

EUGENIO V. VILLANUEVA, JR., PETITIONER, VS. HON. JOSE R. QUERUBIN, IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL, ELVIRA GUANZON AND MIGUEL MATTI,...

G.R. No. L-26137. September 23, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

Petitioner Eugenio V. Villanueva, Jr., a member of the Philippine Bar, prays for the issuance of the writ of certiorari to annul the order of respondent Judge of June 1, 1966, requiring him "to sur-render the documents and papers" which allegedly had lawfully come to his possession in his professional capacity as counsel of Elvira Guanzon and Miguel Matti in Civil Case No. 7725 of the Court of First Instance of Negros Occidental, pending before respondent Judge. It turned out that petitioner was dismissed, while the trial of the above-entitled case was still in progress and before petitioner's attorney's fees were fixed and paid. He would likewise have this Court annul the order of the respondent Judge, dated June 3, 1966, declaring petitioner in contempt of Court and ordering his arrest for having failed to surrender the aforementioned documents and papers. Prohibition is likewise sought to restrain respondent Judge from enforcing its aforementioned orders of June 1, 1966 and June 3, 1966. There is equally a plea for mandamus to compel respondents to recognize petitioner's retaining lien over such documents and papers.[1] As will hereafter be made more explicit, the question presented possesses an element of novelty.

His former clients, Elvira Guanzon and Miguel Matti, were made respondents in addition to the Honorable Jose R. Querubin, Judge of the Court of First Instance of Negros Occidental.

The statement of facts, as set forth in the petition, revealed that respondents Elvira Guanzon and Miguel Matti, Board Members of Negros Occidental, engaged the professional services of petitioner for the purpose of filing an action against the Provincial Governor, Vice-Governor, Treasurer, Auditor and Secretary to the Provincial Board of Negros Occidental. On November 4, 1965, petitioner filed an action for injunction, recovery of a sum of money and damages with preliminary injunction, Civil Case No. 7725 of the Court of First Instance of Negros Occidental, against such provincial officials. On the same day, the hearing on the preliminary injunction was held, the writ being granted.[2]

Thereafter, several hearings took place, petitioner asserting that "he gave all his time, effort and utmost ability to protect the interest of his clients." In his preparation of the case, petitioner was able to acquire documents and papers which were subsequently presented and marked as exhibits during the trial thereof. On March 19, 1966, however, respondents Elvira Guanzon and Miguel Matti requested petitioner to allow them to have the expediente of Civil Case No. 7725 under the pretext that they would study the records to prepare them for a conference. At the resumption of the trial of Civil Case No. 7725 on April 14, 1966, petitioner was surprised when in open court, his clients, respondents Guanzon and Matti, "manifested before the respondent Judge that they were already terminating the services of petitioner. In the course of their manifestation, said respondents read their letters,

addressed to petitioner, advising the latter of the termination of his professional services." [3]

On May 10, 1966, petitioner filed with the respondent Judge, a pleading opposing his dismissal as counsel. On June 1, 1966, "without resolving the above opposition and motion, respondent Judge issued an order requiring petitioner to 'deposit with the Clerk of Court all the documents presented by him and marked as exhibits during the hearing conducted by him, so that same will, be presented as exhibits before closing the evidence of the plaintiffs,' * * * ." [4]

The petition goes on to state: "Immediately upon receipt of this order on the same day, June 1, 1966, petitioner filed a manifestation and motion informing the respondent judge that 'all said documents are in Manila where they were brought because they were the subject of conference with Atty. Jose W. Diokno recently and therefore the same could not be delivered to the Clerk of Court, because it is humanly impossible to do so,' and moving 'that the said * * * order issued in the absence of [petitioner] be held in abeyance to give [him] the time, the means and the opportunity to go to Manila.' * * *; Respondent Judge, however, orally denied on the same day petitioner's manifestation and motion and forth with ordered the latter's incarceration in the provincial jail of Negros Occidental. After repeated but respectful entreaties, and after raising the point that he has a charging lien over the documents which is dependent upon his possession of said documents, petitioner we allowed to go free but with a warning that if within eighteen [18] hours, he should fail to surrender the documents, a warrant for his arrest would be issued; On the same day, petitioner flew to Manila to get the documents. However, on June 2, 1966, petitioner received a long distance call from his office informing him that the respondent Judge had declared him in contempt of Court and issued a warrant for arrest for his failure to surrender the documents. * * * ." [5]

It is the allegation of petitioner that he "has no appeal or adequate remedy in the ordinary course of law to protect not only his rights and honor but, what is more important, the decorum and respectability of the legal profession, from the arbitrary and unreasoning actuations and orders the respondent Judge, save this petition." [6] It is petitioner's contention further that "the documents and papers which respondent Judge requires petitioner to, surrender had lawfully come to [his] possession in the course of his employment by his clients, the respondents Elvira Guanzon and Matti. In gathering these documents which he successfully utilized as evidence in Civil Case No. 7725, petitioner - bound by his loyalty and relationship a trust to his clients - had to spend considerable time, effort and money; When, therefore, respondents Guanzon and Matti terminated petitioner's services without paying his lawful attorney's fees, petitioner acquired the right - and the respondents, particularly respondent Judge, are bound to recognize this right - to retain all these documents and papers until his fees are paid. [Respondent Judge in] issuing orders requiring petitioner to surrender the said documents * * * and declaring him for contempt of court, and issuing a warrant for his arrest because of his failure to do so, * * * has acted without jurisdiction and in manifest violation of law and jurisprudence; Petitioner respectfully submits, therefore, that the writs therein prayed for lie and should issue." [7]

