars (\$700) per year

Guam Pub. L. 15-135:4 (Aug. 22, 1980).

⁶ Respondents note that the origin of the \$838 annuity supplement is somewhat unclear. They speculate that it may have originated from the \$419 COLA established in Public Law 18-26:18.

same general purpose or deal with the same general subject as the statute under consideration.” *Santos v. Immigration & Naturalization Service*, 525 F.Supp. 655, 666 (S.D.N.Y. 1981).

[12] Each of the previous three annuity increases were implemented as supplemental rather than cumulative increases. “In attempting to harmonize them, we presume that, when the Legislature enacted the later of the two statutes, it was aware of the one earlier enacted.” *Gov’t Employees Ins. Co. v. Ins. Comm’r of Md.*, 630 A.2d 713, 717 (Md. Ct. App. 1993). Thus, in enacting the latest of these increases, the section 8122.1 increase, we can assume that the legislature was aware of the previous legislation and the manner in which it was being employed. By carrying over the same language, we find that the legislature intended to confer the same benefit, a supplemental benefit.

[13] Moreover, the four increases appear to be enacted as part of the same statutory scheme. Acts *in pari materia*, or which deal with the same subject matter, are to be construed together. *United States v. Stewart*, 311 U.S. 60, 64, 61 S. Ct. 102, 105 (1940). The legislature provided monies to fund all four annuity increases in a single appropriation, and then delineated each of the increases as areas to which the money was to be directed. The bulk amount was sufficient to pay each retiree \$4,238, the total sum of the four increases, but was vastly insufficient to cover a cumulative increase. Thus, interpreting section 8122.1 to provide for a cumulative increase would be inconsistent with similar legislation that provides for other annuity increases and the legislation that funds all of the annuity increases. In order to harmonize section 8122.1 with legislation *in pari materia*, it must be read as a supplemental increase.

[14] Respondents’ Rios, et al., presented this court with an alternative ground upon which to affirm the trial court’s judgment. They argued that had the trial court not disposed of the matter by summary judgment, it would have been proper for the trial court to grant its motion to dismiss. An alternative ground

for affirming the trial court's judgment can be presented by an appellee absent the filing of a cross-appeal. See *Leon Guerrero v. Look*, 2001 Guam 22, ¶ 37. However, because the holding of the trial court has been affirmed on the same ground upon which it was decided, it is unnecessary for us to consider the Respondents' alternative argument.

IV.

[15] The language of the statute, when read in context, loses its ambiguity. Section 8122.1 confers a \$1,500 supplement to each retiree's annual annuity, and not a cumulative increase as asserted by Aguon. Because this interpretation of the statute's language is "coherent and consistent" with the statutory scheme, it is conclusive and any further statutory analysis is inappropriate. *Robinson*, 519 U.S. at 340, 117 S. Ct. at 846; *Am. Tobacco Co.*, 456 U.S. at 68, 102 S. Ct. at 1537 (quoting *Consumer Prod. Safety Comm'n v. GTE Sylvania, Inc.*, 447 U.S. 102, 108, 100 S. Ct. 2051, 2055 (1980)) ("[A]bsent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive.").

[16] We find that the lower court correctly interpreted section 8122.1 and therefore **AFFIRM** the grant of summary judgment.