

THE CONJUGAL PARTNERSHIP OF THE SPOUSES VICENTE CADAVEDO AND BENITA ARCOY-CADAVEDO (BOTH DECEASED), SUBSTITUTED BY THEIR HEIRS, NAMELY: HERMINIA, PASTORA, HEIRS OF FRUCTUOSA, HE...

G.R. No. 173188. January 15, 2014

Ponente: BRION, J.

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BRION, J.:

We resolve in this Rule 45 petition for review on certiorari[1] the challenge to the October 11, 2005 decision[2] and the May 9, 2006 resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 56948. The CA reversed and set aside the September 17, 1996 decision[4] of the Regional Trial Court (RTC), Branch 10, of Dipolog City in Civil Case No. 4038, granting in part the complaint for recovery of possession of property filed by the petitioners, the Conjugal Partnership of the Spouses Vicente Cadavedo and Benita Arcoy-Cadavedo against Atty. Victorino (Vic) T. Lacaya, married to Rosa Legados (collectively, the respondents).

The Factual Antecedents

The Spouses Vicente Cadavedo and Benita Arcoy-Cadavedo (collectively, the spouses Cadavedo) acquired a homestead grant over a 230,765-square meter parcel of land known as Lot 5415 (subject lot) located in Gumay, Piñan, Zamboanga del Norte. They were issued Homestead Patent No. V-15414 on March 13, 1953 and Original Certificate of Title No. P-376 on July 2, 1953. On April 30, 1955, the spouses Cadavedo sold the subject lot to the spouses Vicente Ames and Martha Fernandez (the spouses Ames). Transfer Certificate of Title (TCT) No. T-4792 was subsequently issued in the name of the spouses Ames.

The present controversy arose when the spouses Cadavedo filed an action[5] before the RTC (then Court of First Instance) of Zamboanga City against the spouses Ames for sum of money and/or voiding of contract of sale of homestead after the latter failed to pay the balance of the purchase price. The spouses Cadavedo initially engaged the services of Atty. Rosendo Bandal who, for health reasons, later withdrew from the case; he was substituted by Atty. Lacaya.

On February 24, 1969, Atty. Lacaya amended the complaint to assert the nullity of the sale and the issuance of TCT No. T-4792 in the names of the spouses Ames as gross violation of the public land law. The amended complaint stated that the spouses Cadavedo hired Atty. Lacaya on a contingency fee basis. The contingency fee stipulation specifically reads:

10. That due to the above circumstances, the plaintiffs were forced to hire a lawyer on contingent basis and if they become the prevailing parties in the case at bar, they will pay the sum of P2,000.00 for attorney's fees[.][6]

In a decision dated February 1, 1972, the RTC upheld the sale of the subject lot to the spouses Ames. The spouses Cadavedo, thru Atty. Lacaya, appealed the case to the CA.

On September 18, 1975, and while the appeal before the CA in Civil Case No. 1721 was pending, the spouses Ames sold the subject lot to their children. The spouses Ames' TCT No. T-4792 was subsequently cancelled and TCT No. T-25984 was issued in their children's names. On October 11, 1976, the spouses Ames mortgaged the subject lot with the Development Bank of the Philippines (DBP) in the names of their children.

On August 13, 1980, the CA issued its decision in Civil Case No. 1721, reversing the decision of the RTC and declaring the deed of sale, transfer of rights, claims and interest to the spouses Ames null and void ab initio. It directed the spouses Cadavedo to return the initial payment and ordered the Register of Deeds to cancel the spouses Ames' TCT No. T-4792 and to reissue another title in the name of the spouses Cadavedo. The case eventually reached this Court via the spouses Ames' petition for review on certiorari which this Court dismissed for lack of merit.

Meanwhile, the spouses Ames defaulted in their obligation with the DBP. Thus, the DBP caused the publication of a notice of foreclosure sale of the subject lot as covered by TCT No. T-25984 (under the name of the spouses Ames' children). Atty. Lacaya immediately informed the spouses Cadavedo of the foreclosure sale and filed an Affidavit of Third Party Claim with the Office of the Provincial Sheriff on September 14, 1981.

With the finality of the judgment in Civil Case No. 1721, Atty. Lacaya filed on September 21, 1981 a motion for the issuance of a writ of execution.

On September 23, 1981, and pending the RTC's resolution of the motion for the issuance of a writ of execution, the spouses Ames filed a complaint^[7] before the RTC against the spouses Cadavedo for Quieting of Title or Enforcement of Civil Rights due Planters in Good Faith with prayer for Preliminary Injunction. The spouses Cadavedo, thru Atty. Lacaya, filed a motion to dismiss on the ground of res judicata and to cancel TCT No. T-25984 (under the name of the spouses Ames' children).

On October 16, 1981, the RTC granted the motion for the issuance of a writ of execution in Civil Case No. 1721, and the spouses Cadavedo were placed in possession of the subject lot on October 24, 1981. Atty. Lacaya asked for one-half of the subject lot as attorney's fees. He caused the subdivision of the subject lot into two equal portions, based on area, and selected the more valuable and productive half for himself; and assigned the other half to the spouses Cadavedo.

Unsatisfied with the division, Vicente and his sons-in-law entered the portion assigned to the respondents and ejected them. The latter responded by filing a counter-suit for forcible entry before the Municipal Trial Court (MTC); the ejectment case was docketed as Civil Case No. 215. This incident occurred while Civil Case No. 3352 was pending.

