

HEIRS OF ELEUTERIA ABANGAN, NAMELY: LOURDES ABELLANOSA, SABLE FILOMENA ABELLANOSA-GONZALES, ILDEFONSA ABELLANOSA, CONCORDIA C. CUESTA, ANDRES C. CUESTA, REPRESENTED BY THEIR ATT...

Ponente: LOPEZ, J.

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LOPEZ, J.:

Before Us is an Appeal[1] assailing the Order dated May 14, 2009 and the Resolution dated February 7, 2011 of the Regional Trial Court, Branch 5, Cebu City (hereafter, RTC-Branch 5, Cebu City) which ordered the payment of attorney's fees to respondent-appellant Atty. Jose C. Burgos (hereafter, Atty. Burgos) in CAD. LRC No. 14/ GLRO Rec. No. 9470.

The antecedent facts are as follows:

Herein appellants Heirs of Anastasia Abangan (hereafter, Heirs) procured the services of appellee Atty. Burgos in a Petition for Issuance of Decree of Registration of Title over a parcel of land (identified as Lot No. 5839) situated in Pardo, Cebu City. Atty. Burgos prepared the necessary pleadings and facilitated the filing of the petition before the RTC-Branch 5, Cebu City. The sum of P300,000.00 was endorsed to Atty. Burgos for use as revolving fund during the pendency of the case.[2] The petition filed by appellants was granted in an Order dated August 8, 2003,[3] and Original Certificate of Title (OCT) No. O-1755 was subsequently issued over Lot No. 5839.[4]

On June 8, 2005, a Deed of Recognition of Ownership Renunciation and Waiver of Rights was executed by Cuesta in favor of Atty. Burgos over a portion of the subject property in consideration of "past legal services and some undetermined amount of financial assistance".[5]

In a Motion to Withdraw as Counsel for the Petitioners with Prayer to Fix Counsel's Fees[6] dated March 10, 2009, Atty. Burgos manifested that he was retiring from practice due to his old age and deteriorating health which has constrained him to avoid, or minimize, any stressful activity, and that he had already lost contact with petitioners' representative, Andres Cuesta (hereafter, Cuesta). Stating that appellants would not be prejudiced if he would be relieved of his duties and responsibilities as counsel, he prayed for the RTC-Branch 5, Cebu City, to fix the attorney's fees due him on the case based on quantum meruit.[7]

The motion was granted in an Order dated May 14, 2009.[8] Taking into account his legal standing as a retired judge and the manner the petition was made, the RTC-Branch 5, Cebu City fixed the amount of P35,000.00 as attorney's fee.

In a Motion for Reconsideration and/or Modification of the Order of the Court,[9] appellants alleged that Atty. Burgos already received the amount of P300,000.00 from Cuesta on January 10, 2011. In addition, they claimed that Atty. Burgos failed to inform them of his leaving their employ. As remedy, they prayed that Atty. Burgos be ordered to return to them P265,000.00, representing P300,000.00 less the P35,000.00 counsel's fees.

In a Resolution dated February 7, 2011, the RTC-Branch 5, Cebu City denied the motion for reconsideration.[10]

Aggrieved, appellants filed a Notice of Appeal on March 23, 2011.[11]

In their Brief,[12] appellants maintain that the P300,000.00 allegedly received by appellee already formed his attorney's fees. They posit that the fact of payment could not be denied considering that Atty. Burgos allegedly signed an "Acknowledgment Receipt" on January 10, 2001, which was witnessed by two disinterested persons.[13]

In response, appellee vehemently denied signing any Acknowledgment Receipt and questioned its reliability on the ground that what was submitted as evidence was a certified true copy of a mere photocopy of the original. Appellants were never able to submit the original. In denying that he prepared the Acknowledgment Receipt, he pointed out the following errors which he allegedly could not have made, to wit:

- Errors in spelling;
- It was written in the local dialect which is not his practice;
- It was not personally handwritten by appellee;
- He did not yet have the letterhead used on the date indicated therein; and,
- The date was written below his printed name and signature which was not his practice.

Appellee also denied knowing the two witnesses who claimed to have witnessed him signing the document.

In a Resolution dated September 27, 2013,[14] the instant Appeal was deemed Submitted for Decision.

