

DR. OLIVIA S. PASCUAL, IN HER CAPACITY AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF THE LATE DON ANDRES PASCUAL AND AS EXECUTRIX OF THE TESTATE ESTATE OF THE LATE DOÑA ADELA S. P...

G.R. No. 120575. December 16, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The extraordinary action to annul a final judgment is restricted to the grounds provided by law, in order to prevent it from being used by a losing party to make a complete farce of a duly promulgated decision that has long become final and executory.

The Case

Before us is a Petition for Review on Certiorari challenging the June 7, 1995 Decision of the Court of Appeals[1] in CA-GR SP No. 34487, denying the Petition for Annulment of Judgment. The dispositive portion of the assailed Decision reads:[2]

"WHEREFORE, and upon all the foregoing considerations, the petition is hereby DISMISSED, with costs against the petitioner."

The Facts

Don Andres Pascual died intestate on October 12, 1973 and was survived by (1) his widow, Doña Adela Soldevilla Pascual; (2) the children of his full blood brother, Wenceslao Pascual Sr. -- Esperanza C. Pascual-Bautista, Manuel C. Pascual, Jose C. Pascual, Susana C. Pascual-Guerrero, Erlinda C. Pascual and Wenceslao C. Pascual Jr.; (3) the children of his half blood brother Pedro Pascual -- Avelino Pascual, Isosceles Pascual, Leida Pascual-Martinez, Virginia Pascual-Ner, Nona Pascual-Fernando, Octavio Pascual and Geranaia Pascual-Dubert; (4) the intestate estate of his full blood brother Eleuterio T. Pascual represented by Mamerta P. Fugoso, Abraham S. Sarmiento III, Dominga M. Pascual, Regina Sarmiento-Macaibay, Dominga P. San Diego, Nelia P. Marquez, Silvestre M. Pascual and Eleuterio M. Pascual; and (5) the acknowledged natural children of his full blood brother Eligio Pascual -- Hermes S. Pascual and Olivia S. Pascual (herein petitioner).

On December 11, 1973, Doña Adela (the surviving spouse) filed with the then Court of First Instance (CFI) of Pasig, Rizal, a petition for letters of administration over the estate of her husband.[3] After due notice and hearing, the CFI appointed her special administratrix.[4] To assist her with said proceedings, Doña Adela hired, on February 24, 1974, Atty. Jesus I. Santos, herein private respondent, as her counsel for a fee equivalent to fifteen (15) percent of the gross estate of the decedent.

When Batas Pambansa Blg. 129 took effect, the petition was reassigned to the Regional Trial Court (RTC) of Pasig, Branch 162, presided by Judge Manuel Padolina. On November 4, 1985, the heirs of the decedent moved for the approval of their Compromise Agreement, stipulating that three fourths (3/4) of the estate would go to

Doña Adela and one fourth (1/4) to the other heirs. The intestate court approved said Agreement on December 10, 1985.

On August 18, 1987, while the settlement was still pending, Doña Adela died, leaving a will which named the petitioner as the sole universal heir. The latter filed at the Regional Trial Court of Malabon, Branch 72, a petition for the probate of said will.

On September 30, 1987, the RTC of Pasig denied the motion to reiterate hereditary rights, which was filed by petitioner and her brother. The Court reasoned that, as illegitimate children of the brother of the decedent, they were barred from acquiring any hereditary right to her intestate estate under Article 992 of the Civil Code.[5] On December 17, 1987, it ordered that the private respondent's lien on the hereditary share of Doña Adela be entered into the records.

Six years after Doña Adela's death, on January 19, 1994, to be exact, Judge Padolina rendered a Decision which disposed as follows:[6]

"WHEREFORE, in view of the foregoing, let the manner of partition of the estate of Don Andres Pascual be as follows:

'One fourth (1/4) of the properties, personal and real, to the heirs of Don Andres Pascual in accordance with the provisions of the Compromise Agreement of October 16, 1985;

'Three-fourths (3/4) of the properties personal and real, to the estate of Doña Adela Soldevilla Pascual, in accordance with the Compromise Agreement of October 16, 1985.'