On May 13, 1982, Vicente and Atty. Lacaya entered into an amicable settlement (compromise agreement)^[8] in Civil Case No. 215 (the ejectment case), re-adjusting the area and portion obtained by each. Atty. Lacaya acquired 10.5383 hectares pursuant to the agreement. The MTC approved the compromise agreement in a decision dated June 10, 1982.

Meanwhile, on May 21, 1982, the spouses Cadavedo filed before the RTC an action against the DBP for Injunction; it was docketed as Civil Case No. 3443 (Cadavedo v. DBP). The RTC subsequently denied the petition, prompting the spouses Cadavedo to elevate the case to the CA via a petition for certiorari. The CA dismissed the petition in its decision of January 31, 1984.

The records do not clearly disclose the proceedings subsequent to the CA decision in Civil Case No. 3443. However, on August 18, 1988, TCT No. 41051 was issued in the name of the spouses Cadavedo concerning the subject lot.

On August 9, 1988, the spouses Cadavedo filed before the RTC an action[9] against the respondents, assailing the MTC-approved compromise agreement. The case was docketed as Civil Case No. 4038 and is the root of the present case. The spouses Cadavedo prayed, among others, that the respondents be ejected from their one-half portion of the subject lot; that they be ordered to render an accounting of the produce of this one-half portion from 1981; and that the RTC fix the attorney's fees on a quantum meruit basis, with due consideration of the expenses that Atty. Lacaya incurred while handling the civil cases.

During the pendency of Civil Case No. 4038, the spouses Cadavedo executed a Deed of Partition of Estate in favor of their eight children. Consequently, TCT No. 41051 was cancelled and TCT No. 41690 was issued in the names of the latter. The records are not clear on the proceedings and status of Civil Case No. 3352.

The Ruling of the RTC

In the September 17, 1996 decision[10] in Civil Case No. 4038, the RTC declared the contingent fee of 10.5383 hectares as excessive and unconscionable. The RTC reduced the land area to 5.2691 hectares and ordered the respondents to vacate and restore the remaining 5.2692 hectares to the spouses Cadavedo.

The RTC noted that, as stated in the amended complaint filed by Atty. Lacaya, the agreed attorney's fee on contingent basis was P2,000.00. Nevertheless, the RTC also pointed out that the parties novated this agreement when they executed the compromise agreement in Civil Case No. 215 (ejectment case), thereby giving Atty. Lacaya one-half of the subject lot. The RTC added that Vicente's decision to give Atty. Lacaya one-half of the subject lot, sans approval of Benita, was a valid act of administration and binds the conjugal partnership. The RTC reasoned out that the disposition redounded to the benefit of the conjugal partnership as it was done precisely to remunerate Atty. Lacaya for his services to recover the property itself.

These considerations notwithstanding, the RTC considered the one-half portion of the subject lot, as Atty. Lacaya's contingent fee, excessive, unreasonable and unconscionable. The RTC was convinced that the issues involved in Civil Case No. 1721 were not sufficiently difficult and complicated to command such an excessive award; neither did it require Atty. Lacaya to devote much of his time or skill, or to perform extensive research.

Finally, the RTC deemed the respondents' possession, prior to the judgment, of the excess portion of their share in the subject lot to be in good faith. The respondents were thus entitled to receive its fruits.

On the spouses Cadavedo's motion for reconsideration, the RTC modified the decision in its resolution[11] dated December 27, 1996. The RTC ordered the respondents to account for and deliver the produce and income, valued at P7,500.00 per annum, of the 5.2692 hectares that the RTC ordered the spouses Ames to restore to the spouses Cadavedo, from October 10, 1988 until final restoration of the premises.

The respondents appealed the case before the CA.

The Ruling of the CA

In its decision[12] dated October 11, 2005, the CA reversed and set aside the RTC's September 17, 1996 decision and maintained the partition and distribution of the subject lot under the compromise agreement. In so ruling, the CA noted the following facts: (1) Atty. Lacaya served as the spouses Cadavedo's counsel from 1969 until 1988, when the latter filed the present case against Atty. Lacaya; (2) during the nineteen (19) years of their attorney-client relationship, Atty. Lacaya represented the spouses Cadavedo in three civil cases – Civil Case No. 1721, Civil Case No. 3352, and Civil Case No. 3443; (3) the first civil case lasted for twelve years and even reached this Court, the second civil case lasted for seven years, while the third civil case lasted for six years and went all the way to the CA; (4) the spouses Cadavedo and Atty. Lacaya entered into a compromise agreement

concerning the division of the subject lot where Atty. Lacaya ultimately agreed to acquire a smaller portion; (5) the MTC approved the compromise agreement; (6) Atty. Lacaya defrayed all of the litigation expenses in Civil Case No. 1721; and (7) the spouses Cadavedo expressly recognized that Atty. Lacaya served them in several cases.

Considering these established facts and consistent with Canon 20.01 of the Code of Professional Responsibility (enumerating the factors that should guide the determination of the lawyer's fees), the CA ruled that the time spent and the extent of the services Atty. Lacaya rendered for the spouses Cadavedo in the three cases, the probability of him losing other employment resulting from his engagement, the benefits resulting to the spouses Cadavedo, and the contingency of his fees justified the compromise agreement and rendered the agreed fee under the compromise agreement reasonable.

