

PRIMITIVO SATO, PLAINTIFF AND APPELLANT, VS. SIMEON RALLOS, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-17194. September 30, 1964

Ponente: PAREDES, J.

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PAREDES, J.:

This is a case for the collection of attorney's fees, instituted in the CFI of Cebu by plaintiff Primitivo Sato, against Simeon Rallos in his capacity as administrator and distribute of the Testate Estate of Numeriana Ballos (Sp. Pr. No. 49-V) and the Intestate Estate of Victoria Rallos Pr. No. 1893).

The records disclose that at the near closing of the said Special Proceedings, defendant Simeon Rallos engaged the services of plaintiff Primitivo Sato, for the purpose of securing a reduction in the assessment of inheritance taxes on the estates, made by the Collector of Internal Revenue. As of November 15, 1940, the estates had a combined liability of P130,076.43, including surcharges and interests. According to plaintiff Sato, the compensation, which was contingent upon the successful reduction of the assessed taxes to an amount of less than P30,000.00, had been verbally agreed upon at P20,000.00 cash and one (1) hectare of any of the commercial-residential lots of the estates, the choice of which was up to plaintiff Sato, or the corresponding value thereof.

Under date of February 6, 1951, plaintiff Sato, then incumbent Congressman of the 3rd District of Cebu, wrote the Collector of Internal Revenue asking for a revision of the assessment made on the properties of the estates (Exh. B). On the same date also, plaintiff presented, and the court granted the following motion in Sp. Proc No. 49-V:

"Wherefore, it is respectfully prayed before this Honorable Court that further action on this case in relation to the inheritance tax liability of the movants, Simeon Rallos, Gerundia Rallos, Numeriana Rallos and Concepcion Rallos, be suspended until the Bureau of Internal Revenue shall have resolved already the said petition for revision of assessment." (Exh. C).

On November 15, 1951, about ten (10) months after representations made by plaintiff Sato with the Internal Revenue, the inheritance taxes of P22,545.47, a very much reduced amount to that of P130,076.43, were paid. Because of the above payment made, the Collector of Internal Revenue moved on November 16, 1953, to dismiss the Complaint of intervention he earlier filed (Civil Case No. R-899), which involved the properties of the estates. The motion for dismissal was granted by the trial Court (Exhs. N and N-1). Demand letters were served for the settlement of the agreed attorney's fees upon Simeon Rallos. Apparently, no settlement was effected, for, on September 3, 1955 a complaint was filed for the collection of the fees. In the said complaint, plaintiff Sato asked for attachment of the properties of the estates, which was denied on November 12, 1955.

Under date of December 1, 1955, defendant Simeon Rallos answering the petition, interposed the following Special Defenses:

"1. That he remembers one time that the plaintiff thru a third person voluntarily offered, as Congressman of Cebu, just as Congressmen Zosa, Cuenco and Logarta did, to help dependent in the revision of the amount of

inheritance tax demanded by the Collector of Internal Revenue;

2. That naturally the defendant could not refuse the generous offers of politicians, one of them the plaintiff, especially that the offer of the plaintiff was done not in his capacity as a lawyer, inasmuch as the defendant had already his lawyers to appear for him in his case, but in the plaintiff's capacity as a congressman and a politician;

3. That according to the third person who was requested by the plaintiff to convey the offer for help to the defendant, the plaintiff had made mention of his desire to ask for small lot where he can build a small house in the city as a gift, the defendant did not say anything, because he believed that he did not need very much the services of another lawyer;

4. That later on the plaintiff thru a third person changed his request from a small lot for a small house, to a lot of one hectare, to which the defendant naturally had to refuse, inasmuch as he believed that the same was too much for an unnecessary service inasmuch as the defendant already had his lawyers working on the case in addition to Congressmen Zosa, Cuenco and Logaria and another third person."

On January 30, 1956, plaintiff amended his original complaint, by including as defendant therein, Gerundia, Guadalupe, and Genoveva, all surnamed Rallos, who were distributees of the estates. They filed separate answers, with counterclaims. They ascribe lack of cause of action against them since the services were rendered to defendant Simeon Rallos, in his personal capacity; that if the claim were valid, plaintiff being a lawyer, should and/or ought to have known that said claim should have been presented before the closure of the said special proceedings, as administration expenses; that the claim is imaginary and exorbitant; and that the employment of plaintiff as attorney by the administrator, did not have the sanction of the probate court.

On June 20, 1957, after the death of defendant Simeon Rallos, plaintiff presented a Second Amended Complaint so as to include, Juan Borromeo who became the administrator of the estates of Simeon Rallos. On August 11, 1958, a third amended complaint was again filed due to the death of Gerundia Rallos, making Josefina Rallos a party defendant. This amended complaint was made the basis of the trial on the merits. Plaintiff finished presenting his evidence on December 13, 1958 and defendants were supposed to present their evidence on January 24, 1959. Instead of presenting their aide of the case, the Intestate Estate of Simeon Rallos filed a Motion to Dismiss on January 27, 1959, on the ground of lack of cause of action, due to the non-survival of claim under Rule 3, Sec. 21, Old and Revised Rules. The other defendants likewise moved for dismissal of the case against them on almost identical grounds. Plaintiff opposed the move to dismiss his complaint.

