EVANGELINA MASMUD (AS SUBSTITUTE COMPLAINANT FOR ALEXANDER J. MASMUD), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION) AND ATTY. ROLANDO B. GO, JR., RESPOND...

G.R. No. 183385. February 13, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari[1] assailing the Decision[2] dated October 31, 2007 and the Resolution dated June 6, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 96279.

The facts of the case are as follows:

On July 9, 2003, Evangelina Masmud's (Evangelina) husband, the late Alexander J. Masmud (Alexander), filed a complaint[3] against First Victory Shipping Services and Angelakos (Hellas) S.A. for non-payment of permanent disability benefits, medical expenses, sickness allowance, moral and exemplary damages, and attorney's fees. Alexander engaged the services of Atty. Rolando B. Go, Jr. (Atty. Go) as his counsel.

In consideration of Atty. Go's legal services, Alexander agreed to pay attorney's fees on a contingent basis, as follows: twenty percent (20%) of total monetary claims as settled or paid and an additional ten percent (10%) in case of appeal. It was likewise agreed that any award of attorney's fees shall pertain to respondent's law firm as compensation.

On November 21, 2003, the Labor Arbiter (LA) rendered a Decision granting the monetary claims of Alexander. The dispositive portion of the decision, as quoted in the CA Decision, reads:

> WHEREFORE, foregoing considered, judgment is rendered finding the [First Victory Shipping Services and Angelakos (Hellas) S.A.] jointly and severally liable to pay [Alexander's] total permanent disability benefits in the amount of US$60,000.00 and his sickness allowance of US$2,348.00, both in Philippine currency at the prevailing rate of exchange at the time of payment; and to pay further the amount of P200,000.00 as moral damages, P100,000.00 as exemplary damages and attorney's fees equivalent to ten percent (10%) of the total monetary award.
>
> [Alexander's] claim for payment of medical expenses is dismissed for lack of basis.
>
> SO ORDERED.[4]

Alexander's employer filed an appeal before the National Labor Relations Commission (NLRC). During the pendency of the proceedings before the NLRC, Alexander died. After explaining the terms of the lawyer's fees to Evangelina, Atty. Go caused her substitution as complainant. On April 30, 2004, the NLRC rendered a Decision dismissing the appeal of Alexander's employer. The employer subsequently filed a motion for reconsideration. The NLRC denied the same in an Order dated October 26, 2004.

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On appeal before the CA, the decision of the LA was affirmed with modification. The award of moral and exemplary damages was deleted.[5] Alexander's employers filed a petition for certiorari[6] before this Court. On February 6, 2006, the Court issued a Resolution dismissing the case for lack of merit.

Eventually, the decision of the NLRC became final and executory. Atty. Go moved for the execution of the NLRC decision, which was later granted by the LA. The surety bond of the employer was garnished. Upon motion of Atty. Go, the surety company delivered to the NLRC Cashier, through the NLRC Sheriff, the check amounting to P3,454,079.20. Thereafter, Atty. Go moved for the release of the said amount to Evangelina.

On January 10, 2005, the LA directed the NLRC Cashier to release the amount of P3,454,079.20 to Evangelina. Out of the said amount, Evangelina paid Atty. Go the sum of P680,000.00.

Dissatisfied, Atty. Go filed a motion to record and enforce the attorney's lien alleging that Evangelina reneged on their contingent fee agreement. Evangelina paid only the amount of P680,000.00, equivalent to 20% of the award as attorney's fees, thus, leaving a balance of 10%, plus the award pertaining to the counsel as attorney's fees.

In response to the motion filed by Atty. Go, Evangelina filed a comment with motion to release the amount deposited with the NLRC Cashier. In her comment, Evangelina manifested that Atty. Go's claim for attorney's fees of 40% of the total monetary award was null and void based on Article 111 of the Labor Code.

On February 14, 2005, the LA issued an Order[7] granting Atty. Go's motion, the fallo of which reads:

> WHEREFORE, premises considered, and further considering the substitute complainant's initial payment of 20% to movant-counsel of the monetary claims as paid, let the balance or unpaid twenty (20%) per cent of attorney's fees due movant-counsel (or the amount of P839,587.39) be recorded as lien upon all the monies that may still be paid to substitute complainant Evangelina Masmud.
>
> Accordingly, the NLRC Cashier is directed to pay movant-counsel the amount of P677,589.96 which is currently deposited therein to partially satisfy the lien.
>
> SO ORDERED.[8]

Evangelina questioned the February 14, 2005 Order of the LA before the NLRC. On January 31, 2006, the NLRC issued a Resolution[9] dismissing the appeal for lack of merit.