The Petition

In the present petition, the petitioners essentially argue that the CA erred in: (1) granting the attorney's fee consisting of one-half or 10.5383 hectares of the subject lot to Atty. Lacaya, instead of confirming the agreed contingent attorney's fees of P2,000.00; (2) not holding the respondents accountable for the produce, harvests and income of the 10.5383-hectare portion (that they obtained from the spouses Cadavedo) from 1988 up to the present; and (3) upholding the validity of the purported oral contract between the spouses Cadavedo and Atty. Lacaya when it was champertous and dealt with property then still subject of Civil Case No. 1721.[13]

The petitioners argue that stipulations on a lawyer's compensation for professional services, especially those contained in the pleadings filed in courts, control the amount of the attorney's fees to which the lawyer shall be entitled and should prevail over oral agreements. In this case, the spouses Cadavedo and Atty. Lacaya agreed that the latter's contingent attorney's fee was P2,000.00 in cash, not one-half of the subject lot. This agreement was clearly stipulated in the amended complaint filed in Civil Case No. 1721. Thus, Atty. Lacaya is bound by the expressly stipulated fee and cannot insist on unilaterally changing its terms without violating their contract.

The petitioners add that the one-half portion of the subject lot as Atty. Lacaya's contingent attorney's fee is excessive and unreasonable. They highlight the RTC's observations and argue that the issues involved in Civil Case No. 1721, pursuant to which the alleged contingent fee of one-half of the subject lot was agreed by the parties, were not novel and did not involve difficult questions of law; neither did the case require much of Atty. Lacaya's time, skill and effort in research. They point out that the two subsequent civil cases should not be considered in determining the reasonable contingent fee to which Atty. Lacaya should be entitled for his services in Civil Case No. 1721, as those cases had not yet been instituted at that time. Thus, these cases should not be considered in fixing the attorney's fees. The petitioners also claim that the spouses Cadavedo concluded separate agreements on the expenses and costs for each of these subsequent cases, and that Atty. Lacaya did not even record any attorney's lien in the spouses Cadavedo's TCT covering the subject lot.

The petitioners further direct the Court's attention to the fact that Atty. Lacaya, in taking over the case from Atty. Bandal, agreed to defray all of the litigation expenses in exchange for one-half of the subject lot should they win the case. They insist that this agreement is a champertous contract that is contrary to public policy, prohibited by law for violation of the fiduciary relationship between a lawyer and a client.

Finally, the petitioners maintain that the compromise agreement in Civil Case No. 215 (ejectment case) did not novate their original stipulated agreement on the attorney's fees. They reason that Civil Case No. 215 did not decide the issue of attorney's fees between the spouses Cadavedo and Atty. Lacaya for the latter's services in Civil Case No. 1721.

The Case for the Respondents

In their defense,[14] the respondents counter that the attorney's fee stipulated in the amended complaint was not the agreed fee of Atty. Lacaya for his legal services. They argue that the questioned stipulation for attorney's fees was in the nature of a penalty that, if granted, would inure to the spouses Cadavedo and not to Atty. Lacaya.

The respondents point out that: (1) both Vicente and Atty. Lacaya caused the survey and subdivision of the subject lot immediately after the spouses Cadavedo reacquired its possession with the RTC's approval of their motion for execution of judgment in Civil Case No. 1721; (2) Vicente expressly ratified and confirmed the agreement on the contingent attorney's fee consisting of one-half of the subject lot; (3) the MTC in Civil Case No. 215 (ejectment case) approved the compromise agreement; (4) Vicente is the legally designated administrator of the conjugal partnership, hence the compromise agreement ratifying the transfer bound the partnership and could not have been invalidated by the absence of Benita's acquiescence; and (5) the compromise agreement merely inscribed and ratified the earlier oral agreement between the spouses Cadavedo and Atty. Lacaya which is not contrary to law, morals, good customs, public order and public policy.

While the case is pending before this Court, Atty. Lacaya died.[15] He was substituted by his wife - Rosa - and their children - Victoriano D.L. Lacaya, Jr., Rosevic Lacaya-Ocampo, Reymer L. Lacaya, Marcelito L. Lacaya, Raymundito L. Lacaya, Laila Lacaya-Matabalan, Marivic Lacaya-Barba, Rosalie L. Lacaya and Ma. Vic-Vic Lacaya-Camaongay.[16]

The Court's Ruling

We resolve to GRANT the petition.

The subject lot was the core of four successive and overlapping cases prior to the present controversy. In three of these cases, Atty. Lacaya stood as the spouses Cadavedo's counsel. For ease of discussion, we summarize these cases (including the dates and proceedings pertinent to each) as follows:

Civil Case No. 1721 – Cadavedo v. Ames (Sum of money and/or voiding of contract of sale of homestead), filed on January 10, 1967. The writ of execution was granted on October 16, 1981.

Civil Case No. 3352 – Ames v. Cadavedo (Quieting of Title and/or Enforcement of Civil Rights due Planters in Good Faith with Application for Preliminary injunction), filed on September 23, 1981.

Civil Case No. 3443 – Cadavedo v. DBP (Action for Injunction with Preliminary Injunction), filed on May 21, 1982.

