FLORA DORONILA-TIOSECO, BENJAMIN DORONILA, JR., SALVADOR DORONILA, AND SOLEDAD DUNGCA-DORONILA, PETITIONER, VS. COURT OF APPEALS, JUDGE WILLIAM M. BAYHON, AND RAMON A. GONZALES,...

G.R. No. 120634. December 03, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal via certiorari from the decision of the Court of Appeals,[1] the dispositive portion of which reads:

> "IN VIEW OF THE FOREGOING, the instant petition for certiorari is hereby DENIED for lack of merit. No pronouncement as to costs.
>
> "IT IS SO ORDERED."[2]

As a result of dispute among the heirs of the late Alfonso Doronila and their counsel, Ramon Gonzales, over his claim for attorney's fees, on July 3, 1991, the Regional Trial Court, Branch 23, Manila[3] denied the heirs' Motion to Cancel Attorney's Lien and declared Ramon Gonzales entitled to ten per cent (10%) of the shares of the heirs of the late Alfonso J. Doronila, including Salvador Doronila, who did not hire the services of Ramon Gonzales.

In due time, petitioners and respondent Ramon Gonzales both appealed the trial court's ruling to the Court of Appeals.[4]

After the appeals of both petitioners and respondent Ramon Gonzales had been perfected, on November 29, 1993, respondent Ramon Gonzales filed with the trial court a motion to annotate attorney's lien, praying that his attorney's lien be annotated on the title of parcels of land of the estate which the heirs of the late Alfonso J. Doronila had inherited.

On December 3, 1993, the administrator of the estate filed with the trial court an opposition to the motion pointing out that an attorney's lien does not extend to land and that the proper remedy for the misgivings of Atty. Ramon Gonzales that the heirs of the late Alfonso J. Doronila might dispose of their property was to ask for preliminary attachment.[5]

On April 22, 1994, the trial court granted respondent's motion to annotate attorney's lien.

On May 20, 1994, petitioners filed with the trial court a motion for reconsideration, pointing out that the opposition of petitioners had also adopted the arguments of the estate administrator.[6]

On June 15, 1994, respondent Ramon Gonzales filed with the trial court an opposition to the motion.[7]

On July 4, 1994, the trial court denied the motion for reconsideration.[8]

On August 29, 1994, petitioners filed with the Court of Appeals a petition for certiorari assailing the Orders of April 22, 1994 and July 4, 1994 in Special Proceedings No. 144406 of the Regional Trial Court, Branch 23, Manila, granting the motion to annotate in the titles of land belonging to the estate the attorney's lien of respondent Ramon Gonzales.[9]

On March 23, 1995, the Court of Appeals rendered decision denying the petition for certiorari, as set out in the opening paragraph of this decision.

Hence, this petition.[10]

On July 26, 1999, we gave due course to the petition.[11]

The issues raised are:

> 1. Whether or not the trial court retained jurisdiction to grant respondent Ramon Gonzales' Motion to Annotate Attorney's Lien on the title of parcels of land of the estate after the perfection of the appeal of both petitioners and respondent from the order declaring Ramon Gonzales entitled to attorney's fees of ten (10%) percent of the shares of the heirs in the estate, and
>
> 2. Whether or not an attorney's lien extends to land.

Resolving the issues:

First Issue. –

At the time the trial court issued on April 22, 1994 the order granting respondent's motion to annotate attorney's lien, both petitioners and respondent Ramon Gonzales had perfected their appeal from the orders of July 3, 1991 and December 14, 1992, which denied petitioner's motion to cancel attorney's lien and ruled that respondent Ramon Gonzales was entitled to ten per cent (10%) of the shares of the heirs who were his clients. Thus, the trial court had no more jurisdiction over the case and had no authority to act on the motion to annotate attorney's lien.[12]

The order of April 22, 1994 cannot be justified on the ground that it was for the protection and the preservation of the rights of parties not involved in the appeal. The order practically executed the claim of respondent Ramon Gonzales that he is entitled to attorney's fees. In effect, the trial court granted execution pending appeal, without any special reason to do so.

Second Issue. –

We have ruled that an attorney's "lien does not extend to land which is the subject matter of the litigation."[13]

WHEREFORE, the Court GRANTS the petition and SETS ASIDE the decision of the Court of Appeals in CA-G. R. SP No. 35003. In lieu thereof, the Court [ANNULS] the orders dated April 22, 1994 and July 4, 1994 of the Regional Trial Court, Branch 23, Manila, in Special Proceedings No. 144406.

No costs.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J. (Chairman), in the result.

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[1] In CA-G. R. SP No. 35003, promulgated on March 23, 1995, Justice Justo P. Torres, Jr., ponente, and Justices

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Corona Ibay-Somera and Conrado M. Vasquez, Jr., concurring.

[2] Petition, Annex “P”, Rollo, pp. 115-121.

[3] Then presided over by Judge William M. Bayhon, now retired.

[4] Docketed as CA-G. R. CV No. 42773.

[5] Petition, Annex “B”, Rollo, pp. 24-27.

[6] Petition, Annex “I”, Rollo. pp. 52-54.

[7] Petition, Annex “J”, Rollo, pp. 55-58.

[8] Petition, Annex “K”, Rollo, p. 59.

[9] Petition, Annex “L”. Rollo, pp. 60-67.

[10] Petition filed on July 4, 1995, Rollo, pp. 2-17.

[11] Rollo, pp. 199-200.

[12] Rule 41, Section 9, 1964 Revised Rules of Court; Riego vs. Leachon, Jr., 268 SCRA 777, 784 [1997].

[13] Metropolitan Bank and Trust Company vs. Court of Appeals, 181 SCRA 367, 375 [1990], citing Holmes vs. Waymire, 84 P 558 [1906].

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