

VIRGINIA M. RAMOS, PETITIONER, VS. HON. JUDGE ABDUL-WAHID A. BIDIN, COURT OF FIRST INSTANCE OF ZAMBOANGA CITY, BRANCH I, RESPONDENT.

G.R. No. 53650. May 28, 1988

Ponente: FELICIANO, J.

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FELICIANO, J.:

The portions of the orders of the Court of First Instance of Zamboanga, presided by then Judge Abdulwahid Bidin dated 8 May 1979, 5 October 1979 and 14 March 1980, relating to the professional fees of Attorney Virginia Ramos, are sought to be nullified and set aside in the present petitions for certiorari[1]

In the judicial settlement of the estate of Felixberto D. Jaldon,[2] Attorney Abelardo S. Fernandez, whose services as counsel for the administratrix Rosaura Jaldon were terminated on 14 November 1977, filed a claim on 8 March 1978 for attorney's fees in the amount of P101,300.00. That claim, later amended, was duly opposed by the administratrix through her new counsel, Virginia Ramos,[3] petitioner in G.R. No. 53650.

An urgent Manifestation and Motion dated 23 January 1979, was filed by Rosemarie Jaldon, an adopted daughter of the administratrix and the decedent, opposing the claim of Abelardo S. Fernandez. In the same pleading, Rosemarie Jaldon also opposed the claim for professional fees of Virginia Ramos, who manifested in open court on 19 January 1979 that she had a written contract of legal services with the administratrix fixing her fees at 5% of the value of the estate. Rosemarie prayed that Vi of the attorney's fees claimed by both lawyers be charged to, and collected from the administratrix personally, since their services would not have been necessary had the administratrix carried out her duties conscientiously.

By Order dated 8 May 1979, respondent Judge, on the basis of quantum meruit, awarded P50,000.00 and P25,000.00 attorney's fees to Fernandez and Ramos respectively, both amounts to be collected from the estate of Felixberto Jaldon as expenses of administration. Virginia Ramos moved to reconsider the order presenting a copy of a contract entitled "Retainer of Attorney" which she and the administratrix had allegedly executed on 18 March 1978. She maintained that the contract, being the law between the contracting parties, should be used as basis for the assessment of her fees.

On 5 October 1979, respondent Judge increased his award of attorney's fees to petitioner Ramos to P40,000.00, but refused to enforce the contract of services holding that:

"xxx Since Atty. Abelardo Fernandez did not move for reconsideration of the order awarding him P50,000.00 as attorneys fees, the said award had become final and binding as to him. So that any modification or increase in award for the services of Atty. Virginia Ramos will have to take into consideration the fees awarded to Atty. Ahelardo Fernandez in order to be fair and just, considering that the said Atty. Abelardo Fernandez had rendered more services to the estate. In view of this circumstance it is now too late for this court executed by and between Atty. Virginia Ramos and the executrix for 5% of the present value of the state without doing injustice to Atty. Fernandez. At any rate, considering the services to be rendered by Atty. Ramos to the estate, the sum of

P25,000.00 awarded in the order sought to be reconsidered is quite substantial. As stated in the order sought to be reconsidered, the estate under administration was originally assessed at P48,310.00 as per inventory filed by the administratrix dated March 9, 1979, but upon motion of counsels, was appraised on the basis of their present market value by two realtors of their own choice at P1,686,005.00. The contract executed by and between the administratrix and Atty. Virginia Ramos was not submitted in evidence except at the hearing of the motion for reconsideration when only movant was present and the administratrix does not appear to have been furnished with a copy of the motion. The estate is almost to closed. What remains to be done is the filing of a final report of account and a project of partition or distribution of the residue of the estate between the two heirs.

WHEREFORE, considering the amount and character of the services that have been and will be rendered by Atty. Virginia Ramos to the estate and considering that Atty. Abelardo Fernandez who had rendered the greater bulk of services to the estate had accepted the award of P50,000.00, the court hereby reconsiders the order dated May 8, 1979 in so far as the attorney's fees awarded to Atty. Virginia Ramos is concerned, by fixing the same at P40,000.00.

SO ORDERED." (Italics supplied)

Petitioner Ramos immediately came to this Court by a Petition for Review on Certiorari (should be Petition for Certiorari) docketed as G.R. No. L-53650, alleging that respondent Judge acted with grave abuse of discretion in fixing her fees on the basis of quantum meruit and totally disregarding her express contract of services with the administratrix.

In another Manifestation and Motion dated 22 November 1979, the adopted daughter Rosemarie Jaldon sought the immediate settlement and partition of the remainder of the estate.