On the 8th day of June, 1966, this Court adopted a resolution giving due course to the above petition for certiorari, prohibition and mandamus. A restraining order effective immediately up to and including June 24, 1966, the hearing being set for June 22, 1966, forms part of the aforesaid resolution.

Respondent Judge himself filed an answer the pertinent portion of which contained the following: "That this certiorari case stemmed from orders of the undersigned dated June 1, June 3 and June 6, 1966, in connection with Civil Case 7725, Guanzon, et al. vs. Gomez, et al., for injunction. Atty. Eugenio Villanueva, Jr., filed said case on behalf of Board Member Elvira Guanzon and Miguel Matti to stop Governor Benjamin M. Gomez, Treasurer Juan D. Taala and Provincial Auditor Tereso Bomediano from disbursing funds of the government for electioneering purposes. A writ of preliminary injunction was issued. The case was set for hearing on the merits. Before the presentation of the plaintiffs' evidence, the plaintiffs wanted Attys. Alfredo Soto and Francisco G. Banzon, to

handle the presentation of evidence but after a huddle among the plaintiffs' lawyers, the Court granted Atty. Villanueva to present the plaintiffs' first witness, inasmuch as he personally examined the documentary evidence. When he was about to present his second witness, Atty. Elvira Guanzon submitted a written notice dispensing with the services of Atty. Villanueva. Due to the fact that he was still acting as counsel for plaintiff Matti, he was allowed to proceed with the presentation of his second witness. In the afternoon session, Atty. Villanueva received a written notice of his dismissal as counsel for plaintiff Matti. The Court allowed Attys. Soto & Banzon to take over the presentation of evidence. Upon petition, Atty. Villanueva, Jr. was allowed to continue his appearance as *amicus curiae*. After the testimony of the second witness, Attys. Soto and Banzon asked that the exhibits be deposited with the Clerk of Court. Atty. Villanueva prayed that he be given custody of the exhibits, consisting of public documents, which the Court granted, with the understanding that said exhibits be made available when needed by the Court. The hearing was continued for another date. Atty. Villanueva did not appear. The Court set three days successively for the next hearing of the case with the view to terminate it as expeditiously as possible. When the plaintiffs finished the presentation of their oral evidence, Atty. Soto & Banzon asked Atty. Villanueva, Jr. be ordered to bring to Courts the exhibits under his custody for formal presentation of said documentary evidence. Hence the controversial orders were issued ***"[8]

It was likewise explained by respondent Judge that petitioner was given up to the afternoon of June 1, 1966 to produce the exhibits under his custody. After manifesting that such exhibits were in the possession of the Senator Diokno, petitioners were given forty-eight hours to produce the same. It was by virtue of his failure either to appear on the next day as well as in the morning session of June 3, 1966 that respondent Judge issued the order for the arrest of petitioner.[9]

It was further stressed in the answer of respondent Judge that the ruling in *Rustia vs. Abeto*, "has absolutely no application in this present case at bar." It stands as authority for "the right of attorney's retaining lien over the documents and moneys turned over by a client to his counsel." Here, "the documents consist of public records, which were brought to Court in virtue of a subpoena duces tecum. The said documents were marked as exhibits and Atty. Villanueva was given permission to have under his custody the said exhibits with the understanding that same should be made available in case the Court orders their production thereof." His defiance of the court orders to produce such exhibits amounted to contempt.[10] Respondent judge would rely on his power to discipline and punish erring practitioners.[11] For him, the dismissal of the petition is called for.

Respondent Judge prays for the dismissal of this petition. His plea must be granted. No certiorari lies as the orders complained of were not issued without or in excess of jurisdiction or with grave abuse of discretion. The enforcement thereof cannot be restrained by prohibition. Neither is petitioner entitled to mandamus to compel respondent Judge to recognize his alleged retaining lien over the disputed documents and papers.

As admitted in the petition, the documents and papers in question were introduced as exhibits; moreover, as set forth in the answer of respondent Judge, they consist of public documents. There is no occasion, therefore, for the privilege of a retaining lien granted an attorney to be availed of. It would be to extend its scope beyond unwarranted limits to make it applicable to the kind of documents and papers of such character. Moreover, it would be to curtail unduly the inherent power of a judicial tribunal in the conduct of the proceedings before it if it is to be held bereft of power to compel the surrender of such documents. Such an undesirable eventuality this Court cannot willingly allow to pass.

