



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

AUGUSTO M. AQUINO,
Petitioner,

G.R. No. 191470

Present:

- versus -

HON. ISMAEL P. CASABAR, as
Presiding Judge Regional Trial
Court-Guimba, Nueva Ecija,
Branch 33 and MA. ALA F.
DOMINGO and MARGARITA
IRENE F. DOMINGO, substituting
Heirs of the deceased ANGEL T.
DOMINGO,

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

Promulgated:

Respondents.

January 26, 2015

X-----X

DECISION

PERALTA, J.:

Before us is a special civil action for *certiorari*¹ under Rule 65 of the Rules of Court, dated March 17, 2010, filed by Atty. Augusto M. Aquino (*petitioner*) assailing the Order dated January 11, 2010 issued by respondent Presiding Judge Ismael P. Casabar (*public respondent*), in relation to Agrarian Case No. 1217-G,² for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

The facts of the case, as culled from the records, are as follows:

On June 27, 2002, Atty. Angel T. Domingo (now deceased) verbally contracted petitioner to represent him in Agrarian Case No. 1217-G on a

¹ Rollo, pp. 3-22.

² Entitled "*Angel T. Domingo vs. Department of Agrarian Reform and the Land Bank of the Philippines.*"

contingency fee basis. The case was for the determination of the just compensation for the expropriation and taking of Atty. Domingo's ricelands consisting of 60.5348 hectares, situated in Guimba, Nueva Ecija, by the Department of Agrarian Reform (DAR), pursuant to Presidential Decree (P.D.) 27. The DAR and the Land Bank of the Philippines (*Land Bank*) initially valued Atty. Domingo's property at ₱484,236.27 or ₱7,999.30 per hectare, which the latter, through petitioner-counsel, opposed in courts.

Eventually, the RTC, acting as Special Agrarian Court (RTC/SAC) issued a Decision dated April 12, 2004 fixing the just compensation for Atty. Domingo's property at ₱2,459,319.70 or ₱40,626.54 per hectare, or an increase of ₱1,975,083.43 over the initial DAR and the Land Bank valuation. Land Bank moved for reconsideration, but was denied, thus, it filed a petition for review docketed as CA-G.R. SP No. 85394. However, in a Decision dated June 12, 2007, the appellate court affirmed *in toto* the SAC Decision dated April 12, 2004. Land Bank moved for reconsideration anew, but was denied.

Meanwhile, on September 30, 2007, Atty. Domingo died. Petitioner filed a Manifestation dated December 11, 2007 of the fact of Atty. Domingo's death and the substitution of the latter by his legal heirs, Ma. Ala F. Domingo and Margarita Irene F. Domingo (*private respondents*).

Land Bank assailed the appellate court's decision and resolution before the Supreme Court via a petition for review on *certiorari* dated December 4, 2007 docketed as G.R. No. 180108 entitled "*Land Bank of the Philippines vs. Angel T. Domingo*". However, in a Resolution dated September 17, 2008, the Court denied the same for failure to sufficiently show any reversible error in the appellate court's decision. On December 15, 2008, the Court denied with finality Land Bank's motion for reconsideration.

On February 11, 2009,³ petitioner wrote private respondent Ma. Ala Domingo and informed her of the finality of the RTC/SAC decision as affirmed by the Court of Appeals and the Supreme Court. He then requested her to inform the Land Bank of the segregation of petitioner's thirty percent (30%) contingent attorney's fees out of the increase of the just compensation for the subject property, or thirty percent (30%) of the total increase amounting to Php1,975,983.43. Petitioner claimed never to have received a reply from private respondent.

On March 30, 2009, petitioner received a copy of the entry of judgment from this Court certifying that its Resolution dated September 17,

³ *Rollo*, pp. 35-36.

2008 in G.R. No. 180108 has already become final and executory on March 3, 2009.

On July 28, 2009, petitioner received a Notice of Appearance dated July 16, 2009 filed by Atty. Antonio G. Conde, entering his appearance as counsel of herein private respondents and replacing him as counsel in Agrarian Case No. 1217-G.