Civil Case No. 215 – Atty. Lacaya v. Vicente Cadavedo, et. al. (Ejectment Case), filed between the latter part of 1981 and early part of 1982. The parties executed the compromise agreement on May 13, 1982.

Civil Case No. 4038 – petitioners v. respondents (the present case).

The agreement on attorney's fee consisting of one-half of the subject lot is void; the petitioners are entitled to recover possession

The core issue for our resolution is whether the attorney's fee consisting of one-half of the subject lot is valid and reasonable, and binds the petitioners. We rule in the NEGATIVE for the reasons discussed below.

A. The written agreement providing for a contingent fee of P2,000.00 should prevail over the oral agreement providing for one-half of the subject lot

The spouses Cadavedo and Atty. Lacaya agreed on a contingent fee of P2,000.00 and not, as asserted by the latter, one-half of the subject lot. The stipulation contained in the amended complaint filed by Atty. Lacaya clearly

stated that the spouses Cadavedo hired the former on a contingency basis; the Spouses Cadavedo undertook to pay their lawyer P2,000.00 as attorney's fees should the case be decided in their favor.

Contrary to the respondents' contention, this stipulation is not in the nature of a penalty that the court would award the winning party, to be paid by the losing party. The stipulation is a representation to the court concerning the agreement between the spouses Cadavedo and Atty. Lacaya, on the latter's compensation for his services in the case; it is not the attorney's fees in the nature of damages which the former prays from the court as an incident to the main action.

At this point, we highlight that as observed by both the RTC and the CA and agreed as well by both parties, the alleged contingent fee agreement consisting of one-half of the subject lot was not reduced to writing prior to or, at most, at the start of Atty. Lacaya's engagement as the spouses Cadavedo's counsel in Civil Case No. 1721. An agreement between the lawyer and his client, providing for the former's compensation, is subject to the ordinary rules governing contracts in general. As the rules stand, controversies involving written and oral agreements on attorney's fees shall be resolved in favor of the former.[17] Hence, the contingency fee of P2,000.00 stipulated in the amended complaint prevails over the alleged oral contingency fee agreement of one-half of the subject lot.

B. The contingent fee agreement between the spouses Cadavedo and Atty. Lacaya, awarding the latter one-half of the subject lot, is champertous

Granting *arguendo* that the spouses Cadavedo and Atty. Lacaya indeed entered into an oral contingent fee agreement securing to the latter one-half of the subject lot, the agreement is nevertheless void.

In their account, the respondents insist that Atty. Lacaya agreed to represent the spouses Cadavedo in Civil Case No. 1721 and assumed the litigation expenses, without providing for reimbursement, in exchange for a contingency fee consisting of one-half of the subject lot. This agreement is champertous and is contrary to public policy.[18]

Champerty, along with maintenance (of which champerty is an aggravated form), is a common law doctrine that traces its origin to the medieval period.[19] The doctrine of maintenance was directed "against wanton and inofficious intermeddling in the disputes of others in which the intermeddler has no interest whatever, and where the assistance rendered is without justification or excuse." [20] Champerty, on the other hand, is characterized by "the receipt of a share of the proceeds of the litigation by the intermeddler." [21] Some common law court decisions, however, add a second factor in determining champertous contracts, namely, that the lawyer must also, "at his own expense maintain, and take all the risks of, the litigation." [22]

The doctrines of champerty and maintenance were created in response "to medieval practice of assigning doubtful or fraudulent claims to persons of wealth and influence in the expectation that such individuals would enjoy greater success in prosecuting those claims in court, in exchange for which they would receive an entitlement to the spoils of the litigation." [23] "In order to safeguard the administration of justice, instances of champerty and maintenance were made subject to criminal and tortious liability and a common law rule was developed, striking down champertous agreements and contracts of maintenance as being unenforceable on the grounds of public policy." [24]

In this jurisdiction, we maintain the rules on champerty, as adopted from American decisions, for public policy considerations.[25] As matters currently stand, any agreement by a lawyer to "conduct the litigation in his own account, to pay the expenses thereof or to save his client therefrom and to receive as his fee a portion of the proceeds of the judgment is obnoxious to the law." [26] The rule of the profession that forbids a lawyer from contracting with his client for part of the thing in litigation in exchange for conducting the case at the lawyer's

expense is designed to prevent the lawyer from acquiring an interest between him and his client. To permit these arrangements is to enable the lawyer to “acquire additional stake in the outcome of the action which might lead him to consider his own recovery rather than that of his client or to accept a settlement which might take care of his interest in the verdict to the sacrifice of that of his client in violation of his duty of undivided fidelity to his client’s cause.”[27]

In *Bautista v. Atty. Gonzales*,[28] the Court struck down the contingent fee agreement between therein respondent Atty. Ramon A. Gonzales and his client for being contrary to public policy. There, the Court held that an agreement between a lawyer and his client that does not provide for reimbursement of litigation expenses paid by the former is against public policy, especially if the lawyer has agreed to carry on the action at his expense in consideration of some bargain to have a part of the thing in dispute. It violates the fiduciary relationship between the lawyer and his client.[29]

In addition to its champertous character, the contingent fee arrangement in this case expressly transgresses the Canons of Professional Ethics and, impliedly, the Code of Professional Responsibility.[30] Under Rule 42 of the Canons of Professional Ethics, a lawyer may not properly agree with a client that the lawyer shall pay or bear the expense of litigation.[31] The same reasons discussed above underlie this rule.