Rustia v. Abeto,[12] a 1941 decision, is relied upon by petition. Such a reliance is misplaced. It does not aid its cause at all, as correctly stated by respondent Judge. That was a petition for certiorari and mandamus to declare null and void certain orders of respondent Judge in an intestate case before him as well as to compel, the return to the petitioner of a transfer certificate of title to recognize his retaining lien over certain "documents, papers, funds

and properties of the deceased" in such intestate proceeding. Petitioner, likewise a member of the Philippine Bar, rendered professional services as counsel for the administratrix. After being relieved of his services as attorney, he presented a bill for professional services, the claim being submitted for resolution of respondent Judge. He sought not only the immediate payment of his honorarium but likewise a retaining lien over all funds, documents and papers in his possession until he was fully paid. His plea was rejected. Instead, the respondent court required petitioner to deliver certificate of title in question to the probate clerk of court of the First Instance of Manila. Petitioner complied but three days thereafter instituted this proceeding for certiorari and mandamus.

In the decision of the Court granting the writ prayed for, the opinion being penned by Justice Laurel, it was stressed: "That the petitioner water rendered professional services in behalf of the respondent administratrix and other heirs of the deceased, Antonio de la Riva is not disputed. We are not concerned with the disagreement between the petitioner and the respondent administratrix as to the value of the said professional services, nor with the alleged preferential right of the petitioner to the payment of his fees, as they are not at issue in the instant proceedings. Suffice it to state here that the petitioner has already interposed an appeal from the orders of December 3, 1940, and January 3, 1941, which orders, among other things reduced the professional fees claimed by the petitioner from P32,330 to P2,000. Moreover, such dispute do not, and cannot, affect the general or retaining lien conceded to the petitioner by the first sentence of section 33 of No. 127 of the Rules of Court, which provides that 'An attorney shall have a lien upon the funds, documents and paper of his client which have lawfully come into his possession and may retain the same until his lawful fees and disbursements have been paid and may apply such funds to the satisfaction thereof.' The general, possessory, or retaining lien of an attorney attaches to all property, papers, books documents, or securities of the client that come to the attorney professionally or in the course of his professional employment, such as a bond, a municipal warrant, promissory note or other negotiable papers, an account, a voucher, a bank book, a letter or writing, a contract, insurance policy, or lease, a deed, or a mortgage." [13]

Later, the opinion likewise stated: "We are aware of the inconvenience that may accrue to the client because of the retention of important papers by an attorney claiming fees for services rendered, but this is the reason and essence of the lien. Withal, the courts may require the attorney to deliver up the papers in his possession which may serve to embarrass his client, provided the client files proper security for the attorney's compensation. This proceeds from the power of the courts to control its own officers and to compel attorneys to act equitably and fairly towards their clients." [14]

It is thus obvious that even if the most expansive interpretation be accorded the rather generous recognition of an attorney's retaining lien, the situation presented by this controversy falls outside its operation. What must be stressed anew is that if petitioner were to be indulged in his refusal to abide by the lawful orders of respondent Judge, the proper and due respect to which a court of justice is by right entitled would be diminished. That cannot be permitted.

The disputed documents and paper were public in character. Moreover, they were introduced as exhibits. They were properly subject to the court's custody. The intransigence of the petitioner to continue in possession of the same based on his erroneous belief as to the extent of the privilege of a retaining lien, to impart a semblance of legality to his defiance, must not be, as earlier noted, accorded the imprimatur of the approval of his Tribunal. If such were not the law, the resulting injury to a fair and efficient administration of justice might well prove to be incalculable. Against such a deplorable consequence this Court must resolutely set its face.

The record is bereft of the slightest indication that in acting as he did, respondent Judge laid himself open to any accusation failing to follow the dictates of the law. There is no occasion then for the supervisory authority of this Tribunal to come into play. The orders of respondent Judge complained of can stand the test of the most rigorous

scrutiny.

WHEREFORE, this petition for certiorari, prohibition and mandamus is dismissed. With costs against petitioner.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.
Concepcion, C.J., did not take part.

[1] Petition, paragraph 1.

[2] Ibid, paragraph 7, subparagraphs a to e.

[3] Ibid paragraph 7, subparagraphs f to h.

[4] Ibid, paragraph 7, subparagraphs i and j.

[5] Ibid, paragraph 7, subparagraphs k to m.

[6] Ibid, paragraph 7, subparagraph p.

[7] Petition, paragraphs 11 to 14.

[8] Answer, paragraph 4.

[9] Ibid, paragraph 5.

[10] Ibid, paragraphs 6 to 8.

[11] Rule 64, Section 37, Rules of Court.

[12] 72 Phil. 133.

[13] Ibid, pp. 137-138.

[14] Ibid p. 139. Subsequently in *Caiña v. Victoriano*, 105 Phil. 194 (1959); *De Jesus Alano v. Tan*, 106 Phil. 554 (1959); and *Inton v. Matute*, L-21287, Aug. 31, 1966, the principle set forth above in *Rustia v. Abeto* was followed. Cf. *In re Bergstrom & Co.*, 116 NYS 245 (1909).

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