

**MAXIMO CALALANG AND QUIRICO T. CARAG, PETITIONERS, VS.
HON. JUAN DE BORJA, JUDGE OF THE CFI, BULACAN, 5TH JUDICIAL
DISTRICT, ENOC SANTOS AND MAGDALENA SANTOS AND NATIONAL
GRAINS...**

G.R. No. L-27771. August 29, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for certiorari with mandamus questioning the order dated May 4, 1967, issued by Hon. Juan de Borja of the Court of First Instance of Bulacan, in Civil Case No. 2395, entitled "Enoc Santos et al., plaintiffs, vs. National Rice and Corn Corporation (RCA)," denying petitioners' motion to enforce attorney's lien to the amount of P11,726.22 against defendant Rice and Corn Corporation.

Private respondent Rice and Corn Corporation has been substituted by the National Grains Authority (NGA) per Our resolution of April 30, 1973, and the resolution dated June 4, 1973, denying the motion for reconsideration of the former, filed by the Solicitor General in behalf of the National Grains Authority.

The facts appearing from the record are:

1. Private respondents Enoc Santos and Magdalena Santos and the National Rice and Corn Corporation (Rice and Corn Administration) were litigants in the Court of First Instance of Bulacan, the former as plaintiffs and the latter as defendant in Civil Case No. 2395. The plaintiffs' total claim was for P254,016.82. For the prosecution of their claim, private respondents Enoc Santos and Magdalena Santos signed a contract of legal services with Atty. Virgilio V. David on June 16, 1961, with a promise to pay the lawyer 20% of the total claim as recited in the complaint and payable if and when the same is awarded by the court, and that the 20% agreed fee is different from whatever attorney's fee. Atty. David can recover from the Naric (RCA);

2. That petitioners substituted Atty. Virgilio V. David as counsel for private respondents Enoc Santos and Magdalena Santos in the trial of Civil Case No. 2395, and Atty. Virgilio V. David assigned all his rights and interest on the contract for legal services mentioned above in favor of petitioners;

3. After more than three years of litigation respondent Judge Juan de Borja rendered a decision in Civil Case No. 2395, in favor of the private respondents Santos, with the following dispositive portion:

"WHEREFORE, judgment is hereby rendered ordering the defendant Rice and Corn Administration, as successor to the defunct National Rice and Corn Corporation, to pay plaintiffs the amount of P78,104.38 under their first, second, third, sixth, seventh, eighth, and ninth causes of action, the further amount of P7,810.43 as attorney's fees, and the costs of the suit. Plaintiffs' fourth and fifth causes of action and defendant's counterclaims are dismissed.";

4. Both parties appealed from said decision to the Court of Appeals in C.A.-G.R. No. 36294-R;

5. In September of 1966, while the appeal was pending in the Court of Appeals, petitioners came to know that the

parties litigants in C.A.-G.R. No. 36294-R were negotiating an amicable settlement;

6. In order to safeguard their interest on the attorney's fees, petitioners on September 21, 1966, wrote a letter to the R.C.A. informing them that aside from the attorney's fees of P7,810.43 given by the respondent court in its decision, petitioners were entitled by agreement with plaintiffs (Santos) to a lawyer's fee of 20% of P78,104.38 or P15,620.98, hence the total sum of P23,431.41 payable to petitioners as attorney's fees must be deducted from the total amount of judgment of P85,915.81, the sum of P62,424.40 payable to the plaintiffs Santos and the sum of P23,431.41 payable to petitioners;

7. Petitioners decided to record their attorney's lien in the Court of Appeals on October 4, 1966;

8. Private respondents Enoc Santos and Magdalena Santos were furnished copy of the notice of attorney's lien on October 7, 1966, and private respondent RCA was also served a copy of the same;

9. Both private respondents Santos and the RCA did not file any opposition to the attorney's lien filed before the Court of Appeals;

10. The Court of Appeals in C.A.-G.R. No. 36294-R, by its resolution of October 19, 1966, made of record the attorney's lien, thus —

"14. Considering the Attorney's Lien filed by Attys. Maximo Calalang & Quirico Carag in case CA-G.R. No. 36294-R, Enoc Santos et al. vs. NARIC, now RCA, giving notice of attorney's lien upon the judgment rendered in said case in favor of said attorneys for services performed by them for plaintiffs; the Court RESOLVED that said attorney's lien be made of record and certified copy of the same sent to the lower court when the case is remanded.";

11. To the above-quoted resolution of the Court of Appeals, both private respondents Santos and RCA did not file any motion for reconsideration nor a motion to set aside;

12. The appeal in the Court of Appeals in C.A.-G.R. No. 36294-R was dismissed, predicated upon the fact that parties litigants Santos and RCA entered into a satisfactory amicable settlement;

13. Private respondents Enoc Santos and Magdalena Santos were paid the amount of the judgment, and petitioners were given by the private respondents Santos a partial payment for attorney's fee of P11,705.21;

14. That petitioners sent a demand letter to private respondents Santos for the balance of the attorney's fees in the sum of P11,918.22;

15. That when private respondents Santos failed to heed the demand, petitioners filed a motion to enforce attorney's lien in Civil Case No. 2395 before the respondent Court, pursuant to Sec. 37 of Rule 138, which motion private respondents Santos did not oppose;