"To this end, let the Register of Deeds of the provinces or cities where all real properties of the estate [lie], cancel the certificates of title in the name of Don Andres Pascual (married to Doña Adela S. Pascual), and issue new Certificates of Title in the manner of partition above-mentioned indicating therein the portions they are entitled to.

"With respect to the shares of stock in Liberty Insurance Corporation and San Francisco Del Monte Bank, and the proceeds of the sale of the real properties of the estate and all monies and other personal properties of the estate, the same being capable of physical distribution, [l]et [them] be distributed in accordance with the portions so delineated.

"This Court awards the attorney's fees of Atty. Jesus Santos equivalent to 15% of the $\frac{3}{4}$ share of the estate of Doña Adela S. Pascual.

"Finally, it is hereby decreed that any and all properties of the estate of Don Andres Pascual, whether real or personal, which may have not been included in the inventory of properties afore-listed in this decision, for any reason whatsoever, and which may later on be uncovered or found in the future, shall likewise be apportioned and distributed, as follows:

1. One-fourth (1/4) of the properties, personal and real, to the heirs of Don Andres Pascual in accordance with the provisions of the Compromise Agreement of October 16, 1985; and

2. Three-fourths (3/4) of the properties, personal and real, to the estate of Doña Adela Soldevilla Pascual, in accordance with the Compromise Agreement of October 16, 1985.

"All the parties are reminded to strictly comply with the above conditions."

After said Decision had become final and executory, the private respondent filed on March 25, 1994 a Motion for the Issuance of a Writ of Execution insofar as the payment of his attorney's fees was concerned. Despite opposition from the petitioner, the motion was granted in the April 19, 1994 Order of the intestate court, directing

"the issuance of a writ of execution in the partial amount of P2,000,000.00 in favor of movant[,] Atty. Jose I. Santos to be implemented against the $\frac{3}{4}$ share of Doña Adela S. Pascual, upon payment by the movant of the prescribed docket fees for the said partial amount." [7]

The following day, April 20, 1994, Branch Clerk of Court Arturo V. Camacho issued a Writ of Execution; [8] and Sheriff Carlos G. Maog, a Notice of Garnishment to the San Francisco Del Monte Rural Bank (SFDM Avenue, Quezon City), garnishing deposits and shares of stocks belonging to the estate of Doña Adela sufficient to cover the amount of P2 million. [9]

Two days later, petitioner moved for the reconsideration and the quashal of the Writ of Execution, [10] which the RTC of Pasig denied in its Order of June 29, 1994. [11] Private respondent countered with two motions to order petitioner to comply with the writ of garnishment and to compel her to appear and explain her failure to comply with the writ.

Feeling aggrieved, petitioner filed with the Court of Appeals (CA) a petition for annulment of the award of attorney's fees in the January 19, 1994 Decision of the trial court; the Order of April 19, 1994, granting a Writ of Execution; the Writ of Execution dated April 20, 1994; and the Order of June 29, 1994, denying petitioner's motion for reconsideration.

As stated earlier, the appellate court dismissed the petition, ruling that the intestate court had jurisdiction to make the questioned award and that petitioner had been accorded due process. It noted that the private respondent had filed his claim as early as the first quarter of 1974; and that, in its order of December 17, 1987, the trial court had entered the attorney's lien into the records. It upheld the jurisdiction of the intestate court on the ground that, although not incurred by the deceased during his lifetime, the monetary claim was related to the ordinary acts of administration of the estate. The CA similarly declared that the petitioner had been accorded due process. It noted that, despite knowledge of the claim, she did not oppose or hint at any resistance to the payment of said claim. She also chose not to move for reconsideration or to file an appeal after the award had been made. Indubitably, the award became final and executory.