On August 14, 2009, private respondents, through their new counsel, Atty. Conde, filed a Motion for Execution dated August 6, 2009 of the RTC/SAC Decision dated April 12, 2004.

On August 12, 2009, petitioner filed a Motion for Approval of Charging Attorney's Lien and for the Order of Payment.⁴ Petitioner further executed an Affidavit⁵ dated August 10, 2009, attesting to the circumstances surrounding the legal services he has rendered for the deceased Atty. Domingo and the successful prosecution of the Agrarian case from the RTC/SAC through the appellate court and the Supreme Court.

On August 18, 2009, private respondents filed a Motion to Dismiss/Expunge Petitioner's Motion.⁶ Public respondent Presiding Judge Casabar denied the same.⁷ Private respondents moved for reconsideration.

On January 11, 2010, public respondent Judge Casabar issued the disputed Order denying petitioner's motion for approval of attorney's lien, the dispositive portion of which reads:

X X X X

Examining the basis of the instant motion for reconsideration, this court agrees with respondents – movants that this court has no jurisdiction over Atty. Aquino's motion for approval of charging (Attorney's) lien having been filed after the judgment has become final and executory. Accordingly, the motion for reconsideration is granted and the motion for approval of (Attorney's) lien is denied and or expunged from the records of the case.

SO ORDERED.

On the same day, January 11, 2010, public respondent issued an Order directing the issuance of a Writ of Execution of the RTC/SAC Decision dated April 12, 2004.

⁴ *Id.* at 25-28.

⁵ *Id.* at 29-34.

⁶ *Id.* at 40-44.

⁷ *Id.* at 23-24.

On January 12, 2010, the Clerk of Court of Branch 33, RTC of Guimba, Nueva Ecija, issued a Writ of Execution of the April 12, 2004. On January 15, 2010, the Sheriff of the RTC of Guimba, Nueva Ecija issued a Notice of Garnishment.

Thus, the instant petition for *certiorari* via Rule 65, raising the following issues:

I

WHETHER OR NOT A CHARGING (ATTORNEY'S) LIEN CAN EFFECTIVELY BE FILED ONLY BEFORE JUDGMENT IS RENDERED.

II

WHETHER OR NOT RESPONDENT PRESIDING JUDGE HAS THE JURISDICTION TO TAKE COGNIZANCE OVER PETITIONER'S MOTION FOR APPROVAL OF CHARGING (ATTORNEY'S) LIEN FILED AFTER THE JUDGMENT HAS BECOME FINAL AND EXECUTORY.

III

WHETHER OR NOT THE RESPONDENT PRESIDING JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN ISSUING THE CHALLENGED ORDER.⁸

Petitioner maintains that he filed the motion for charging attorney's lien and order of payment in the very same case, Agrarian Case No. 1217-G, as an incident thereof, wherein he was the counsel during the proceedings of the latter, and that he is allowed to wait until the finality of the case to file the said motion.

Private respondents, on the other hand, counter that the motion was belatedly filed and that it was filed without the payment of docket fees, thus, the court *a quo* did not acquire jurisdiction over the case.

RULING

In a nutshell, the issue is whether the trial court committed a reversible error in denying the motion to approve attorney's lien and order of payment on the ground that it lost jurisdiction over the case since judgment in the case has already become final and executory.

We rule in favor of the petitioner.

⁸

Id. at 12.