Lone Assignment of Error:

THE LOWER COURT ERRED IN ORDERING THE PETITIONERS TO PAY THE AMOUNT OF P35,000.00 TO ATTY. JOSE BURGOS DESPITE OF THE FACT THAT ATTY. BURGOS ALREADY RECEIVED P300,000.00 ON TOP OF P20,000.00 ACCEPTANCE FEES AND P1,500.00 AS PER COURT APPEARANCE FEE.

Ruling:

Appellants bewail that their former counsel had already received much more than what the court a quo ordered in its decision and maintain that appellee should be made to reimburse to them the amount of P265,000.00. They also pray that the assailed Decision and Resolution be declared null and void, and ask that the annotations caused by Atty. Burgos on their property be cancelled.

The petition is bereft of merit.

Attorney's fee is the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter. The basis for this compensation is the fact of his employment by and his agreement with the client.[15]

Section 24, Rule 138 of the Rules of Court provides:

Compensation of attorney's fees; agreement as to fees. - An attorney shall be entitled to have and recover from his client no more than a reasonable compensation for his services, with a view to the importance of the subject - matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. No court shall be bound by the opinion of attorneys as expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract for services shall control the amount to be paid therefor unless found by the court to be unconscionable or unreasonable.

In claiming his compensation, the lawyer should show that he is entitled to it based on services rendered, taking into account several factors in the fixing of amount of legal fees.[16] These are:

- a) The time spent and the extent of the services rendered or required;
- b) The novelty and difficulty of the questions involved;
- c) The important of the subject matter;
- d) The skill demanded;
- e) The probability of losing other employment as a result of acceptance of the proffered case;
- f) The customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs;
- g) The amount involved in the controversy and the benefits resulting to the client from the service;
- h) The contingency or certainty of compensation;
- i) The character of the employment, whether occasional or established; and
- j) The professional standing of the lawyer.[17]

Atty. Burgos' employment with appellants was never denied. It was his performance as counsel for the appellants that helped them get a favorable decision. Thus, he is entitled to his fees, and since there is no showing that they had an agreement on the amount of compensation, his attorney's fee shall be based on quantum meruit as what the court a quo did.

Quantum meruit – literally meaning as much as he deserves - is used as basis for determining an attorney's professional fees in the absence of an express agreement.[18] The recovery of attorney's fees on the basis of quantum meruit is a device that prevents an unscrupulous client from running away with the fruits of the legal services of counsel without paying for it and also avoids unjust enrichment on the part of the attorney himself.[19]

In granting P35,000.00 as attorney's fee to Atty. Burgos, the court a quo observed that:

Considering the legal standing of the counsel on record at bar and as manifested by the manner the petition was presented rendering [it] sufficient in form and substance for this court to act thereon, it being the duty also of this court to see to it that their officers are sufficiently compensated for their professional services rendered to their client and other relevant circumstances.[20]

Appellants harp on the contention that Atty. Burgos already received P300,000.00 which was more than enough as payment for his services. Sadly, the Acknowledgment Receipt submitted is a photocopy of a photocopy of the purported document. Mere photocopies of documents, being secondary evidence, are inadmissible pursuant to the best evidence rule which requires that the highest available degree of proof must be produced.[21] This is especially true when the existence of the document is denied as what appellee insists.[22]

Assuming arguendo that the photocopy is admissible, it still could not support appellants' stance. The receipt only shows that Cuesta was given P300,000.00 by Anaclita Berbesada and Editha Macachor as "downpayment sa portion sa yuta Lot. No. 5389" (downpayment for a portion of Lot No. 5389) and that Cuesta entrusted this to Atty. Burgos. There is no indication that it was in satisfaction of Atty. Burgos' professional fee. Elementary is the principle that words should be construed in their ordinary and usual meaning.[23] Thus, We concur with the court a quo when it stated in the assailed Resolution that:

Whether or not Atty. Burgos received P300,000.00 from Andres Cuesta or not is beside the point. It is not clear what the P300,000.00 allegedly turned over to Atty. Burgos was for. It has not been shown that if ever that

P300,000.00 was handed over to Atty. Burgos, the same was for or included his professional services in handling the instant petition. The fact remains that Atty. Burgos prepared and filed the instant petition and prepared himself for the handling of the petition in court. Atty. Burgos should therefore be compensated for the filing of this petition and for the preparations he made to handle the petition in court.[24]

With regard to the Joint Affidavit[25] submitted by appellants to prove that Atty. Burgos received P300,000.00 from Cuesta, We hold that the affidavit cannot be given any evidentiary weight. The affidavit was not formally submitted with their Motion for Reconsideration before the RTC, Branch 5, Cebu City. Bearing the marking Annex “I”, it was executed only on March 4, 2013 when the appeal was already pending before This Court.

