

G.A. MACHINERIES, INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. CRISPIN V. BAUTISTA, AS JUDGE OF THE COURT OF FIRST INSTANCE OF BULACAN, DEPUTY SHERIFF FRANCISCO BO...

G.R. No. L-42768. September 30, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

Consolidated and treated as special civil actions as per resolution of this Court on May 17, 1976 are these two petitions for certiorari (G.R. No. L-42768 and G.R. No. L-42277) to review the decision of the respondent Court of Appeals, Fifth Division[1] in CA-G.R. No. 04718-SP, entitled "G.A. Machineries, Inc. vs. Hon. Crispin V. Bautista, et al." and the resolution of the respondent Court of Appeals, Third Division,[2] in CA-G.R. No. 04817-SP entitled "Rafael Verendia vs. Hon. Crispin V. Bautista, et al," respectively. They both raise identical questions of law as to whether or not the trial court and the respondent Court of Appeals committed a grave abuse of discretion in holding that there was a validly recorded charging attorney's lien in favor of respondent Atty.'Adolfo Garcia on August 13, 1975, when petitioner G.A. Machineries, Inc., GAMI for short, in G.R. No. L-42768 paid petitioner Rafael Verendia a judgment debt in the amount of P110,930.00.

GAMI filed with the Court of First Instance of Bulacan (Branch III) an action (Civil Case No. 43-V) against Rafael Verendia, for replevin. The trial court on January 26, 1971, rendered judgment against GAMI and in favor of defendant Rafael Verendia, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered, as follows:

1. Against plaintiff G.A. Machineries, Inc. to pay defendant Rafael Verendia the amount of P30,000.00 for the costs of the Mercedes Benz truck seized from defendant and not returned to him; P30,000.00 for lose of earnings on account of the wrongful seizure of the truck; with interest on both at the legal rate from June 30, 1964 until the whole amount is paid; and the further sum of P5,000.00 as attorney's fees;
2. Again the Universal Insurance & Indemnity Co., to pay defendant such amount of the judgment against G.A. Machineries, Inc., as the latter is unable to pay, the extent of P20,000.00;
3. Ordering plaintiff G.A. Machineries, Inc. to pay Universal Insurance & Indemnity Co. any amount the latter may have to pay defendants on account of its bond, and the further amount of P1,956.64 for unpaid premiums, the amount of P660.00 for documentary and science tax stamps, with legal interest thereon at 12% per annum from June 16, 1975, until the full amount is paid; and 15% of all such amounts as attorney's fees."

GAMI appealed to the Court of Appeals in CA-G.R. No. 49777-R, but the Appellate Court in its decision of November 25, 1974, affirmed in toto the decision of the trial court. So GAMI filed in the Supreme Court a petition for certiorari to review the decision of the Court of Appeals in CA-G.R. No. 49777-R. On July 11, 1975 this Court denied said petition for certiorari. As a result the decision of the Court of Appeals in CA-G.R. No.

49777-R became final and executory on January 15, 1975. In the letter dated July 23, 1975[3] Attys. Bengzon, Villegas, Zarraga, Narciso and Cudala, counsel for GAMI, advised the latter to comply with the final judgment of the Court of Appeals in CA-G.R. No. 49777-R.

On July 21, 1975 respondent Atty. Adolfo Garcia filed in the trial court a motion for attorney's charging lien[4] asking that the attorney's charging lien be entered upon the records of Civil Case No. 43-V in accordance with Section 37, Rule 138 of the Rules of Court. He prayed that the foregoing motion be set for July 31, 1975. The charging lien consisted of attorney's fees in the sum of 25% of the principal award and interest, plus attorney's fees that the Court may award in its decision. As of July 21, 1975, it appears that the records of Civil Case No. 43-V of the Court of First Instance of Bulacan[5] had not yet been remanded to the trial court, not until August 6, 1975.[6]

On August 8, 1975, Atty. Adolfo Garcia filed in the trial court a motion for execution of the judgment in favor of Rafael Verendia, and prayed for the issuance of a writ of execution of the judgment without mentioning any claim on his part of an attorney's lien.[7]

On August 13, 1975, GAMI (petitioner in L-42768) paid said Rafael Verendia (petitioner in L-42277) the judgment debt of P110,930.00 for which Rafael Verendia issued a receipt,[8] in full satisfaction of the judgment in said Civil Case No. 43-V rendered on January 26, 1971 and affirmed by the higher courts as above stated.