In the case of *Rosario, Jr. v. De Guzman*,⁹ the Court clarified a similar issue and discussed the two concepts of attorney's fees – that is, ordinary and extraordinary. In its ordinary sense, it is the reasonable compensation paid to a lawyer by his client for legal services rendered. In its extraordinary concept, it is awarded by the court to the successful litigant to be paid by the losing party as indemnity for damages.¹⁰ Although both concepts are similar in some respects, they differ from each other, as further explained below:

The attorney's fees which a court may, in proper cases, award to a winning litigant is, strictly speaking, an item of damages. It differs from that which a client pays his counsel for the latter's professional services. However, the two concepts have many things in common that a treatment of the subject is necessary. The award that the court may grant to a successful party by way of attorney's fee is an indemnity for damages sustained by him in prosecuting or defending, through counsel, his cause in court. It may be decreed in favor of the party, not his lawyer, in any of the instances authorized by law. On the other hand, the attorney's fee which a client pays his counsel refers to the compensation for the latter's services. The losing party against whom damages by way of attorney's fees may be assessed is not bound by, nor is his liability dependent upon, the fee arrangement of the prevailing party with his lawyer. The amount stipulated in such fee arrangement may, however, be taken into account by the court in fixing the amount of counsel fees as an element of damages.

The fee as an item of damages belongs to the party litigant and not to his lawyer. It forms part of his judgment recoveries against the losing party. The client and his lawyer may, however, agree that whatever attorney's fee as an element of damages the court may award shall pertain to the lawyer as his compensation or as part thereof. In such a case, the court upon proper motion may require the losing party to pay such fee directly to the lawyer of the prevailing party.

The two concepts of attorney's fees are similar in other respects. They both require, as a prerequisite to their grant, the intervention of or the rendition of professional services by a lawyer. As a client may not be held liable for counsel fees in favor of his lawyer who never rendered services, so too may a party be not held liable for attorney's fees as damages in favor of the winning party who enforced his rights without the assistance of counsel. Moreover, both fees are subject to judicial control and modification. And the rules governing the determination of their reasonable amount are applicable in one as in the other.¹¹

Similarly, in the instant case, the attorney's fees being claimed by the petitioner is the compensation for professional services rendered, and not an indemnity for damages. Petitioner is claiming payment from private respondents for the successful outcome of the agrarian case which he represented. We see no valid reason why public respondent cannot pass

⁹ G.R. No. 191247, July 10, 2013, 701 SCRA 78.

¹⁰ *Ortiz v. San Miguel*, 582 Phil. 627, 640 (2008).

¹¹ *Id.* at 7, citing R.E. Agpalo, *Comments on The Code of Professional Responsibility and The Code of Judicial Conduct* (2004 edition Rex Book Store, Inc., Manila 2004), pp. 329-330.

upon a proper petition to determine attorney's fees considering that it is already familiar with the nature and the extent of petitioner's legal services. If we are to follow the rule against multiplicity of suits, then with more reason that petitioner's motion should not be dismissed as the same is in effect incidental to the main case.

We are, likewise, unconvinced that the court *a quo* did not acquire jurisdiction over the motion solely due to non-payment of docket fees. Petitioner's failure to pay the docket fees pertinent to his motion should not be considered as having divested the court *a quo*'s jurisdiction. We note that, in this case, there was no showing that petitioner intended to evade the payment of docket fees as in fact he manifested willingness to pay the same should it be necessary.¹²

Likewise, pursuant to the ruling in *Sun Insurance Office, Ltd. (SIOL) v. Asuncion*, should there be unpaid docket fees, the same should be considered as a lien on the judgment. Thus, even on the assumption that additional docket fees are required as a consequence of petitioner's motion, its non-payment will not result in the court's loss of jurisdiction over the case.¹³

With regards to how attorney's fees for professional services can be recovered, and when an action for attorney's fees for professional services can be filed, the case of *Traders Royal Bank Employees Union-Independent v. NLRC*¹⁴ is instructive:

x x x *It is well settled that a claim for attorney's fees may be asserted either in the very action in which the services of a lawyer had been rendered or in a separate action.*

With respect to the first situation, the remedy for recovering attorney's fees as an incident of the main action may be availed of only when something is due to the client. Attorney's fees cannot be determined until after the main litigation has been decided and the subject of the recovery is at the disposition of the court. The issue over attorney's fees only arises when something has been recovered from which the fee is to be paid.