Under date of July 3, 1959, the lower court rendered judgment, the pertinent portions of which read:

"The action taken by the plaintiff in this case is an ordinary complaint against Simeon Rallos on his own behalf, as distributee and as administrator of the Testate Estate of Numeriana Rallos and Intestate Estate of Victoria Rallos. The procedure taken therefore, by the plaintiff is not in accordance with the correct procedure as enunciated in the case of Aldamiz vs. the Hon. Judge of First Instance of Mindoro, et al. supra, because the plaintiff filed an action not against Simeon Rallos in his personal capacity, but as an administrator in the Testate Estate of Numeriana Rallos and Intestate Estate of Victoria Rallos, and as distributee but in the latter case as the court has already observed received his share free from any kind of obligation, the present claim for attorney's fees not excluding. At any rate, Sp. Proc. No. 1565-R Intestate Estate of Simeon Rallos is still pending in Branch V of this Court and the plaintiff may submit this claim in, the said case.

In view of all the foregoing considerations, Plaintiffs complaint should be as it is hereby dismissed without pronouncement as to costs."

The defendants-appellees did not file any brief. There seem to be no question to Our mind that appellant Sato actually rendered the services alleged and that the estates and the distributees were greatly benefited by such

services. What seems to be the crux of the matter is the procedure followed by appellant in pursuing his claim. Simeon Rallos made implied admissions in his answer that he accepted the offer of services tendered by appellant when he said: "That naturally the defendant could not refuse the generous offers of politicians, one of them the plaintiff. * * *." Proof that service had been rendered by appellant to the estates is clearly shown by the fact that after appellant Sato made representations with the Collector of Internal Revenue, a revised assessment was effected, which was the basis for the payment of P22,545.47 as taxes, as against the original amount of P130,076.43. The benefit derived from such service can not be over-emphasized. For one reason or another, Simeon Rallos refused to pay the agreed amount which spurred the filing of the case at bar.

The case of *Aldamiz vs. Judge of the CFI of Mindoro*, L-2360, Dec. 29, 1949, sustains the procedure the appellant had taken in the case at bar. Therein, this Court held:

"The correct procedure for the collections of attorney's fees, is for the counsel to request the administrator to make payment and file an action against him in his personal capacity and not as an administrator should he fail to pay (*Palileo vs. Mendoza*, G. R. No. 47106, 40 Off. Gaz. [8th Sup p.], 132). If judgment is rendered against the administrator and he pays, he may include the fees so paid in his account to the Court. (*Uy Tioco vs. Imperial*, 53 Phil. 802). The attorney also may, instead of bringing such action, file a petition in the Testate or Intestate Proceeding asking that the Court, after notice to all persons interested, allow his claim and direct the administrator to pay it as an expense of administration." (*Escueta vs. Sy Juelling*, 5 Phil. 405.)

In the case at bar, the complaint was not only filed against the administrator as such and as a distributee but also against the other distributees which is more than the legal procedural requirements.

Appellees claim that since the estate had already been distributed and the heirs had received their respective shares, free from any obligation, no award can be made in favor of plaintiff. Under the circumstances of the case and in the spirit of Article 2142 of the Civil Code, which declares that no one should unjustly enrich and/or benefit himself at the expense of another, We cannot find Our way clear to deny appellant's right to attorney's fees.' It is contended that the other Congressman of Cebu, offered to help and that appellant Sato made his offer as Congressman, and not as a lawyer. This allegation finds no factual support in the records. And if We consider that the huge value of the properties of the estates, for appellee Simeon Rallos alone received P930,000.00 as his share in the estate of Numeriana Rallos and estate of Victoria Rallos was worth P613,000.00, the Court can not justly assume that appellant Sato offered his services gratis et amore.

In view hereof, the decision appealed from, should be, as it is hereby reversed and another entered, finding appellant Primitivo Sato entitled to attorney's fees for services rendered as herein above cited. Considering the success of the appellant in obtaining the required reductions and the standing he enjoys as a practitioner, the Court fixes the sum of P12,500.00 as a reasonable compensation for his services to the estate. The administrator of the estate of Simeon Rallos, therefore, is ordered to pay the sum of P12,500.00 to the herein appellant and to collect in turn, from the distributees of the estates of Numeriana Rallos and Victoria Rallos, their proportionate shares of the obligation, based upon their corresponding participation in the said estates. The claim on one parcel of land of one (1) hectare, heretofore mentioned, as additional attorney's fees of appellant, is denied. Costs against appellees in proportionate shares.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Dizon, Regala, Bengzon, J.P., and Zaldivar, JJ., concur.

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