Evangelina then elevated the case to the CA via a petition for certiorari.[10] On October 31, 2007, the CA rendered a Decision[11] partially granting the petition. The dispositive portion of the decision reads:

> WHEREFORE, the petition is PARTIALLY GRANTED. The Resolutions dated January 31, 2006 and July 18, 2006 are hereby AFFIRMED with MODIFICATION in that the Attorney's fees of respondent Atty. Rolando B. Go, Jr. is declared fully compensated by the amount of P1,347,950.11 that he has already received.
>
> SO ORDERED.[12]

Evangelina filed a motion for reconsideration. However, on June 6, 2008, the CA issued a Resolution[13] denying the motion for reconsideration for lack of merit.

Hence, the instant petition.

Evangelina presented this issue, viz.:

> THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR OF LAW IN ITS DECISION DATED 31 OCTOBER 2007 AND RESOLUTION DATED 6 JUNE 2008 INSOFAR AS IT UPHOLDS RESPONDENT LAWYER'S CLAIM OF FORTY PERCENT (40%) OF THE MONETARY AWARD IN A LABOR CASE AS ATTORNEY'S FEES.[14]

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In effect, petitioner seeks affirmance of her conviction that the legal compensation of a lawyer in a labor proceeding should be based on Article 111 of the Labor Code.

There are two concepts of attorney's fees. In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services rendered to the latter. On the other hand, in its extraordinary concept, attorney's fees may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party,[15] such that, in any of the cases provided by law where such award can be made, e.g., those authorized in Article 2208 of the Civil Code, the amount is payable not to the lawyer but to the client, unless they have agreed that the award shall pertain to the lawyer as additional compensation or as part thereof.[16]

Here, we apply the ordinary concept of attorney's fees, or the compensation that Atty. Go is entitled to receive for representing Evangelina, in substitution of her husband, before the labor tribunals and before the court.

Evangelina maintains that Article 111 of the Labor Code is the law that should govern Atty. Go's compensation as her counsel and assiduously opposes their agreed retainer contract.

Article 111 of the said Code provides:

> ART. 111. Attorney's fees. -- (a) In cases of unlawful withholding of wages the culpable party may be assessed attorney's fees equivalent to ten percent of the amount of the wages recovered.

Contrary to Evangelina's proposition, Article 111 of the Labor Code deals with the extraordinary concept of attorney's fees. It regulates the amount recoverable as attorney's fees in the nature of damages sustained by and awarded to the prevailing party. It may not be used as the standard in fixing the amount payable to the lawyer by his client for the legal services he rendered.[17]

In this regard, Section 24, Rule 138 of the Rules of Court should be observed in determining Atty. Go's compensation. The said Rule provides:

> SEC. 24. Compensation of attorney's; agreement as to fees. -- An attorney shall be entitled to have and recover from his client no more than a reasonable compensation for his services, with a view to the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. No court shall be bound by the opinion of attorneys as expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract for services shall control the amount to be paid therefor unless found by the court to be unconscionable or unreasonable.[18]

The retainer contract between Atty. Go and Evangelina provides for a contingent fee. The contract shall control in the determination of the amount to be paid, unless found by the court to be unconscionable or unreasonable.[19] Attorney's fees are unconscionable if they affront one's sense of justice, decency or reasonableness.[20] The decree of unconscionability or unreasonableness of a stipulated amount in a contingent fee contract will not preclude recovery. It merely justifies the fixing by the court of a reasonable compensation for the lawyer's services.[21]

The criteria found in the Code of Professional Responsibility are also to be considered in assessing the proper amount of compensation that a lawyer should receive. Canon 20, Rule 20.01 of the said Code provides:

> CANON 20 -- A LAWYER SHALL CHARGE ONLY FAIR AND REASONABLE FEES.
>
> 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 question 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.

Contingent fee contracts are subject to the supervision and close scrutiny of the court in order that clients may be protected from unjust charges.[22] The amount of contingent fees agreed upon by the parties is subject to the stipulation that counsel will be paid for his legal services only if the suit or litigation prospers. A much higher compensation is allowed as contingent fees because of the risk that the lawyer may get nothing if the suit fails.[23] The Court finds nothing illegal in the contingent fee contract between Atty. Go and Evangelina's husband. The CA committed no error of law when it awarded the attorney's fees of Atty. Go and allowed him to receive an equivalent of 39% of the monetary award.