Hence, this petition. [12] On October 21, 1997, after the case was submitted for resolution by the original parties, Crisanto S. Cornejo and the other heirs of Doña Adela filed an Omnibus Motion, which in sum, alleged that Judge Padolina conspired with petitioner and private respondent to place the entire Pascual estate under their control. Allegedly, Judge Padolina, in his Order of October 7, 1988, negated Cornejo and Jose Pascual's letter of administration by directing them "to refrain [from] initiating any move to dispossess or eject Olivia S. Pascual from her residence; to refrain from advertising any property of the estate for sale without prior motion duly filed therefor with due notice to all parties and prior approval of the Court; not to interfere in the management of the bank and to deposit immediately in a reputable bank in the name of the estate rentals due the estate until after the said motion shall have been resolved by the Court." They claim that, without any hearing or notice to them, the judge approved and awarded the attorney's fees of private respondent, who was purportedly his classmate and compadre. Finally, petitioner replaced Cornejo as judicial administrator on March 6, 1989 five months after the latter had served as such.

Furthermore, they allege that, in the settlement of Doña Adela's estate, private respondent filed a similar collection case before the Regional Trial Court of Malabon, Branch 73 which was, however, dismissed for violating the rules against forum shopping. Private respondent allegedly filed another collection case before the Regional Trial Court of Makati, Branch 66, wherein petitioner, in her Answer, alleged that she had paid him approximately P8 million from the time his services were engaged, aside from some unreported "commissions" from tenants, squatters and other businesses included in the Pascual estate.

Consequently, petitioners-in-intervention pray for (1) the inhibition and/or disqualification of Judge Padolina from hearing Sp. Proc. No. 7554 or, alternatively, another raffle of the case to any other RTC branch in Pasig or Manila; (2) the consolidation of Sp. Proc. No. 7554 (Intestate Estate of Andres Pascual) with Sp. Proc. No. 136-MN (Testate Estate of Adela Pascual) or both with Sp. Proc. No. 88948, filed before the RTC of Manila, Branch 40, presided by Judge Felipe R. Pacquing (Intestate Estate of Toribia Tolentino Soldevilla, mother of Doña Adela Pascual); (3) the investigation of the authenticity, preparation and legal compliance of Doña Adela Pascual's Last Will and Testament dated December 27, 1978, more specifically, the private respondent's participation in designating petitioner as Doña Adela's sole universal heir; (4) the setting aside of the Decisions rendered by respondent judge in Sp. Proc. No. 7554 dated January 19, 1994, and by Judge Benjamin del Mundo-Aquino in Sp. Proc. No. 136-MN; and (5) the reopening of both cases and their remand to the court a quo.

In their separate Comments, both petitioner and private respondent oppose the grant of this Omnibus Motion for being untimely and improper.

The Issues

In her Memorandum,[13] petitioner alleges that the reversal of the assailed Decision is called for, in view of the following "compelling reasons":[14]

- "a. The portion of the decision dated January 19, 1994 awarding attorney's fees is void from the beginning because it was made after xxx [the] trial court had lost its jurisdiction over the attorney's client by reason of her death[;]
- b. The questioned portion of the decision of xxx [the] trial court is void because it deprived the heirs of Doña Adela due process of law[;]
- c. The questioned portion of the decision of respondent trial court is void from the beginning because the body of the decision does not state the facts and the law upon which the award is based[;]
- d. Petitioner has not lost her right to question the conclusion of respondent trial court on the amount of attorney's fees[;] and
- e. The writ of execution was wrongfully issued."

The Court believes that the resolution of this case hinges on the following issues: (1) Did the trial court have jurisdiction to make the questioned award of attorney's fees? (2) Were the heirs of Doña Adela, who were represented by petitioner, deprived of due process? (3) Were there factual and legal bases for the award of attorney's fees? Additionally, the Court will dispose of Crisanto S. Cornejo's "Omnibus Motion."