16. Respondent judge in his order of May 4, 1967, denied the motion to enforce attorney's lien on the principal ground that petitioners failed to furnish private respondents Santos a copy of their attorney's lien filed in the Court of Appeals as required by Sec. 37 of Rule 138, and stated if said private respondents Santos had been duly furnished with a copy of the notice of attorney's lien and they failed to file seasonably their objections thereto, then the matter would have become res judicata and defendant RCA may be held responsible to petitioners for its failure to withhold from private respondents Santos the amount of attorney's fees due the petitioners;

17. Petitioners filed a motion for reconsideration of the respondent Court's order denying their motion to enforce attorney's lien, emphasizing that contrary to the Court's finding, both private respondents Santos and RCA were notified and furnished copies of the attorney's lien filed with the Court of Appeals in C.A.-G.R. No. 36294-R, and

both parties did not file any opposition thereto; stating also that both private respondents Santos and RCA have no right to reduce the attorney's fees by amicable settlement since there was a written contract for services entered into between private respondents Santos and the petitioners as assignees of Atty. David;

18. The motion for reconsideration was denied without stating any reason for the denial in the respondent Court's order of June 13, 1967.

The respondent Court in its order of May 4, 1967, which denied petitioners' motion to enforce attorney's lien in Civil Case No. 2395, predicated its order on the principal ground that petitioners failed to furnish private respondents Santos a copy of their notice of attorney's lien filed in the Court of Appeals as required by Sec. 37 of Rules 138, and stated categorically that if said private respondents Santos had been duly furnished with a copy of the notice of attorney's lien and they failed to file seasonably their objection thereto, then the matter would be res judicata and defendant RCA may be held responsible to petitioners for its failure to withhold from private respondents Santos the amount of attorney's fees due petitioners.

An examination of the record convinces Us that private respondents Santos had been duly furnished with a copy of the notice of attorney's lien and they failed to file seasonably their objections thereto. To Us the certification of the Clerk of Court of the Court of Appeals contained in Annex "H-1" and Annex "H-2" to the Petition for Certiorari with Mandamus, to the effect that no opposition was filed by the parties to the notice of Attorney's Lien dated October 4, 1966, in Civil Case C.A. -G.R. No. 36294-R and no motion for reconsideration was filed nor any step taken by the parties to set aside the resolution of the Court of Appeals dated October 9, 1966, which "resolved that said attorney's lien be made of record and certified copy of the same sent to the lower court when the case is remanded", are enough indications that private respondents Santos were furnished with a copy of the notice of attorney's lien and they failed to file seasonably their objections thereto. It is very obvious that private respondents Santos have no objection to petitioners' attorney's lien because in respondent Court itself they did not file any opposition to petitioners' motion to enforce attorney's lien.

If the requirement imposed by the respondent Court in its order of May 4, 1967, that the private respondents Santos should have been furnished a copy of the notice of attorney's lien and given a chance to object thereto had been sufficiently and substantially met by petitioners, then We see no other reason why respondent Court could refuse to grant petitioners' motion to enforce their attorney's lien.

The respondent Court should have realized that Courts, in the exercise of their exclusive and supervisory authority over attorneys as officers of the court, are bound to respect and protect the attorney's lien which, in the words of Chief Justice Marshall, "is necessary to preserve the decorum and respectability of the profession". (6 Moran's Rules of Court, 1970 Ed., p. 270) Hence, Sec. 37, Rule 138, Rules of Court, gives an attorney a lien "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." The aggrieved attorney is given by law (Sec. 37 of Rule 138, Rules of Court) the "same right and power over such judgments and executions as his client would have to enforce his lien and secure the payment of his just fees and disbursements."

The other issues pale into insignificance in the light of respondent Court's pronouncement that compliance with the requirement of notice to his client of the attorney's lien by service of copy thereof (as We found to have been complied with), makes the matter of attorney's lien "res judicata" and defendant RCA shall be responsible to petitioners for its failure to withhold from private respondents Santos the amount of attorney's fees due the petitioners. Moreover, We fully concur in petitioners' contention that the attorney's fee agreed upon, as a written

contract of services between petitioners as assignees of Atty. David and private respondents Santos, cannot be altered by any subsequent amicable settlement entered into between the parties in Civil Case No. 2395, then pending in C.A.-G.R. No. 36294-R before the Court of Appeals. We also noticed that the dismissal of the appeal in the Court of Appeals by the amicable settlement entered into by the parties in the case served to revive the respondent Court's decision in Civil Case No. 2395, giving petitioners P7,810.43 as attorney's fees, which decision became final and executory.

On the question of the attorney's fee being excessive and unreasonable, aside from the observation that the issue raised is rather late and untimely, suffice it to say that judging from the prestige of the petitioners as attorneys, the nature of the action they brought and successfully maintained in Civil Case No. 2395, the quality and quantity of legal services they rendered, the amount asked for would easily fall within the realm of the reasonable and not unconscionable.

WHEREFORE, the respondent Court's orders dated May 4, 1967, and June 13, 1967, are set aside, and the private respondent NGA, as substitute for private respondent RCA, is ordered to pay P11,726.22 to petitioners by way of enforcing their attorney's lien, plus 6% interest from February 13, 1967, date of judicial demand until the amount is fully paid. Without costs.

Castro, (Chairman), Teehankee, Makasiar, Muñoz Palma, and Martin, JJ., concur.

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