

CEBU PORTLAND CEMENT COMPANY, PETITIONER, VS. MAXIMO J. SAVELLANO (SR.) AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-10781. May 29, 1959

Ponente: REYES, A., J.

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REYES, A., J.:

This is a petition to review on certiorari a decision of the Court of Industrial Relations.

The record-shows that the herein respondent Maximo J. Savellano Sr. was an employee of the Cebu Portland Cement Co. who, together with some 81 others, were dismissed from the service of the company on November 16, 1950. Claiming that their layoff was illegal, Savellano and the 81 others filed a petition with the Court of Industrial Relations on March 24, 1952, asking that they be reinstated with backpay, the petition being signed by Savellano "In his own behalf and as Attorney for Petitioners." The company opposed the petition but the court, after trial, ordered the reinstatement of Savellano and five of the others, with backpay from the day they were dismissed, minus such amounts as they may have earned elsewhere during the period of their unjustified lay-off.

After the order had become final, Savellano's son Maximo Savellano Jr., as counsel for his father and the five other awardees, filed a motion for the immediate payment of the authorized backpays "after deducting therefrom", so says the motion, "the twenty per cent (20%) attorney's fees to be paid to Maximo Savellano Jr., with the exception of the back salaries due Savellano Sr., which may be given to him without deduction." The company opposed the motion in so much as it asked for the payment of Savellano Sr/s backpay without deduction, contending that Savellano Sr/s fee for acting as attorney for the other awardees should, in accordance with the order, be deducted from his backpay. But after hearing, the court granted the motion, having found that Savellano Sr. was not to receive any fee from his co-petitioners and that, on the other hand, it was his son Savellano Jr. who appeared to have actively prosecuted the case for all of them and with whom they had a contract concerning: attorney's fees. Reconsideration of this ruling having been denied, the company elevated the case here for review on certiorari.

The basic question for determination is whether deduction should be made for the attorney's fees which petitioner company believes Savellano Sr. was entitled to receive as counsel for the five other petitioners who were ordered reinstated. There is no proof that Savellano Sr. has actually received any attorney's fees from his copetitioners while, on the other hand, the lower court found that no fee was due him, that it was his son Who actually prosecuted the case for all the petitioners and that it was also with his son that they had a contract for the payment of fees. The company contends that there is no proof to support this finding. But the record discloses that such a contract was actually entered into and was even filed in court as a supporting document when Savellano Jr. registered his attorney's lien in the case. It does not appear that the company has objected to the registration of said lien on the ground that Savellano Jr. was not entitled to any fee. And while it is true that Savellano Sr. has intervened in the case as attorney for himself and his five co-awardees, it does not necessarily follow that he has

received any fee for such intervention, for, as the lower court found, he was at that time secretary-treasurer (a high-salaried position) of the Manila Hotel, a government corporation, and could not, for that reason, engage in private legal practice. Savellano Jr., it is true, was not admitted to the Bar until 1954; but there seems to be no question that it was he who had actively prosecuted the case both before and after that year, and that was why the awardees agreed to pay the fees to him.

The point is also made that the lower court, without hearing the company's counsel in oral argument as requested, denied reconsideration of the order not to deduct, from Savellano Sr/s backpay, the fee which the company believed was due him from his co-awardees. But, as the lower court rightly says, the motion for reconsideration was denied after the company had failed to file written argument in support thereof within the ten days required by the court's rules. Moreover, considering the view we have taken of the case on the merits, we are persuaded that no real prejudice was caused by the fact that no 5 oral argument was allowed.

The petition being clearly without merit, the order complained of is affirmed, with costs against the petitioner.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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