The Court's Ruling

The Petition is devoid of merit. Likewise, the Omnibus Motion is unmeritorious.

The failure to perfect an appeal in the manner and within the period fixed by law renders the decision final and executory. Consequently, no court can exercise appellate jurisdiction to review such decision.[15] Upon the other hand, the extraordinary action to annul a final judgment is limited to the grounds provided by law and cannot be used as a stratagem to reopen the entire controversy and thereby make a complete farce of a duly promulgated decision that has long become final and executory.[16] Accordingly, this review shall consider only matters pertaining to the jurisprudential grounds for the annulment of a final judgment:[17]

"xxx Annulment of judgment may xxx be based on the ground that [either] a judgment is void for want of jurisdiction or the judgment was obtained by extrinsic fraud. xxxx."[18]

Petitioner does not allege extrinsic fraud, but bases her petition only on alleged lack of jurisdiction and due

process.

First Issue:

Jurisdiction over the Person of the Defendant

Petitioner insistently argues that the January 19, 1994 RTC Decision, insofar as it awarded attorney's fees, was void from the beginning because the intestate court had lost jurisdiction over the person of Doña Adela (the attorney's client) due to her death.

The argument is untenable. The basic flaw in the argument is the misapplication of the rules on the extinction of a civil action[19] in special proceedings. The death of Doña Adela did not ipso facto extinguish the monetary claim of private respondent or require him to refile his claim with the court hearing the settlement of her testate estate. Had he filed the claim against Doña Adela personally, the rule would have applied. However, he did so against the estate of Don Andres.

Thus, where an appointed administrator dies, the applicable rule is Section 2, Rule 82 of the Rules of Court, which requires the appointment of a new administrator, viz.:

"Sec. 2. Court may remove or accept resignation of executor or administrator. Proceedings upon death, resignation, or removal." x x x When an executor or administrator dies, resigns, or is removed, the remaining executor or administrator may administer the trust alone, unless the court grants letter to someone to act with him. If there is no remaining executor or administrator, administration may be granted to any suitable person."

The rule does not have the effect of divesting the intestate court of jurisdiction. Its jurisdiction subsists because the proper party in this case is the estate of Don Andres, which is distinct and separate from that of Doña Adela who merely served as the former's administratrix. Doña Adela was merely a representative party,[20] and the claim was an item of the administrative expense of Don Andres' estate. It is well-settled that a monetary claim against the person administering an estate, in relation to his or her acts of administration, in its ordinary course, can be filed at the court where a special proceeding for the settlement of the estate is pending.[21]

Hence, in spite of the death of the appointed administratrix, it was the duty of the intestate court to determine whether the private respondent's claim was allowable as administrative expense - if it was obtained in reference to the management of the estate; the performance of legal services which the administratrix herself could not perform; the prosecution or defense of actions or suits on behalf of or against the estate; or the discovery, recovery or preservation of properties of the estate.[22] In other words, the intestate court has a mandate to resolve whether the said claim is a "necessary expense in the care, management and settlement of the estate." [23] For the same reason, the fact that the private respondent's lien was recorded four months after the administratrix had died is of no moment.

Payment of Separate Docket Fees Is Not Necessary

While not exactly a ground for annulment, the Court has held that it is the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject matter or nature of the action.[24] Petitioner avers that the intestate court had no jurisdiction to award the disputed attorney's fees before private respondent paid docket fees, as required in *Lacson v. Reyes*. [25]

The argument is untenable. The Court required in *Lacson* the payment of a separate docket fee, since the lawyer's "motion for attorney's fees" was in the "nature of an action commenced by a lawyer against his client." In contrast, the private respondent filed a claim for his attorney's fees against the estate of Don Andres. The difference in the modes of action taken renders *Lacson* inapplicable to the case at bar.

In addition, where the judgment awards a claim not specified in the pleadings, or if specified, its amount was left

for the court's determination, the additional filing fees shall constitute a lien on the judgment.[26] In its Order dated April 19, 1994, the intestate court required the payment of the docket fee for the claim. In fact, the private respondent paid the prescribed docket and additional filing fees.