C. The attorney’s fee consisting of one-half of the subject lot is excessive and unconscionable

We likewise strike down the questioned attorney’s fee and declare it void for being excessive and unconscionable. The contingent fee of one-half of the subject lot was allegedly agreed to secure the services of Atty. Lacaya in Civil Case No. 1721. Plainly, it was intended for only one action as the two other civil cases had not yet been instituted at that time. While Civil Case No. 1721 took twelve years to be finally resolved, that period of time, as matters then stood, was not a sufficient reason to justify a large fee in the absence of any showing that special skills and additional work had been involved. The issue involved in that case, as observed by the RTC (and with which we agree), was simple and did not require of Atty. Lacaya extensive skill, effort and research. The issue simply dealt with the prohibition against the sale of a homestead lot within five years from its acquisition.

That Atty. Lacaya also served as the spouses Cadavedo’s counsel in the two subsequent cases did not and could not otherwise justify an attorney’s fee of one-half of the subject lot. As asserted by the petitioners, the spouses Cadavedo and Atty. Lacaya made separate arrangements for the costs and expenses for each of these two cases. Thus, the expenses for the two subsequent cases had been considered and taken care of.

Based on these considerations, we therefore find one-half of the subject lot as attorney’s fee excessive and unreasonable.

D. Atty. Lacaya’s acquisition of the one-half portion contravenes Article 1491 (5) of the Civil Code

Article 1491 (5) of the Civil Code forbids lawyers from acquiring, by purchase or assignment, the property that has been the subject of litigation in which they have taken part by virtue of their profession.[32] The same proscription is provided under Rule 10 of the Canons of Professional Ethics.[33]

A thing is in litigation if there is a contest or litigation over it in court or when it is subject of the judicial action.[34] Following this definition, we find that the subject lot was still in litigation when Atty. Lacaya acquired the disputed one-half portion. We note in this regard the following established facts: (1) on September 21, 1981, Atty. Lacaya filed a motion for the issuance of a writ of execution in Civil Case No. 1721; (2) on September 23, 1981, the spouses Ames filed Civil Case No. 3352 against the spouses Cadavedo; (3) on October 16, 1981, the RTC granted the motion filed for the issuance of a writ of execution in Civil Case No. 1721 and the spouses

Cadavedo took possession of the subject lot on October 24, 1981; (4) soon after, the subject lot was surveyed and subdivided into two equal portions, and Atty. Lacaya took possession of one of the subdivided portions; and (5) on May 13, 1982, Vicente and Atty. Lacaya executed the compromise agreement.

From these timelines, whether by virtue of the alleged oral contingent fee agreement or an agreement subsequently entered into, Atty. Lacaya acquired the disputed one-half portion (which was after October 24, 1981) while Civil Case No. 3352 and the motion for the issuance of a writ of execution in Civil Case No. 1721 were already pending before the lower courts. Similarly, the compromise agreement, including the subsequent judicial approval, was effected during the pendency of Civil Case No. 3352. In all of these, the relationship of a lawyer and a client still existed between Atty. Lacaya and the spouses Cadavedo.

Thus, whether we consider these transactions – the transfer of the disputed one-half portion and the compromise agreement – independently of each other or resulting from one another, we find them to be prohibited and void^[35] by reason of public policy.^[36] Under Article 1409 of the Civil Code, contracts which are contrary to public policy and those expressly prohibited or declared void by law are considered inexistent and void from the beginning.^[37]

What did not escape this Court's attention is the CA's failure to note that the transfer violated the provisions of Article 1491 (5) of the Civil Code, although it recognized the concurrence of the transfer and the execution of the compromise agreement with the pendency of the two civil cases subsequent to Civil Case No. 1721.^[38] In reversing the RTC ruling, the CA gave weight to the compromise agreement and in so doing, found justification in the unproved oral contingent fee agreement.

While contingent fee agreements are indeed recognized in this jurisdiction as a valid exception to the prohibitions under Article 1491 (5) of the Civil Code,^[39] contrary to the CA's position, however, this recognition does not apply to the present case. A contingent fee contract is an agreement in writing where the fee, often a fixed percentage of what may be recovered in the action, is made to depend upon the success of the litigation.^[40] The payment of the contingent fee is not made during the pendency of the litigation involving the client's property but only after the judgment has been rendered in the case handled by the lawyer.^[41]

In the present case, we reiterate that the transfer or assignment of the disputed one-half portion to Atty. Lacaya took place while the subject lot was still under litigation and the lawyer-client relationship still existed between him and the spouses Cadavedo. Thus, the general prohibition provided under Article 1491 of the Civil Code, rather than the exception provided in jurisprudence, applies. The CA seriously erred in upholding the compromise agreement on the basis of the unproved oral contingent fee agreement.