The issue of the reasonableness of attorney's fees is a question of fact. Well-settled is the rule that conclusions and findings of fact of the CA are entitled to great weight on appeal and will not be disturbed except for strong and cogent reasons which are absent in the case at bench. The findings of the CA, which are supported by substantial evidence, are almost beyond the power of review by the Supreme Court.[24]

Considering that Atty. Go successfully represented his client, it is only proper that he should receive adequate compensation for his efforts. Even as we agree with the reduction of the award of attorney's fees by the CA, the fact that a lawyer plays a vital role in the administration of justice emphasizes the need to secure to him his honorarium lawfully earned as a means to preserve the decorum and respectability of the legal profession. A lawyer is as much entitled to judicial protection against injustice or imposition of fraud on the part of his client as the client is against abuse on the part of his counsel. The duty of the court is not alone to ensure that a lawyer acts in a proper and lawful manner, but also to see that a lawyer is paid his just fees. With his capital consisting of his brains and with his skill acquired at tremendous cost not only in money but in expenditure of time and energy, he is entitled to the protection of any judicial tribunal against any attempt on the part of his client to escape payment of his just compensation. It would be ironic if after putting forth the best in him to secure justice for his client, he himself would not get his due.[25]

WHEREFORE, in view of the foregoing, the Decision dated October 31, 2007 and the Resolution dated June 6, 2008 of the Court of Appeals in CA-G.R. SP No. 96279 are hereby AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Peralta, JJ., concur.

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[1] RULES OF COURT, Rule 45.

[2] Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Lucas P. Bersamin and Estela M. Perlas-Bernabe, concurring; rollo, pp. 16-28.

[3] Entitled, "Alexander J. Masmud, substituted by Evangelina R. Masmud v. First Victory Shipping Services and Angelakos (Hellas) S.A.," and docketed as NLRC-NCR Case No. (M)03-07-1728-00.

[4] Rollo, p. 18.

[5] The case was docketed as CA-G.R. SP No. 88009.

[6] RULES OF COURT, Rule 65.

[7] Penned by Labor Arbiter Cresencio G. Ramos, Jr.; rollo, pp. 40-43.

[8] Id. at 43.

[9] Rollo, pp. 31-37.

[10] RULES OF COURT, Rule 65.

[11] Supra note 2.

[12] Rollo, p. 27.

[13] Id. at 29-30.

[14] Id. at 8.

[15] Bach v. Ongkiko Kalaw Manhit & Acorda Law Offices, G.R. No. 160334, September 11, 2006, 501 SCRA 419, 426.

[16] Traders Royal Bank Employees Union-Independent v. NLRC, 336 Phil. 705, 712 (1997).

[17] Traders Royal Bank Employees Union-Independent v. NLRC, 336 Phil. 705, 724 (1997).

[18] Emphasis supplied.

[19] Rayos v. Hernandez, G.R. No. 169079, February 12, 2007, 515 SCRA 517, 530-531.

[20] Roxas v. De Zuzuarregui, Jr., G.R. Nos. 152072 & 152104, January 31, 2006, 481 SCRA 258, 279.

[21] Rayos v. Hernandez, G.R. No. 169079, February 12, 2007, 515 SCRA 517, 530.

[22] Id. at 529.

[23] Sesbreño v. Court of Appeals, 314 Phil. 884, 893 (1995).

[24] The following are the exceptions to the rule that the findings of facts of the CA are deemed conclusive:

(1) When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

(2) When the inference made is manifestly mistaken, absurd or impossible;

(3) Where there is a grave abuse of discretion;

(4) When the judgment is based on a misapprehension of facts;

(5) When the findings of fact are conflicting;

(6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is

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contrary to the admissions of both appellant and appellee;

(7) When the findings are contrary to those of the trial court;

(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10) When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. (Aklan College, Inc. v. Perpetuo Enero, Arlyn Castigador, Nuena Sermon and Jocelyn Zolina, G.R. No. 178309, January 27, 2009.)

[25] Bach v. Ongkiko Kalaw Manhit & Acorda Law Offices, G.R. No. 160334, September 11, 2006, 501 SCRA 419, 434.

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