Second Issue:

Heirs of Doña Adela Were Not Deprived of Due Process

Asserting that she and the other heirs of the deceased administratrix were denied due process of law, petitioner disputes the following finding of the CA:[27]

"We can neither view with favor the petitioner's contention that the award was made without giving the heirs of Doña Adela due process of law. It must be remembered that long before the xxx Judge's questioned Decision was rendered, the petitioner was named special administratrix of the $\frac{3}{4}$ share of Doña Adela in the estate of Don Andres xxx. As such special administratrix, the petitioner should have been aware of all her duties and responsibilities, one of which was to protect the estate from any disbursements based on claims not chargeable to the estate. She should have known that notice to her of the attorney's lien would have amounted to notice to the heirs of Doña Adela as well."

According to her, want of due process prevented the heirs from contesting the claim and submitting evidence to show that partial payments had been previously given to private respondent.

The Court is not convinced. If admitted by the administrator or executor, a claim according to Rule 86 of Section 11[28] may be allowed by the court without any hearing. Respondent court found that the claim was indeed admitted and uncontested, as shown below:

"xxx From the date of her appointment as special administratrix of the estate of Doña Adela on September 28, 1989 up to and beyond the time the challenged Decision became final and executory, there was nary a pip from the petitioner as such administratrix in opposition to the satisfaction of the subject attorney's lien. To repeat what the respondent Judge said in his aforementioned Order, 'there has been no opposition nor any hint of discord or resistance from the special administratrix or any other party as to this fact.'

"As if this were not enough, in a tacit acknowledgment of the validity of the subject contract of attorney's fees and acceptance of the enforcement thereof, the petitioner had been giving partial payments to the private respondent on the said contract.

"Then, after becoming aware of the rendition of the respondent Judge's Decision wherein the questioned award of attorney's fees was decreed, which was as good a time as any to assail its propriety, the petitioners maintained her silence and chose not to file any motion for the reconsideration of the Decision or appeal therefrom. Due to the petitioner's own fault and negligence, the Decision became final and executory. The petitioner must therefore bear the consequences of the maxim '[E]quity aids the vigilant, not those who slumber on their right.'"[29]

Besides, the petitioner had ample time to contest the claim. From her appointment as special administratrix until January 19, 1994 when the RTC Decision was rendered, she had all the time to oppose the claim. This was the proper time to raise any objection. When she received said Decision on February 8, 1994, again she had the chance to question the claim in a motion for reconsideration or an appeal, and yet she opted not to take advantage of these remedies.

Such facts conclusively prove that petitioner was not deprived of due process, the essence of which is the right to be heard.[30] Where a person is not heard because he or she has chosen not to give his or her side of the case, such right is not violated.[31] If one who has a right to speak chooses to be silent, one cannot later complain of being unduly silenced.

Third Issue:

Factual and Legal Bases of the Award of Attorney's Fees

Petitioner alleges that the award of attorney's fees contained in the fallo is void ab initio, as the intestate court failed to state the factual or legal bases therefor in the body of the Decision, in violation of Article VIII, Section 14 of the Constitution.[32]

The Court disagrees. The legal and factual bases of the award were stated in the body of the January 19, 1994 RTC Decision. In recounting the "significant events leading to [the] eventual culmination"[33] of the case, the trial court revealed the importance of the services of private respondent, who represented the estate, argued for the intestate court's approval of the Compromise Agreement, and rendered legal advice on the final distribution of the properties of the estate.

One must also consider that, unlike in the cases cited by petitioner,[34] the award of attorney's fees herein is not in the concept of damages based on Article 2208 of the Civil Code which, as an exception to the general rule not to impose a penalty on the right to litigate, is but a compensation for services rendered. Thus, the legal proceedings that took place and the agreement between attorney and client were more than sufficient proof of the legality of the award. These factual and legal bases, unlike in cases where attorney's fees are granted in the concept of damages, are not unknown to the parties in the case at bar.