Notably, Atty. Lacaya, in undertaking the spouses Cadavedo's cause pursuant to the terms of the alleged oral contingent fee agreement, in effect, became a co-proprietor having an equal, if not more, stake as the spouses Cadavedo. Again, this is void by reason of public policy; it undermines the fiduciary relationship between him and his clients.^[42]

E. The compromise agreement could not validate the void oral contingent fee agreement; neither did it supersede the written contingent fee agreement

The compromise agreement entered into between Vicente and Atty. Lacaya in Civil Case No. 215 (ejectment case) was intended to ratify and confirm Atty. Lacaya's acquisition and possession of the disputed one-half portion which were made in violation of Article 1491 (5) of the Civil Code. As earlier discussed, such acquisition is void; the compromise agreement, which had for its object a void transaction, should be void.

A contract whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy

is inexistent and void from the beginning.[43] It can never be ratified[44] nor the action or defense for the declaration of the inexistence of the contract prescribe;[45] and any contract directly resulting from such illegal contract is likewise void and inexistent.[46]

Consequently, the compromise agreement did not supersede the written contingent fee agreement providing for attorney's fee of P2,000.00; neither did it preclude the petitioners from questioning its validity even though Vicente might have knowingly and voluntarily acquiesced thereto and although the MTC approved it in its June 10, 1982 decision in the ejectment case. The MTC could not have acquired jurisdiction over the subject matter of the void compromise agreement; its judgment in the ejectment case could not have attained finality and can thus be attacked at any time. Moreover, an ejectment case concerns itself only with the issue of possession de facto; it will not preclude the filing of a separate action for recovery of possession founded on ownership. Hence, contrary to the CA's position, the petitioners – in filing the present action and praying for, among others, the recovery of possession of the disputed one-half portion and for judicial determination of the reasonable fees due Atty. Lacaya for his services – were not barred by the compromise agreement.

Atty. Lacaya is entitled to receive attorney's fees on a quantum meruit basis

In view of their respective assertions and defenses, the parties, in effect, impliedly set aside any express stipulation on the attorney's fees, and the petitioners, by express contention, submit the reasonableness of such fees to the court's discretion. We thus have to fix the attorney's fees on a quantum meruit basis.

“Quantum meruit — meaning ‘as much as he deserves’ — is used as basis for determining a lawyer's professional fees in the absence of a contract x x x taking into account certain factors in fixing the amount of legal fees.”[47] “Its essential requisite is the acceptance of the benefits by one sought to be charged for the services rendered under circumstances as reasonably to notify him that the lawyer performing the task was expecting to be paid compensation”[48] for it. The doctrine of quantum meruit is a device to prevent undue enrichment based on the equitable postulate that it is unjust for a person to retain benefit without paying for it.[49]

Under Section 24, Rule 138 of the Rules of Court[50] and Canon 20 of the Code of Professional Responsibility,[51] factors such as the importance of the subject matter of the controversy, the time spent and the extent of the services rendered, the customary charges for similar services, the amount involved in the controversy and the benefits resulting to the client from the service, to name a few, are considered in determining the reasonableness of the fees to which a lawyer is entitled.

In the present case, the following considerations guide this Court in considering and setting Atty. Lacaya's fees based on quantum meruit: (1) the questions involved in these civil cases were not novel and did not require of Atty. Lacaya considerable effort in terms of time, skill or the performance of extensive research; (2) Atty. Lacaya rendered legal services for the Spouses Cadavedo in three civil cases beginning in 1969 until 1988 when the petitioners filed the instant case; (3) the first of these civil cases (Cadavedo v. Ames) lasted for twelve years and reaching up to this Court; the second (Ames v. Cadavedo) lasted for seven years; and the third (Cadavedo and Lacaya v. DBP) lasted for six years, reaching up to the CA; and (4) the property subject of these civil cases is of a considerable size of 230,765 square meters or 23.0765 hectares.

All things considered, we hold as fair and equitable the RTC's considerations in appreciating the character of the services that Atty. Lacaya rendered in the three cases, subject to modification on valuation. We believe and so hold that the respondents are entitled to two (2) hectares (or approximately one-tenth [1/10] of the subject lot), with the fruits previously received from the disputed one-half portion, as attorney's fees. They shall return to the petitioners the remainder of the disputed one-half portion.

The allotted portion of the subject lot properly recognizes that litigation should be for the benefit of the client, not the lawyer, particularly in a legal situation when the law itself holds clear and express protection to the rights of the client to the disputed property (a homestead lot). Premium consideration, in other words, is on the rights of the owner, not on the lawyer who only helped the owner protect his rights. Matters cannot be the other way around; otherwise, the lawyer does indeed effectively acquire a property right over the disputed property. If at all, due recognition of parity between a lawyer and a client should be on the fruits of the disputed property, which in this case, the Court properly accords.

WHEREFORE, in view of these considerations, we hereby GRANT the petition. We AFFIRM the decision dated September 17, 1996 and the resolution dated December 27, 1996 of the Regional Trial Court of Dipolog City, Branch 10, in Civil Case No. 4038, with the MODIFICATION that the respondents, the spouses Victorino (Vic) T. Lacaya and Rosa Legados, are entitled to two (2) hectares (or approximately one-tenth [1/10] of the subject lot) as attorney's fees. The fruits that the respondents previously received from the disputed one-half portion shall also form part of the attorney's fees. We hereby ORDER the respondents to return to the petitioners the remainder of the 10.5383-hectare portion of the subject lot that Atty. Vicente Lacaya acquired pursuant to the compromise agreement.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Perez, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 15-41.