While a claim for attorney's fees may be filed before the judgment is rendered, the determination as to the propriety of the fees or as to the amount thereof will have to be held in abeyance until the main case from which the lawyer's claim for attorney's fees may arise has become final. Otherwise, the determination to be made by the courts will

¹² Comment/Opposition dated September 25, 2009; rollo, pp. 47-51.

¹³ See *Home Guaranty Corp. v. R-11 Builders Inc., and NHA*, G.R. No. 192649, March 9, 2011, 640 SCRA 219, 243.

¹⁴ 336 Phil. 705, 713-714 (1997).

be premature. Of course, a petition for attorney's fees may be filed before the judgment in favor of the client is satisfied or the proceeds thereof delivered to the client.

It is apparent from the foregoing discussion that a lawyer has two options as to when to file his claim for professional fees. *Hence, private respondent was well within his rights when he made his claim and waited for the finality of the judgment for holiday pay differential, instead of filing it ahead of the award's complete resolution. To declare that a lawyer may file a claim for fees in the same action only before the judgment is reviewed by a higher tribunal would deprive him of his aforestated options and render ineffective the foregoing pronouncements of this Court.*¹⁵

Here, apparently petitioner filed his claim as an incident of the main action, as in fact, his motion was for the court's approval of charging attorney's lien and the prayer thereto was to direct the entry into the case records the attorney's fees he is claiming. Needless to say, petitioner's motion for approval of charging attorney's lien and order of payment was not intended to be filed as a separate action. Nevertheless, it is within petitioner's right to wait for the finality of the judgment, instead of filing it ahead of the court's resolution, since precisely the basis of the determination of the attorney's fees is the final disposition of the case, that is, the just compensation to be awarded to the private respondents.

Moreover, the RTC/SAC decision became final and executory on March 3, 2009, and petitioner filed his Motion to Determine Attorney's Fees on August 10, 2009, or only about four (4) months from the finality of the RTC/SAC decision. Considering that petitioner and Atty. Domingo's agreement was contracted verbally, Article 1145¹⁶ of the Civil Code allows petitioner a period of six (6) years within which to file an action to recover professional fees for services rendered.¹⁷ Thus, the disputed motion to approve the charging of attorney's lien and the order of payment was seasonably filed.

Petitioner claims that he and Atty. Domingo agreed to a contract for contingent fees equivalent to thirty percent (30%) of the increase of the just compensation awarded, *albeit* verbally. However, a contract for contingent fees is an agreement *in writing* by which the fees, usually a fixed percentage of what may be recovered in the action, are made to depend upon the success in the effort to enforce or defend a supposed right. Contingent fees depend upon an express contract, without which the attorney can only recover on the

¹⁵ *Traders Royal Bank Employees Union-Independent v. NLRC, supra*, at 713-714. (Emphasis ours)

¹⁶ Article 1145. The following actions must be commenced within six years:

(1) Upon an oral-contract.

(2) Upon a quasi-contract.

¹⁷ *Anido v. Negado*, 419 Phil. 800, 807 (2001).

basis of *quantum meruit*.¹⁸ Here, considering that the contract was made verbally and that there was no evidence presented to justify the 30% contingent fees being claimed by petitioner, the only way to determine his right to appropriate attorney's fees is to apply the principle of *quantum meruit*, to wit:

Quantum meruit – literally meaning as much as he deserves – is used as basis for determining an attorney's professional fees in the absence of an express agreement. The recovery of attorney's fees on the basis of *quantum meruit* is a device that prevents an unscrupulous client from running away with the fruits of the legal services of counsel without paying for it and also avoids unjust enrichment on the part of the attorney himself. An attorney must show that he is entitled to reasonable compensation for the effort in pursuing the client's cause, taking into account certain factors in fixing the amount of legal fees.