Reasonable Attorney's Fees

Petitioner avers that she has not lost her right to question the amount of attorney's fees awarded to the private respondent, insisting that it was unreasonable, as "it countenance[d] exploitation for speculative profit on account of the estate's enormous value."

The Court disagrees. Although attorney's fees are always subject to judicial control,[35] delving into its reasonableness involves going into its merits, an action that is procedurally impermissible at this late time and in these proceedings. Be it remembered that petitioner filed not an appeal, but a Petition to Annul a Final Judgment. In any event, the Court finds no evidence to show that the stipulated amount of attorney's fees was illegal; immoral; or in contravention of law, good morals, good customs, public order or public policy. It is therefore enforceable as the law between the parties.[36]

The reasonableness of the stipulated attorney's fees finds support in *Law Firm of Raymundo A. Armovit v. Court of Appeals*,[37] which upheld the payment of "twenty percent of all recoveries" as attorney's fees in a foreclosure case, in which counsel succeeded in preventing the foreclosure of his client's property and in obtaining for the latter P2.7 million in unpaid rentals. In the present case, petitioner's averment that the fees in question are not proportionate to the services rendered by private respondent fails to consider the numerous properties involved and the private respondent's labor for thirteen years, during which time he became responsible for the estate of Don Andres. In fact, the established standards in fixing attorney's fees calls for the upholding of the award.[38]

Additional Issue:

Intervention Not Allowed

Clearly understood, the Omnibus Motion is really a disguised motion for intervention.

Rule 19 of the 1997 Rules of Civil Procedure,[39] which was already in effect when the Omnibus Motion was filed on October 21, 1997, provides the guidelines for intervention:

"SECTION 1. Who may intervene.-A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be

allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (2[a], [b]a, R12)"

Cornejo and his co-movants claim that their inheritance is being dissipated; thus, they seek permission to intervene in this case. Obviously, however, they filed the motion beyond the prescribed period. Section 2 of the aforecited Rule allows intervention at "any time before rendition of judgment by the trial court." This motion was filed only after the parties had submitted their memoranda and many years after both the RTC and the CA had rendered their decisions.

Further, the motion lacks substance. Any misconduct or violation of judicial responsibility allegedly committed by Judge Padolina is not a proper subject of intervention. The reason is simple: he is merely a nominal party in an action for annulment of a final judgment. That private respondent filed Civil Case No. 95-102-MN to collect his attorney's fees does not affect the validity or finality of the January 19, 1994 Decision or the award of attorney's fees in the settlement of the estate of the husband of Doña Adela. In fact, it was dismissed for violation of the rule against forum shopping. As the reopening of the probate of the latter's will was not relevant to the annulment of said award, the consolidation of the cases mentioned was similarly improper. Inexistent is the connection between the settlement of both decedents' estate and that of Toribia Tolentino Soldevilla's. It is very clear that the motion for intervention has absolutely no merit.

WHEREFORE, the Petition and the Omnibus Motion are hereby DENIED, and the assailed Decision is AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C. J., Melo, Vitug, and Quisumbing JJ., concur.

[1] Fourteenth Division composed of JJ Cezar D. Francisco, chairman and ponente; Buenaventura J. Guerrero and Antonio P. Solano, members.

[2] CA Decision, p. 15; rollo, p. 60.

[3] Docketed as Sp. Proc. No. 7554, the petition was assigned to Branch 23, presided by Judge Rizalina Bonifacio Vera.

[4] Rollo, pp. 77-78.

[5] This issue eventually went up to the Supreme Court and was finally settled in GR No. 84240, March 25, 1992.

[6] Rollo, pp. 68-69.

[7] Rollo, p. 71.

[8] Rollo, p. 72.

[9] Rollo, p. 100.

[10] Rollo, pp. 101-106.