[2] Penned by Associate Justice Teresita Dy-Liacco Flores, and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Ramon R. Garcia; id. at 45-60.

[3] Id. at 71.

[4] Penned by Judge Wilfredo C. Martinez; id. at 82-97.

[5] Docketed as Civil Case No. 1721 (Cadavedo v. Ames).

[6] Rollo, p. 47; emphasis ours.

[7] Docketed as Civil Case No. 3352 (Ames v. Cadavedo).

[8] Id. at 89-90. The compromise agreement, in part, reads:

I.

That defendants recognize the possession of plaintiff Vic T. Lacaya, Sr. over the northern half of Lot 5415 to be designated as Lot 5415-A, being his share as payment of attorney's fees on contingent basis originally covered by O.C.T. No. P0376 and now covered by T.C.T. No. T-25984 in the name of Rosario Ames, et. al., situated at Lower Gumay, Piñan, Zamboanga del Norte;

x x x x

III.

That the parties shall cause these portions to be surveyed and segregated from each other by a licensed surveyor and the portion of Vic T. Lacaya, Sr. shall be identified as Lot 5415-A; that of Vicente Cadavedo as Lot 5415-B; x x x

IV.

That the defendants shall vacate the premises of the portions belonging to the plaintiffs and, in fact, have already vacated the premises in question and restored the plaintiffs in their respective peaceful possession thereof since March 5, 1982[.] [emphasis ours]

[9] Action for “Judicial Determination of Attorney’s Fees, Recovery of Possession, Accounting of Products, Ejectment and Damages with Prayer for Receivership and Preliminary Mandatory/Prohibitory Injunction.”

[10] Supra note 4.

[11] Rollo, pp. 98-100.

[12] Supra note 2.

[13] See also the Petitioners’ Memorandum dated September 26, 2007, rollo, pp. 157-196; Reply to the respondents’ comment to the petition dated May 8, 2007 (id. at 138-140), and Reply to the Respondents’ Memorandum dated November 12, 2007 (id. at 242-250).

[14] Comment to the Petition dated November 17, 2006 (id. at 116-135). See also the respondents’ Memorandum dated October 24, 2007 (id. at 212-239).

[15] Copy of the Death Certificate indicated the date of death as September 18, 2007; id. at 205.

[16] Formal Notice of Death and Substitution of Parties dated October 3, 2007; id. at 200-204.

[17] RULES OF COURT, Rule 138, Section 24.

[18] *Bautista v. Atty. Gonzales*, 261 Phil. 266, 281 (1990).

[19] *The Role of the Doctrines of Champerty and Maintenance in Arbitration* by Jern-Fei Ng, www.essexcourt.net/uploads/JERN-FEI%20NG.pdf. See also *Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions*, *California Law Review*, Vol. 1, No. 2, January 1913, pp. 178-180, 179, www.jstor.org/stable/3474485?seq=2; and www.danielnelson.ca/pdfs/Fundraising%20for%20Litigation.pdf.

[20] *The Role of the Doctrines of Champerty and Maintenance in Arbitration* by Jern-Fei Ng, www.essexcourt.net/uploads/JERN-FEI%20NG.pdf, citing *British Cash and Parcel Conveyors Ltd. v. Lamson Store Service Co. Ltd.* (1908) 1 K.B. 1006 at 1014, per Fletcher Moulton L.J.

[21] *The Role of the Doctrines of Champerty and Maintenance in Arbitration* by Jern-Fei Ng, www.essexcourt.net/uploads/JERN-FEI%20NG.pdf, citing *Giles v Thompson* (1994) 1 A.C. 142; (1993) 2 W.L.R. 908; (1993) 3 All E.R. 321 at 328, per Steyn L.J. See also *Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions*, *California Law Review*, Vol. 1, No. 2, January 1913, pp. 178-180, 179, www.jstor.org/stable/3474485?seq=2.

[22] *Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions*, *California Law Review*, Vol. 1, No. 2, January 1913, pp. 178-180, 179, www.jstor.org/stable/3474485?seq=2.

[23] *The Role of the Doctrines of Champerty and Maintenance in Arbitration* by Jern-Fei Ng, www.essexcourt.net/uploads/JERN-FEI%20NG.pdf.

[24] *The Role of the Doctrines of Champerty and Maintenance in Arbitration* by Jern-Fei Ng, www.essexcourt.net/uploads/JERN-FEI%20NG.pdf. See also *Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions*, *California Law Review*, Vol. 1, No. 2, January 1913, pp. 178-180,

179, www.jstor.org/stable/3474485?seq=2.