On August 14, 1975, Rafael Verendia filed in the trial court a manifestation of satisfaction of judgment.[9] Pursuant thereto and GAMI's urgent motion to recall execution, the trial court recalled on August 22, 1975 the previous order of execution of judgment issued by it dated August 19, 1975.[10]

On August 22, 1975, respondent Atty. Adolfo Garcia filed with the trial court a motion praying the trial court[11] "to declare the pleading 'satisfaction of judgment1 (undated) filed by plaintiff (GAMI) on August 19, 1975 without any legal effect," and that "a writ of execution be issued by this Honorable Court (trial court), jointly and severally, against the defendant Rafael Verendia and the plaintiff G.A. Machineries, Inc. to satisfy his attorney's lien in Civil Case No. 43-V."

Rafael Verendia opposed respondent Atty. Adolfo Garcia's Motion for Writ of Execution to satisfy attorney's lien[12] on the ground that Atty. Adolfo Garcia failed "to have his claim for services timely settled and entered upon the record of the case; that the judgment in the above entitled case (Civil Case No. 43-V) has been satisfied, and that a judgment cannot be twice fully satisfied."

GAMI on its part also opposed respondent Atty. Adolfo Garcia's motion for execution for the satisfaction of attorney's lien, on the grounds that "as of the time of the said payment and satisfaction of the judgment debt (August 13, 1975) by plaintiff (GAMI) to defendant (Rafael Verendia), respondent Atty. Adolfo Garcia had no recorded charging lien in this case (Civil Case No. 43-V), but only a motion filed in the trial court dated July 21, 1975, praying "that the attorney's charging lien of the undersigned (Atty. Garcia) be entered upon the records of this case" which at the time were still in the Court of Appeals and beyond the authority of the trial court as the case was then pending appeal.

Respondent trial court on September 16, 1975 issued its questioned order[13] granting the motion for execution for the satisfaction of attorney's lien and its implementing order[14] appointing Deputy Sheriff Francisco Boaquinia, Jr. of Manila as special sheriff to enforce execution of Atty. Adolfo Garcia's attorney's fees.

Both petitioners herein GAMI (G.R. No. L-42768) and Rafael Verendia (G.R. No. L-42277) questioned the trial court's order of September 16, 1975 before the respondent Court of Appeals in CA-G.R. No. 04718-SP and CA-G.R. No. 04817-SP, respectively, by means of petitions for a writ of certiorari. Treating the two cases

separately, respondent Court of Appeals (Fifth Division) in G.R. No. L-42768 promulgated its decision of January 7, 1976 and the same Appellate Court (Third Division) in G.R. No. L-42277, by resolution of November 21, 1975, denied the petition for certiorari as being absolutely without merit.

The appellate court's adverse decision of January 7, 1976 ruled that respondent judge committed no grave abuse of discretion in issuing the writ of execution jointly and severally against petitioners GAMI and Rafael Verendia for the satisfaction of the attorney's fees claimed by respondent Atty. Adolfo Garcia (notwithstanding petitioner Verendia's claim of having already previously discharged the same) and passed sub silentio petitioner GAMI's submittal that it had on August 13, 1975 paid its judgment credit or Verendia the amount of P110,930.00 in full satisfaction of the judgment "in all good faith, upon legal advice and to save on staggering interests mounting daily"[15] when there was no order recording Atty. Garcia's charging lien and in order to stave off execution of the judgment (as in fact respondent judge below issued a writ of execution against its satisfaction of the judgment under date of August 19, 1975 which it recalled per its Order of August 22, 1975 upon having been apprised of petitioner GAMI's full satisfaction of the judgment).

With respondent appellate court's said adverse decision of January 7, 1976 which it further declared immediately executory, respondent judge's writ of execution for Atty. Garcia's alleged attorney's lien was enforced forthwith solely against GAMI on January 12, 1976 by a garnishment of its funds with the Philippine National Bank in the sum of P32,907.00 and the payment thereof to Atty. Garcia.

The first thrust of both petitions at bar is that respondent Atty. Adolfo Garcia did not have a valid notice of attorney's charging lien under Section 37 of Rule 138 of the Rules of Court on August 13, 1975 when GAMI paid Rafael Verendia the judgment debt of P110,930.00 in Civil Case No. 43-V and which the latter acknowledged as full satisfaction of the judgment debt. There is nothing in the record to show that Atty. Adolfo Garcia was able to register in the record of Civil Case No. 43-V a valid attorney's charging lien under Section 37 of the Rule 138 of the Rules of Court, effective against the petitioner GAMI as of August 13, 1975, when full satisfaction of the judgment was made. Respondent Atty. Adolfo Garcia could not have entered into the record of Civil Case No. 43-V his attorney's charging lien on or before August 13, 1975, because his motion for attorney's charging lien dated July 21, 1975 and set for hearing by the trial court on July 31, 1975, was filed with the trial court at a time when the record of Civil Case No. 43-V was still with the Court of Appeals pending appeal in CA-G.R. No. 49777-R. The records of said case were remanded to the trial court only on August 6, 1975. When respondent Atty. Adolfo Garcia filed his motion for attorney's charging lien on July 21, 1975 and set it for consideration of the trial court on July 31, 1975, he could not be considered to have entered his attorney's charging lien in the case within the legal contemplation of Section 37 of Rule 138 of the Rules of Court.[16]