Further, Rule 20.01 of the Code of Professional Responsibility lists the guidelines for determining the proper amount of attorney fees, to wit:

Rule 20.1 – A lawyer shall be guided by the following factors in determining his fees:

- a) The time spent and the extent of the services rendered or required;
- b) The novelty and difficult of the questions involved;
- c) The important of the subject matter;
- d) The skill demanded;
- e) The probability of losing other employment as a result of acceptance of the proffered case;
- f) The customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs;
- g) The amount involved in the controversy and the benefits resulting to the client from the service;
- h) The contingency or certainty of compensation;
- i) The character of the employment, whether occasional or established; and
- j) The professional standing of the lawyer.

Private respondents never rebutted the fact that petitioner rendered legal services in the subject case. It is likewise undisputed that it was petitioner who successfully represented Atty. Domingo in Agrarian Case No. 12-17-G before the Special Agrarian Court, in the Court of Appeals in CA-G.R. SP No. 85394, and before this Court in G.R. No. 180108 where the case eventually attained finality. It is, therefore, through petitioner's effort for a lengthy period of seven (7) years that the just compensation for the property owned by deceased Atty. Domingo increased. It cannot be denied then that private respondents benefited from the said increase in the just

¹⁸ *National Power Corporation v. Heirs of Macabangkit Sangkay*, G.R. No. 165828, August 24, 2011, 656 SCRA 60, 96, citing Agpalo, *Legal and Judicial Ethics* (2009), p. 408.

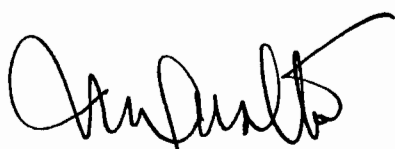
compensation. Thus, considering petitioner's effort and the amount of time spent in ensuring the successful disposition of the case, petitioner rightfully deserves to be awarded reasonable attorney's fees for services rendered.

Ordinarily, We would have left it to the trial court the determination of attorney's fees based on *quantum meruit*, however, following the several pronouncements of the Court that it will be just and equitable to now assess and fix the attorney's fees in order that the resolution thereof would not be needlessly prolonged,¹⁹ this Court, which holds and exercises the power to fix attorney's fees on *quantum meruit* basis in the absence of an express written agreement between the attorney and the client, deems it fair to fix petitioner's attorney's fees at fifteen percent (15%) of the increase in the just compensation awarded to private respondents.

The fact that the practice of law is not a business and the attorney plays a vital role in the administration of justice underscores the need to secure him his honorarium lawfully earned as a means to preserve the decorum and respectability of the legal profession. A lawyer is as much entitled to judicial protection against injustice, imposition or fraud on the part of his client as the client against abuse on the part of his counsel. The duty of the court is not alone to see that a lawyer acts in a proper and lawful manner; it is also its duty to see that a lawyer is paid his just fees. With his capital consisting of his brains and with his skill acquired at tremendous cost not only in money but in expenditure of time and energy, he is entitled to the protection of any judicial tribunal against any attempt on the part of his client to escape payment of his just compensation. It would be ironic if after putting forth the best in him to secure justice for his client he himself would not get his due.²⁰

WHEREFORE, the petition is **GRANTED**. Accordingly, the Court grants the Motion for Approval of Charging Attorney's Lien filed by petitioner Atty. Augusto M. Aquino. Based on *quantum meruit*, the amount of attorney's fees is at the rate of fifteen percent (15%) of the amount of the increase in valuation of just compensation awarded to the private respondents.


SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

¹⁹ *Traders Royal Bank Employees Union-Independent v. NLRC*, *supra* note 14, at 724; *Rosario Jr. v. De Guzman*, *supra* note 9, at 91.

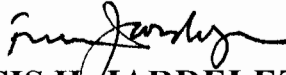
²⁰ *Rosario, Jr. v. De Guzman*, *supra* note 9, at 91-92.

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

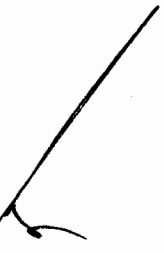

MARTIN S. VILLARAMA, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

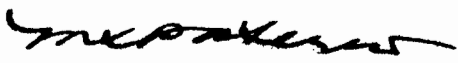
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice