

E. M. BACHRACH, PLAINTIFF AND APPELLANT, VS. E. H. TEAL AND TEAL MOTOR CO., INC., DEFENDANTS AND APPELLANTS. OHNICK & MCFIE, ATTORNEYS OF THEODORE G. DAVIS, RECEIVER, APPELLANTS.

G.R. No. 30033. October 01, 1929

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

Attorneys Ohnick & McFie presented a motion in this case asking that their fees as attorneys appointed by the court for the receiver, be fixed at not less than P10,000; accompanying said motion with a statement of the services rendered by them to said receiver, and praying that said fees be considered a preferential claim against the assets of said receivership.

The petition having been set for trial, the interested parties presented their evidence, and on May 12, 1928, the Court of First Instance of Manila resolved the motion by an order the dispositive part of which is as follows:

"The court finds from all the evidence that the services of Attorneys Ohnick & McFie on behalf of the receiver are reasonably worth the sum of seven thousand five hundred pesos (P7,500), and that sum is hereby declared to be an administration expense chargeable against the receivership assets and the receiver, Theodore G. Davis, is hereby ordered to pay to said attorneys out of the receivership assets the said sum of P7,500 in full settlement of the fees of Attorneys Ohnick & McFie as attorneys for the receiver." (Page 68, Bill of Exceptions of E. M. Bachrach.)

E. M. Bachrach, E. H. Teal and Teal Motor Company, Inc., as well as the claimants-attorneys, appealed from this resolution.

E. M. Bachrach assigns the following errors:

"I. The lower court erred in finding from the evidence introduced that the services of the attorneys on behalf of the receiver are reasonably worth the sum of seven thousand five hundred pesos (P7,500).

"II. The lower court erred in failing to take into consideration the evidence introduced showing that most of the services rendered by the attorneys on behalf of the receiver were of minor importance and not worth the amount of fees claimed.

"III. The lower court erred in not taking into consideration the evidence introduced by the plaintiff showing that claimants Ohnick & McFie as attorneys for the receiver have been incompetent and negligent in the performance of their duties as such attorneys for the receiver.

"IV. The lower court erred in overruling the plaintiffs motion for new trial."

E. H. Teal and Teal Motor Co., Inc., made the following assignment of errors:

"I. The lower court erred in finding from the evidence introduced that the services rendered by

appellants-attorneys, Ohnick & McFie, on behalf of the receiver are reasonably worth the sum of seven thousand five hundred pesos (P7,500).

"II. The lower court erred in failing to find that part of the services alleged to have been performed by appellants-attorneys on behalf of the receiver could and should have been performed in person by the receiver.

"III. The lower court erred in failing to find that part of the services alleged to have been performed by appellants-attorneys on behalf of the receiver are personal liabilities of the receiver and are not chargeable to the receivership estate.

"IV. The lower court erred in failing to find that part of the services alleged to have been performed by appellants-attorneys were in fact not actually performed by them.

"V. The lower court erred in failing to find that appellants Ohnick & McFie as attorneys for the receiver did not faithfully and with fidelity protect the interest of the receivership estate.

"VI. The lower court erred in determining appellants-attorneys' fees by not taking into consideration the fact that the defendants sustained heavy loss and obtained no benefit as result of the receivership proceedings.

"VII. The lower court erred in denying defendants' motion for a new trial."

The claimants-attorneys assign the following errors:

"I. The lower court erred in finding from all of the evidence that the services of the undersigned attorneys on behalf of the receiver were reasonably worth the sum of P7,500 only.

"II. The lower court erred in failing to award unto the undersigned attorneys the minimum sum of P10,000 for their services on behalf of the receiver.

"III. The lower court erred in overruling counsel's motion for a new trial."

Considering the services rendered by the claimants-attorneys to the receiver, in the light of the evidence adduced, we are of the opinion that they are really entitled to the compensation of P7,500 fixed by the court, in view of the importance of the subject matter of the litigation for which said services were rendered, the extent thereof and the professional standing of the claimants-attorneys, as provided in section 29 of the Code of Civil Procedure.

We do not find the allegations that said attorneys have been incompetent and negligent in the discharge of their duties as counsel for the receiver sufficiently proven. The failure to file the civil actions for the receiver, upon demand of the plaintiff, does not, under the circumstances of the case, constitute incompetence or negligence of said attorneys for the receiver.

It is true that not all the services enumerated in the statement presented by the said attorneys are important and have the same value, as the writing of letters and the like; but the importance, merits and value of the professional services of a lawyer are measured not alone by his work taken separately but by his work taken as a whole. There are services which, when taken separately, may not in themselves have any noticeable special merit, but which, when considered in connection with the other works and services of the lawyer to which they are related, acquire an unquestionable value. That is why even the time employed is not, in itself, an appropriate basis for fixing the compensation (*Haussermann vs. Rahmeyer*, 12 Phil., 350). There must enter in the consideration of the matter other circumstances regarding the bases enumerated in the aforesaid section 29 of the Code of Civil Procedure, which are, in some degree, elucidated by this court in the case of *Delgado vs. Be la Rama* (43 Phil., 419).

As to the arguments of the attorneys-appellants in favor of their claim for the entire sum of P10,000, in view of all the circumstances appearing in the case in question, we have reached the conclusion that the sum of P7,500 fixed by the lower court constitutes a reasonable compensation for the services enumerated by said attorneys in the

statement accompanying their motion.

We deem it unnecessary, for the purposes of this decision, to discuss in detail the several assignments of error made by the parties in their respective briefs. Suffice it to say that we find the conclusions in the order appealed from well founded upon the evidence, and the same is hereby affirmed with the modification that, in accordance with section 510 of the Code of Civil Procedure, the sum awarded to the claimants-attorneys shall be paid with legal interest from May 12, 1928, the date of the order appealed from. So ordered, without special pronouncement as to costs.

Avanceña, C. J., Johnson, Street, Villamor, Johns, and Villa-Real, JJ., concur.

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