But the main thrust of petitioner GAMI's petition is thus well stated therein as follows:

"x x x It would be most unfair and grossly unjust now that if after paying respondent Rafael Verendia P110,930.00, which included award for attorney's fees, the latter refused to pay his lawyer P16,500.00 plus P5,000.00 or a total of P21,500.00 attorney's fees, and petitioner is the one ordered to pay that also. It will be paying attorney's fees twice, for it paid respondent Rafael Verendia P5,000.00 for attorney's fees and this P5,000.00 is again being claimed by respondent Atty. Adolfo Garcia. Instead of ordering petitioner to put up again this further sum of P21,500.00, we feel that in the interest of justice, respondent Rafael Verendia may be ordered to deposit the amount of P21,500.00 in court or to pay it to his lawyer.

"4. Denial of Justice
in respondent
Court of Appeals

"Finally, petitioner can only bewail what it correctly feels was a denial of justice in the respondent Court of

Appeals. For while said court granted due course to its petition and issued injunctive relief, and ordered the parties to submit memoranda, it decided the case without awaiting for petitioner's memorandum to be submitted, which was duly submitted within a reasonable single extension sought but which motion for extension was not even acted upon.

"Moreover, respondent Court of Appeals made its decision immediately executory, while petitioner was at a loss because it had not even received its copy of the decision which, to our surprise, was allegedly mailed in Manila on January 7, or 8, 1976 but arrived in petitioner's counsel's office only on January 27, 1976! On the other hand, respondent Atty. Adolfo Garcia seemed to have received copies of processes almost immediately. Also, respondent Atty. Adolfo Garcia filed an Ex Parte Motion for Clarification on January 14, 1976 and the next day the respondent Court of Appeals immediately acted thereon, stating that immediate execution was ordered by said Court. Petitioner, on the other hand, on January 16, 1976, filed an ex parte motion for reconsideration of the order of immediate execution and to restore restraining order, stating that it had not even yet received copy of the Court's decision. Up to now, however, petitioner has not received any resolution acting on its said urgent motion. In view of the obvious urgency, this petition is now being filed.

"The result of all this is that petitioner is now at the position of having paid twice for respondent Atty. Adolfo Garcia's fees and with no probable chance of recovering the excess from either Atty. Garcia or his client Rafael Verendia, unless this Honorable Court by preliminary mandatory injunction requires either or both of them to return of deposit the same, at least while petitioner's rights are being litigated.[17]

And petitioner Verendia's main thrust is that he had fully paid respondent Atty. Adolfo Garcia the sum of P21,000.00 in complete discharge of his attorney's fees in the GAMI cases, evidenced by a signed receipt dated December 5, 1974 of said respondent for P20,000.00¹⁸ (which said respondent rejects as "forged or falsified") and a check for P1,000.00.[19]

We find the petitions to be impressed with merit.

Insofar as GAMI is concerned, we find from the undisputed facts and circumstances hereinabove narrated that GAMI paid in all good faith its judgment creditor Rafael Verendia the amount of P110,930.00 in full satisfaction of the judgment (a fact completely ignored and disregarded by the appellate court which made no finding or mention thereof in its decision) and therefore could not be held liable on respondent Atty. Garcia's claim of an attorney's charging lien. Besides, since GAMI had already fully discharged its judgment debt it was unjust and unfair for the trial court to issue a writ of execution jointly and severally against GAMI and Atty. Garcia's client Rafael Verendia to satisfy his attorney's lien, which was in fact enforced solely against GAMI, assuming that the attorney's lien was undisputed.

But the actual fact as already shown above is that Atty. Garcia's claimed attorney's lien was controverted and disputed by his client Rafael Verendia who presented documentary evidence to the effect that Verendia had already discharged the same with the payment of P21,000.00. Now, Atty. Garcia in turn claimed that his supposed receipts were "forged or falsified." Unless and until this factual issue between Atty. Garcia and his client Verendia was resolved, Atty. Garcia's claimed lien could not be enforced, much less against GAMI which had already satisfied its judgment debt. Yet, without resolving this factual issue at all, the trial court issued its questioned order of September 16, 1975 declaring GAMI'S satisfaction of judgment "null and void insofar as attorney's lien is concerned." This was grave abuse of discretion committed against GAMI as well as against Rafael Verendia who was not given the opportunity to substantiate his claim that Atty. Garcia's claimed lien had already been fully satisfied.