[11] Rollo, pp. 73-74.

[12] This case was deemed submitted for decision on February 27, 1998 upon receipt by the Court of petitioner's February 25, 1998 Comment on the "Omnibus Motion" of Crisanto S. Cornejo.

[13] Signed by Atty. Jose S. Santos Jr.

[14] Rollo, p. 104.

[15] *Azores v. Securities and Exchange Commission*, 252 SCRA 387, 392, January 25, 1996; *Macabingkil v. People's Homesite and Housing Corporation*, 72 SCRA 326, 341, August 17, 1976.

[16] *Amigo v. Court of Appeals*, 253 SCRA 382, 388, February 9, 1996, per Vitug, J.

[17] *Ybañez v. Court of Appeals*, 253 SCRA 540, 548, February 9, 1996; *Regidor v. Court of Appeals*, 219 SCRA 530, 534, March 5, 1993; *Mercado v. Ubay*, 187 SCRA 719, 725, July 24, 1990; *Arcellona v. Court of Appeals*, GR No. 102900, October 2, 1997, p. 11.

[18] The 1997 Rules of Court codified these grounds under Section 2, Rule 47:

"SEC. 2. Grounds for annulment."The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

"Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.(n)"

[19] Sec. 21, Rule 3 of the Rules of Court, provides:

"Sec. 21. Where claim does not survive."When the action is for recovery of money, debt or interest thereon, and the defendant dies before final judgment in the Court of First Instance, it shall be dismissed to be prosecuted in the manner especially provided in these Rules."

[20] Rule 3, § 3, provides:

"Sec. 3. Representative parties."A trustee of an express trust, a guardian, executor or administrator, or a party authorized by statute, may sue or be sued without joining the party for whose benefit the action is presented or defended; but the court may, at any stage of the proceedings, order such beneficiary to be made a party. xxx."

[21] *Quirino v. Grospe*, 169 SCRA 702, 707, January 31, 1989; *White v. Enriquez*, 15 Phil 113, 115, January 27, 1910; *Occeña v. Marquez*, 60 SCRA 38, 45, September 30, 1974; *Sato v. Rallos*, 12 SCRA 84, 89, September 30, 1964; and *Escueta v. Sy Juelling*, 5 Phil. 405.

[22] *Vicente J. Francisco*, *The Revised Rules of Court in the Philippines*, Vol. V-B, 1970 ed., pp. 146-147; *Lizarraga Hermanos v. Abada*, 40 Phil. 124, 132, September 17, 1919; *Dacanay v. Commonwealth*, 72 Phil. 50, 52, April 25, 1941; *Aldamiz v. Judge of the Court of First Instance of Mindoro*, 85 Phil. 228, 232-233, December 29, 1949; and *Rodriguez v. Ynza*, 97 Phil. 1003, November 18, 1955 (unreported).

[23] Section 7, Rule 85, Rules of Court.

[24] *Pantranco North Express, Inc. v. Court of Appeals*, 224 SCRA 477, 487-488, July 5, 1993; *Philippine Pryce Assurance Corporation v. Court of Appeals*, 230 SCRA 164, 171, February 21, 1994; and *Ortigas & Company Limited. Partnership v. Velasco*, 234 SCRA 455, 487, July 25, 1994.

[25] 182 SCRA 729, 733-734, February 26, 1990; per Sarmiento, J.

[26] *Pantranco North Express, Inc. v. CA*, supra, pp. 488-489; *Talisay-Silay Milling Co., Inc. v. Asociacion de Agricultores de Talisay-Silay, Inc.*, 247 SCRA 361, 384, August 15, 1995.

[27] CA Decision, p. 11; rollo, p. 56.