Moreover, the Joint Affidavit merely declared that the affiants, as sales agents, witnessed the turn-over of money from Cuesta to Atty. Burgos. It did not mention the purpose for the payment, much more specify that it was Atty. Burgos’ attorney’s fee. Again, words should not be given a different meaning other than its clear import.[26]

The Supreme Court’s observation in *Rosario, Jr. vs. de Guzman, et. al*[27] is insightful, thus:

The fact that the practice of law is not a business and the attorney plays a vital role in the administration of justice underscores the need to secure him his honorarium lawfully earned as a means to preserve the decorum and respectability of the legal profession. A lawyer is as much entitled to judicial protection against injustice, imposition or fraud on the part of his client as the client against abuse on the part of his counsel. The duty of the court is not alone to see that a lawyer acts in a proper and lawful manner; it is also its duty to see that a lawyer is paid his just fees. With his capital consisting of his brains and with his skill acquired at tremendous cost not only in money but in expenditure of time and energy, he is entitled to the protection of any judicial tribunal against any attempt on the part of his client to escape payment of his just compensation. It would be ironic if after putting forth the best in him to secure justice for his client he himself would not get his due.

WHEREFORE, premises considered, the instant Appeal is hereby DENIED. The Order dated May 14, 2009 and the Resolution dated February 7, 2011 of the Regional Trial Court, Branch 5, Cebu City in CAD. LRC No. 14/ G.L.R.O. REC. No. 9470 are AFFIRMED.

SO ORDERED.

Delos Santos Chairperson, and Lagura-Yap, JJ., concur.

[1] Rollo, pp. 10-18.

[2] Rollo, p. 19.

[3] Annex “A”; rollo, pp. 20-25.

[4] Rollo, pp. 27-29.

[5] Rollo, p. 25.

[6] Rollo, p. 30.

[7] Annex “F”; rollo, pp. 30-31.

[8] Annex “G”; rollo, p. 32.

[9] Annex “H”; rollo, pp. 33-37.

[10] Records, pp. 31-32.

- [11] Dated March 16, 2011; records, p. 33.
- [12] Rollo, pp. 10-18.
- [13] Dulce Yap and Manuel Clarin.
- [14] Rollo, pp. 69-67.
- [15] *Trader's Royal Bank Employees' Union-Independent vs. NLRC and Cruz*, G.R. No. 120592, March 14, 1997.
- [16] *Garcia v. Bala*, A.C. No. 5039, November 25, 2005.
- [17] Rule 20.01 of the Code of Professional Responsibility.
- [18] *NPC vs. Heirs of Macabangkit Sangkay*, G.R. No. 165828, August 24, 2011, citing *Garcia vs. Bala*, A.C. No. 5039, November 25, 2005.
- [19] *Ibid.*, citing *Pineda v. De Jesus*, G.R. No. 155224, August 23, 2006.
- [20] Records, p. 20.
- [21] *Dantis vs. Maghinang, Jr.*, G.R. No. 191696, April 10, 2013.
- [22] *Heirs of Gregorio vs. CA et. al*, G.R. No. 117609, December 29, 1998.
- [23] *Romualdez vs. Sandiganbayan and People*, G.R. No. 152259, July 29, 2004.
- [24] Rollo, p. 31.
- [25] Annex "I"; rollo, p. 37.
- [26] Section 9, Rule 130 of the Rules of Court - Evidence of written agreements. — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
- [27] G.R. No. 191247, July 10, 2013, quoting Agpalo, *Comments on The Code of Professional Responsibility and The Code of Judicial Conduct* (2004 edition Rex Book Store, Inc., Manila 2004) 329-330.

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