Accordingly, we find both the trial court and respondent appellate court to have committed serious errors amounting to grave abuse of discretion in holding petitioner GAMI liable for payment of attorney's charging lien

of respondent Atty. Adolfo Garcia. The trial court's questioned order of September 16, 1975 and the appellate court's decision of January 7, 1976 should therefore be reversed and set aside. Respondent Atty. Adolfo Garcia should forthwith return to petitioner GAMI the full amount of P32,907.00, garnished from GAMI's deposit with the Philippine National Bank on January 12, 1976, with legal interest from said date until fully paid.

Upon the filing of GAMI's petition in L-42768, a preliminary mandatory order was issued by the Court on February 24, 1976 whereby inter alia Atty. Garcia was ordered to return the amount of P32,907.00 to GAMI's account with the Philippine National Bank within 72 hours from notice and Rafael Verendia in turn was "ordered to deposit with the cashier of this Court the sum of P32,907.00. claimed by Atty. Garcia as attorney's fees under his charging lien, from the amount of said satisfied judgment within 72 hours from notice." This order was not complied with by Atty. Garcia and contempt proceedings were filed against him. The Court finds unsatisfactory his explanation that for the time being it was not within his power or ability to comply with the mandate, but will administer no more than a severe reprimand to Atty. Garcia with the warning that any further non-compliance on his part with the said mandatory order which is hereby made permanent will be severely dealt with. The quoted portion of said mandatory order insofar as Rafael Verendia is concerned is hereby set aside, in view of the remand of the case herein ordered to the trial court to receive evidence and adjudicate the question of attorney's fees between him and Atty. Garcia.

WHEREFORE, both the trial court's order dated September 16, 1975 and the respondent Court of Appeals' decision dated January 7, 1976 are hereby reversed and set aside. The Court's preliminary mandatory order of February 24, 1976 is hereby made permanent insofar as Atty. Adolfo Garcia is concerned and pursuant thereto, Atty. Garcia is ordered to return within seventy-two (72) hours from notice of this decision to petitioner GAMI's deposit account with the Philippine National Bank or to pay to GAMI directly within the same period, the amount of P32,907.00, with legal interest of 6% from January 12, 1976 until fully paid. Upon Atty. Garcia's failure to do so within the said period, a writ of execution shall issue directly from this Court for the enforcement of said order, without prejudice to such other appropriate action as may be taken against him.

The records of Civil Case No. 43-V of the CFI of Bulacan, Branch III, and the allied appealed cases are ordered remanded to the trial court of origin so that said court may receive evidence and adjudicate solely on the question of whether or not attorney's fees are due and owing to Atty. Adolfo Garcia from petitioner Rafael Verendia, in Civil Case No. 43-V and allied cases, and the amount thereof in the event of an affirmative finding. The portion of the Court's preliminary mandatory order of February 24, 1976 issued against Rafael Verendia is hereby set aside.

With costs against respondent Atty. Adolfo Garcia.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

[1] Penned by Associate Justices Godofredo Ramos. Andres Reyes and Samuel P. Reyes.

[2] Presiding Justice Magno Gatmaitan and Associate Justices Conrado to. Vasquez and Vicente G. ERICTA.

[3] Annex B to Petition, L-42768.

[4] Annex C to Petition, L-42768.

[5] Subject matter of appeal in CA-G.R. No. 49777-R, and G.R. L-40033.

[6] Annexes F and G to Petition, L-42768.

[7] Annex H. Petition, L-42768.

[8] Annex D, Petition, L-42768.

[9] Annex E to Petition, L-42768.

[10] Annex J to Petition, L-42768.

[11] Annex K. to Petition, L-42768.

[12] Annex L to Petition, L-42768.

[13] Annex Q to Petition, L-42768.

[14] Annex P to Petition, L-42768.

[15] Rollo, p. 16.

[16] The pertinent provisions of the Rule read:

"He shall also have a lien to the same extent upon all judgments for the payment of money, and executions issued in pursuance of such judgments, which he has secured in a litigation of his client, from and after the time when he shall have caused a statement of his claim of such lien to be entered upon the records of the court rendering such judgment, or issuing such execution, and shall have caused written notice thereof to be delivered to his client and to the adverse party."

[17] Italics supplied.

[18] Annex "R". Petition in L-42277

[19] Annex "S". idem.

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