[28] Rule 86, § 11, provides:

"SEC. 11. Disposition of admitted claim."Any claim admitted entirely by the executor or administrator shall immediately be submitted by the clerk to the court [which] may approve the same without hearing; but the court, in its discretion, before approving the claim, may order that known heirs, legatees, or devisees be notified and heard. If upon hearing, an heir, legatee, or devisee opposes the claim, the court may, in its discretion, allow him fifteen (15) days to file an answer to the claim in the manner prescribed in the preceding section."

[29] CA Decision, pp. 10-11; rollo, pp. 55-56.

[30] Tajonera v. Lamaroza, 110 SCRA 438, 448, December 19, 1981; Richards v. Asoy, 152 SCRA 45, 49 July 9, 1987; Juanita Yap Say v. Intermediate Appellate Court, 159 SCRA 325, 327, March 28, 1988; and Mutuc v. Court of Appeals, 190 SCRA 43, 49, September 26, 1990.

[31] Philippine Savings Bank v. National Labor Relations Commission, 261 SCRA 409, 416, September 4, 1996; Pepsi Cola Distributors of the Phils., Inc. v. National Labor Relations Commission, 247 SCRA 386, 394, August 15, 1995; Stronghold Insurance Co., Inc. v. Court of Appeals, 205 SCRA 605, 610, January 30, 1992.

[32] "No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based."

[33] RTC Decision, p. 1; rollo, p. 61.

[34] Stronghold Insurance Co., Inc. v. Court of Appeals, 173 SCRA 619, 628, May 29, 1989; Policarpio v. Court of Appeals, 194 SCRA 729, 742, March 5, 1991; and Abrogar v. Intermediate Appellate Court, 157 SCRA 57, 60-61, January 15, 1988.

[35] Sesbreño v. CA, 245 SCRA 30, 35, June 8, 1995; Roldan v. Court of Appeals, 218 SCRA 713, 716, February 9, 1993.

[36] Ramos v. Bidin, 161 SCRA 561, 566-567, May 28, 1988; Consolidated Bank & Trust Corporation (Solidbank) v. Court of Appeals, 246 SCRA 193, 204, July 14, 1995; Social Security Commission v. Almeda, 168 SCRA 474, 480, December 14, 1988; and Reparations Commission v. Visayan Packing Corporation, 193 SCRA 531, 540, February 6, 1991.

[37] 202 SCRA 16, 24-25, September 27, 1991, per Sarmiento, J.

[38] 161 SCRA 566, May 28, 1988. In fixing the reasonable attorney's fees collectible, the Court, in several cases, took into consideration the following circumstances: "(1) [T]he amount and character of the services rendered; (2) labor, time and trouble involved; (3) the nature and the importance of the litigation or business in which the services were rendered; (4) the responsibility imposed; (5) the amount of money or the value of the property affected by the controversy or involved in the employment; (6) the skill and the experience called for in the performance of the services; (7) the professional character and the social standing of the attorney; (8) the results secured, it being a recognized rule that an attorney may properly charge a much larger fee when it is contingent than when it is not." De Guzman v. Visayan Transit Co., 68 Phil 643, 647, September 30, 1939; Martinez v. Banogon, 7 SCRA 916, 917, April 20, 1963; Research & Services Realty, Inc. v. Court of Appeals, 266 SCRA 731, 746, January 27, 1997.

These factors closely approximate those enumerated in Rule 20.01 of the Code of Professional Responsibility:

"Rule 20.01. A lawyer shall be guided by the following factors in determining his fees:

a) The time spent and the extent of the services rendered or required;

- b) The novelty and difficulty of the questions involved;
- c) The importance 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."

[39] Its counterpart in the old rule is Rule 12, Sec. 2, which is of a similar tenor:

"Sec. 2. Intervention."A person may, before or during a trial, be permitted by the court, in its discretion, to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.

"(a) Motion for intervention."A person desiring to intervene shall file a motion for leave of court with notice [to] all parties to the action.

"(b) Discretion of court."In allowing or disallowing a motion for intervention, the court, in the exercise of discretion, shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties and whether or not the intervenor's rights may be fully protected in a separate proceeding.

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