

ATTY. RICARDO B. BERMUDO, PETITIONER, VS. FERMINA TAYAG-ROXAS, RESPONDENT.

G.R. No. 172879. February 02, 2011

Ponente: ABAD, J.

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ABAD, J.:

These cases pertain to the right of an administrator, who happened to be a lawyer, to collect attorney's fees from the sole heir for successfully representing the latter in the suit contesting her right to inherit.

The Facts and the Case

On October 19, 1979 Atty. Ricardo Bermudo (Atty. Bermudo), as executor, filed a petition for his appointment as administrator of the estate of Artemio Hilario (Hilario) and for the allowance and probate of the latter's will before the Regional Trial Court (RTC) of Angeles City. The testator instituted Fermina Tayag-Roxas (Roxas) as his only heir but several persons, who claimed to be Hilario's relatives, opposed the petition. On October 28, 1987 the RTC rendered a decision, allowing the will and recognizing Roxas as Hilario's sole heir. On appeal, the Court of Appeals (CA) affirmed the RTC decision. This Court sustained the CA decision on December 7, 1992.

When the decision constituting Roxas as the sole heir became final, Atty. Bermudo who also served as counsel for her in the actions concerning her inheritance filed a motion to fix his legal fees and to constitute a charging lien against the estate for the legal services he rendered. On August 16, 1995 the RTC granted him fees equivalent to 20% of the estate and constituted the same as lien on the estate's property. Roxas appealed the order to the CA in CA-G.R. CV 53143.

On July 27, 2000 the CA rendered a decision that modified the RTC Order, limiting Atty. Bermudo's compensation as administrator to what Section 7, Rule 85 of the Rules of Court provides and making his lawyer's fees 20% of the value of the land belonging to the estate. Atty. Bermudo subsequently filed a motion with the RTC for execution and appraisal of the estate on which his 20% compensation would be based. On October 1, 2004 the RTC granted the motion and ordered Roxas to pay Atty. Bermudo P12,644,300.00 as attorney's fees with interest at the rate of 6% per annum. Roxas challenged the order before the CA through a petition for certiorari.

On December 19, 2005, using a different valuation of the land of the estate, the CA ordered Roxas to pay Atty. Bermudo a reduced amount of P4,234,770.00 as attorney's fees with interest at 6% per annum. Atty. Bermudo's motion for reconsideration having been denied, he filed a petition for review before this Court in G.R. 172879. Roxas also filed a motion for partial reconsideration of the CA decision and when this was denied, she filed a petition for certiorari with this Court in G.R. 173364.

The Issues Presented

The issues presented in these cases are:

1. Whether or not the CA erred in not dismissing Roxas' special civil action of certiorari when her remedy should

have been an appeal from the settlement of his account as administrator;

2. Whether or not the CA erred in holding that Atty. Bermudo, as administrator, is entitled to collect attorney's fees; and

3. Whether or not the CA erred in reducing Atty. Bermudo's attorney's fees from P12,644,300.00 to P4,234,770.00.

The Court's Rulings

One. Atty. Bermudo points out that Roxas' remedy for contesting the RTC order of execution against her should be an ordinary appeal to the CA. He invokes Section 1, Rule 109 of the Revised Rules of Court which enumerates the orders or judgments in special proceedings from which parties may appeal. One of these is an order or judgment which settles the account of an executor or administrator.[1] The rationale behind this multi-appeal mode is to enable the rest of the case to proceed in the event that a separate and distinct issue is resolved by the court and held to be final.[2]

But the earlier award in Atty. Bermudo's favor did not settle his account as administrator. Rather, it fixed his attorney's fees for the legal services he rendered in the suit contesting Roxas' right as sole heir. Consequently, Section 1 (d) of Rule 109 does not apply.

Actually, the CA decided with finality the award of attorney's fees in Atty. Bermudo's favor in CA-G.R. CV 53143 when it fixed such fees at 20% of the value of the estate's lands. On remand of the case to the RTC, Atty. Bermudo filed a motion for execution of the award in his favor which could be carried out only after the RTC shall have determined what represented 20% of the value of the estate's lands. The fixing of such value at P12,644,300.00 was not appealable since it did not constitute a new judgment but an implementation of a final one. Indeed, an order of execution is not appealable.[3] Consequently, Roxas' remedy in contesting the RTC's exercise of discretion in ascertaining what constitutes 20% of the value of the estate's lands is a special civil action of certiorari.

Two. Roxas asserts that Atty. Bermudo is not entitled to attorney's fees but only to compensation as administrator in accordance with Section 7, Rule 85 of the Rules of Court.

But Atty. Bermudo did not only serve as administrator of the estate. He also served as Roxas' counsel in the suit that assailed her right as sole heir. Atty. Bermudo brought the contest all the way up to this Court to defend her rights to her uncle's estate. And Atty. Bermudo succeeded. Acting as counsel in that suit for Roxas was not part of his duties as administrator of the estate. Consequently, it was but just that he is paid his attorney's fees.

Besides, Atty. Bermudo's right to attorney's fees had been settled with finality in CA-G.R. CV 53143. This Court can no longer entertain Roxas' lament that he is not entitled to those fees.

Three. Atty. Bermudo assails the CA's reduction of his attorney's fees from P12,644,300.00 to P4,234,770.00. In fixing the higher amount, the RTC relied on the advice of an amicus curiae regarding the value of the lands belonging to the estate. But the CA found such procedure unwarranted, set aside the RTC's valuation, and used the values established by the Angeles City Assessor for computing the lawyer's fees of Atty. Bermudo. The Court finds no compelling reason to deviate from the CA's ruling. Given their wide experience and the official nature of their work, the city assessors' opinions deserve great weight and reliability.[4] Thus, the Court must sustain the CA's computation based on the market values reflected on the schedule proposed by the Angeles City Assessor.

WHEREFORE, the Court AFFIRMS the decision of the Court of Appeals in CA-G.R. SP 87411 dated December 19, 2005.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Mendoza, JJ., concur.

[1] Rules of Court, Rule 109, Sec. 1 (d).

[2] Roman Catholic Archbishop of Manila v. Court of Appeals, 327 Phil. 810, 819 (1996).

[3] Rules of Court, Rule 41, Sec. 1 (f).

[4] Francisco v. Matias, 119 Phil. 351, 360 (1964).

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