Recent foreign legal developments vary at their treatment of champertous contracts. Several jurisdictions have abolished criminal and tortious liability for champerty (and maintenance). To name a few: Australia – abolished by the Maintenance, Champerty and Barratry Abolition Act of 1993 for New South Wales and the Wrongs Act 1958 and Crimes Act 1958 for Victoria; England and Wales - by the Criminal Law Act 1967. (en.wikipedia.org/wiki/Champerty_and_maintenance) and www.essexcourt.net/uploads/JERN-FEI%20NG.pdf. Other jurisdictions, particularly some states in the United States of America, have relaxed the application of this common law doctrine or have adopted it in a modified form as the peculiar conditions of the society that gave rise to this doctrine have changed (Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions, California Law Review, Vol. 1, No. 2, January 1913, pp. 178-180, 180, www.jstor.org/stable/3474485?seq=2). Other American states have completely repudiated it unless a statute specifically treats a contract as champertous. These states include: Arkansas, California, Connecticut, Delaware, Idaho, Maryland, Michigan, New Jersey, New York, Texas and West Virginia (Contracts, Champerty, Common Law Rule Modified by Modern Statutes and Decisions, California Law Review, Vol. 1, No. 2, January 1913, pp. 178-180, 180, www.jstor.org/stable/3474485?seq=2). Other jurisdictions, like Canada for one, have retained the rule against champerty on public policy considerations, the purpose being to prevent one party from inciting another to initiate or defend litigation that would never have been brought or defended; or to prevent increase in lawsuits, harassment of defendants, and suppression or manufacturing of evidence and subornation of witness (www.danielnelson.ca/pdfs/Fundraising%20for%20Litigation.pdf).

[25] See *Bautista v. Atty. Gonzales*, supra note 18, citing *JBP Holding Corp. v. U.S.*, 166 F. Supp. 324 (1958); and *Sampliner v. Motion Pictures Patents Co., et al.*, 255 F. 242 (1918).

[26] Agpalo, *Legal and Judicial Ethics* (2002), Seventh Edition, p. 392.

[27] Agpalo, *Legal and Judicial Ethics* (2002), Seventh Edition, p. 392, citing *A.B.A. Op.* 288 (Oct. 11, 1954); *Low v. Hutchinson*, 37 Mel 96 (1853).

[28] Supra note 18.

[29] Id. at 281.

[30] See CANON 16, specifically Rule 16.04, of the Code of Professional Responsibility. The pertinent portion of Rule 16.04 reads:

“Rule 16.04 - x x x Neither shall a lawyer lend money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client.”

[31] Rule 42 of the Canons of Professional Ethics reads in full:

“42. Expenses.

A lawyer may not properly agree with a client that the lawyer shall pay or bear the expense of litigation; he may in good faith advance expenses as a matter of convenience, but subject to reimbursement.” (emphasis ours)

[32] The pertinent provision of Article 1491 reads:

“Art. 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession[.] [Emphases ours]

[33] Rule 10 of the Canons of Professional Ethics provides:

“10. Acquiring interest in litigation.

The lawyer should not purchase any interest in the subject matter of the litigation which he is conducting.”

See also *Pabugais v. Sahijwani*, 467 Phil. 1111, 1120 (2004); *Valencia v. Atty. Cabanting*, 273 Phil. 534, 543 (1991); and *Ordonio v. Eduarte*, Adm. Mat. No. 3216, March 16, 1992, 207 SCRA 229, 232.

[34] *Vda. de Gurrea v. Suplico*, 522 Phil. 295, 308-309 (2006); and *Valencia v. Atty. Cabanting*, *supra* at 542.

[35] *Vda. de Gurrea v. Suplico*, *supra*, at 310. See also *Pabugais v. Sahijwani*, *supra* note 33, at 1121.

[36] See *Fornilda v. The Br. 164, RTC IVth Judicial Region, Pasig*, 248 Phil. 523, 531 (1988); and *Valencia v. Atty. Cabanting*, *supra* note 33, at 542.

[37] See paragraphs 1 and 7, Article 1409 of the Civil Code. See also *Vda. de Gurrea v. Suplico*, *supra* note 34, at 310.

[38] *Rollo*, p. 58.

[39] See *Fabillo v. Intermediate Appellate Court*, G.R. No. 68838, March 11, 1991, 195 SCRA 28, 35; and *Director of Lands v. Larrazabal*, 177 Phil. 467, 479 (1979).

[40] See *Director of Lands v. Larrazabal*, *supra*, at 475.

[41] See *Biascan v. Atty. Lopez*, 456 Phil. 173, 180 (2003); and *Fabillo v. Intermediate Appellate Court*, *supra* note 39, at 39.

[42] See *Valencia v. Atty. Cabanting*, *supra* note 33, at 542; and *Bautista v. Atty. Gonzales*, *supra* note 18, at 281.

[43] CIVIL CODE OF THE PHILIPPINES, Article 1409 (1).

[44] *Id.*, last paragraph.

[45] *Id.*, Article 1410.

[46] *Id.*, Article 1422.

[47] *Spouses Garcia v. Atty. Bala*, 512 Phil. 486, 494 (2005); citation omitted.

[48] *Agpalo, Legal and Judicial Ethics* (2002), Seventh Edition, p. 395, citing *Dallas Joint Stock Land Bank v. Colbert*, 127 SW2d 1004.

[49] *Agpalo, Legal and Judicial Ethics* (2002), Seventh Edition, p. 395, citing *Traders Royal Bank Employees Union-Independent v. NLRC*, 269 SCRA 733 (1997).

[50] Section 24, Rule 138 of the Rules of Court, in part, reads:

“SEC. 24. Compensation of attorneys; 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. x x x A written contract for services shall control the amount to be paid therefor unless found by the court to be unconscionable or unreasonable.”

[51] The pertinent provision of Canon 20 of the Code of Professional Responsibility reads:

“CANON 20 – x x x x

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 the 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; the contingency or certainty of compensation; the character of the employment, whether occasional or established; and
- h) The professional standing of the lawyer.”

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