

VICENTE ARTUYO, PLAINTIFF AND APPELLEE, VS. ANTERO AZANA ET AL., DEFENDANTS. ANTERO AZANA, APPELLANT.

G.R. No. 44248. October 26, 1935

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

The instant case is before us on an appeal taken by the defendant Antero Azana from a judgment of the Court of First Instance of Manila, the dispositive part of which reads:

"For the foregoing considerations, judgment is entered adjudicating to the plaintiff Vicente Artuyo the sum of fifty thousand pesos (P50,000), deposited with the Philippine National Bank in the name of the defendant Antero Azana, with the corresponding unpaid interest, subject to the payment of the income tax claimed by the Government, with the costs to said defendant Antero Azana.

"The case is dismissed as to the defendant 'National Charity Sweepstake of the Philippine Islands', without costs. So ordered."

After the said defendant-appellant Antero Azana had filed his brief, and before the plaintiff-appellee Vicente Artuyo had filed his, both parties filed a motion on October 9, 1935, praying as follows:

"Wherefore, it is respectfully prayed that the stipulation Annex A referred to above and made a part hereof be approved and that an order issue:

"1. Dismissing the appeal herein without special pronouncement as to costs.

"2. Ordering the said Monte de Piedad and Savings Bank to pay to Antero Azana, defendant-appellant herein, the sum of fifteen thousand pesos (P15,000) out of the said deposit of fifty thousand pesos (P50,000) and interest now deposited in the said Monte de Piedad and Savings Bank.

"3. Ordering the said Monte de Piedad and Savings Bank to pay to Vicente Artuyo, plaintiff-appellee herein, the remainder of the said deposit, or the sum of thirty-five thousand pesos (P35,000), plus the total interest of the said deposit of fifty thousand pesos (P50,000) already earned and may be earned up to the date of the said payment to the herein plaintiff-appellee." The compromise referred to in the said motion reads:

"STIPULATION

"Vicente Artuyo and Antero Azana, plaintiff-appellee and defendant-appellant, respectively, in the above-entitled case, hereby stipulated as follows, to wit:

"1. That they have agreed to an amicable settlement of the above-entitled case.

"2. That, for the said settlement, they no longer need the services of their respective attorneys.

"3. That the said stipulation for the settlement of the case at bar is based on the following terms and conditions:

"(a) That the sum of fifteen thousand pesos (P15,000) which is the subject of the present litigation and by order of the court now deposited in the Monte de Piedad and Savings Bank, Manila, P. I.

"(b) That the remainder of the said deposit of fifty thousand pesos (P50,000), or the sum of thirty-five thousand pesos (P35,000), plus the interest so far earned and might be earned by the said deposit of fifty thousand pesos (P50,000) be paid to Vicente Artuyo, plaintiff-appellee herein.

"(c) That the case be dismissed without special pronouncement as to costs.

"Manila, October 9, 1935.

(Sgd.) "Vicente Artuyo

"Plaintiff-appellee

"ANTERO AZANA

"Defendant-appellant"

On October 12, 1935, the plaintiff-appellee Vicente Artuyo filed the following ex parte petition:

"Comes now plaintiff in the above-entitled case and to this Honorable Court respectfully states:

"That he has entered stipulation with the defendant herein for the settlement of the above-entitled case as shown by the joint petition of the parties herein filed in the Supreme Court (G. R. No. 44248) on October 9, 1935.

"That, in accordance with his contract with Messrs. Ezpeleta & Varona for professional services herein, the said attorneys are entitled to professional fee of five thousand pesos (P5,000).

"Wherefore, plaintiff respectfully prays that, upon execution of the judgment herein, the said amount of P5,000 be deducted from the amount that may be adjudged in favor of the herein plaintiff.

"Manila, October 12, 1935.

"Respectfully submitted,

(Sgd.) "VICENTE ARTUYO "

"Plaintiff"

On October 17, 1935, Attorney Anastasio R. Teodoro with the conformity of his client, the defendant-appellant Antero Azafia, filed a motion praying, in view of the facts alleged therein, the following:

"In view of the above, the undersigned prays that the compromise be approved, directing the payment to the undersigned of his professional fees in the sum of two thousand pesos (P2,000), and expressly ordering the Monte de Piedad to retain from the fifteen thousand pesos (P15,000) corresponding to Antero Azafia the sum of two thousand pesos (P2,000), the same to be paid to Attorney Anastasio R. Teodoro as counsel for Antero Azafia."

On October 19, 1935, Attorney Jose O. Vera with the conformity also of his client, the herein defendant-appellant Antero Azafia, filed a motion praying, in view of the facts alleged therein, as follows:

"Wherefore, it is respectfully prayed that this court include in the decision to be rendered in the above entitled case an order to the Monte de Piedad (Manila) requiring it to pay to the undersigned the sum of P1,000 to be taken from the P15,000 which will correspond to Antero Azana,"

In accordance with the compromise above-quoted and the several motions filed by the parties and their respective attorneys, with the conformity of said parties, and said compromise being authorized by article 1809 of the Civil Code, judgment is entered ordering the Monte de Piedad and Savings Bank of Manila to pay, out of the sum of P50,000 in suit, which is deposited with said bank by order of the court, P15,000 to the defendant-appellant Antero Azana and to turn over the remaining P35,000, plus unpaid interest and interest hereafter accruing in the

said sum of P50,000, to the plaintiff-appellee Vicente Artuyo; to retain and pay out of the said sum of P15,000, payable to the defendant-appellant Antero Azana, the following amounts: P2,000 to Attorney Anastasio R. Teodoro, as attorney's fees; P1,000 to Attorney Jose O. Vera, also as attorney's fees; and to retain and pay out of the aforesaid sum of P35,000, payable to the plaintiff-appellee Vicente Artuyo, the sum of p5,000 to Attorneys Ezpeleta and Varona, likewise as attorney's fees, without special pronouncement as to the costs. So ordered.

Avanceña, C.J., Malcolm, Abad Santos, Hull, Vickers, Imperial, Butte, Goddard, Diaz, and Recto, JJ., concur.

Judgment modified.

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