On 14 March 1980, the lower court ordered the settlement and partition of the estate of Felixberto D. Jaldon. The dispositive portion of the court's order read thus:

"WHEREFORE, finding the motion dated November 15, 1979 to be in order and considering that the appeal interposed by Atty. Virginia Ramos would prejudice the movant Rosemarie Jaldon of what is due her from the estate which would remain under administration if the settlement and partition would be made to await the outcome of the appeal interposed by Atty. Virginia Ramos, the Court hereby orders the estate in the above-entitled case to be partitioned between the heirs of the estate subject to the following:

1)

That such portions of the property belonging to the estate be sold until an amount sufficient to cover the P50,000.00 awarded to Atty. Abelardo Fernandez and P84,300.25 claimed by Atty. Virginia Ramos for a total of P134,300.25, is realized;

2)

That out of the proceeds of the said sale, which should not be less than P134,300.25, P50,000.00 shall be delivered to Atty. Abelardo Fernandez as full and complete settlement of the attorney's fees claimed by him and the sum of P40,000.00 shall be delivered to Atty. Virginia Ramos as awarded in the order dated October 5, 1979 and the balance of her claim which is the subject of her appeal in the amount of P44,300.25 shall be deposited with the Clerk of Court of this court to await the resolution of the appeal interposed by Atty. Virginia Ramos and to be disposed of in favor of who ever shall prevail on the appeal; and

3)

After the sale shall have been made and the proceeds in the amount above-mentioned delivered to the respective parties including the amount to be deposited with the Clerk of Court, the residue of the estate shall be distributed between the two heirs in accordance with their respective share." (Italics supplied)

On 12 November 1980, the administratrix Rosaura P. Jaldon filed a Petition for Certiorari, docketed as G.R. No. L-55460, urging that respondent court acted without or in excess of his jurisdiction or with grave abuse of discretion in issuing the three (3) orders in question awarding attorney's fees to Virginia Ramos, without the latter filing a formal claim under Section 9 of Rule 86 of the Revised Rules of Court and absent the required notice to the administrator under Section 10 of the same Rule; and that she and the estate had been denied due process since her counsel, Virginia Ramos, had not notified nor served her with copies of her pleadings and the assailed orders of respondent court.

A stipulation on a lawyer's compensation in a written contract for professional services ordinarily controls the amount of fees that the contracting lawyer may be allowed, unless the court finds such stipulated amount unreasonable or unconscionable.[4] It follows that notwithstanding an express stipulation on attorney's fees, a court may always ascertain, if the agreed fees appear to be excessive, what are reasonable fees under the circumstances.[5] It is settled in our jurisdiction that attorney's fees are always subject to judicial control. For instance, in *Gorospe v. Gochangco*, [6] the Court said:

"A stipulation fixing the attorney's fees does not necessarily imply that it must be literally enforced no matter how injurious or oppressive it may be.

From *Bachrach vs. Golingo*, 39 Phil. 138 (rendered in 1918) to *Sison vs. Suntay*, 102 Phil. 769, December 28, 1957, this Court has repeatedly fixed counsel fees on a quantum meruit basis whenever the fees stipulated appear excessive, unconscionable, or unreasonable, because a lawyer is primarily a court officer charged with the duty of assisting the court in administering impartial justice between the parties, and hence, his fees should be subject to judicial control. Nor should it be ignored that sound public policy demands that courts disregard stipulations for counsel fees whenever they appear to be a source of speculative profit at the expense of the debtor or mortgagor.[7] (Italics supplied)

In the present case, the respondent Court set aside the stipulated fee of five (5%), percent of the total value of the estate (which five [5%] percent amounted to P84,300.25) considering that the services of the earlier counsel, Abelardo Fernandez, had been assessed at only P50,000.00 and considering further that Fernandez had done most of the lawyer's work involved in the settlement of the estate. The respondent court had in effect found the agreed professional fees as less than fair and reasonable and accordingly assessed the fees of petitioner Virginia Ramos on the basis of quantum meruit. At the time Abelardo Fernandez was substituted by petitioner Virginia Ramos, the estate was about to be closed. The record shows that the work done by Virginia Ramos thus far consisted of filing for the estate a Report of Accounts covering the period from 1 January 1967 to 31 December 1977, as well as an Opposition to Abelardo Fernandez' original claim of attorney's fees. The rest of the pleadings filed by petitioner Ramos consisted of oppositions to the objections filed by Rosemarie Jaldon to petitioner Ramos' claim for professional fees, for which she cannot charge the estate unless, perhaps, Rosemarie's objections are shown to have been baseless.

We turn now to the petition of administratrix Rosaura Jaldon. She urges that she was denied due process since she was neither served with the copies of Virginia Ramos' pleadings nor with the orders of respondent court. We agree with petitioner-administratrix. It appears, and the respondent court in its 6 October 1979 order noted this, that petitioner Rosaura Jaldon had not been served with a copy of Virginia Ramos' Motion for Reconsideration. The records too, clearly show that Rosaura Jaldon was not furnished with a copy of the petition of Virginia Ramos

here, and that only Rosemarie Jaldon had been aware of Virginia Ramos' claim for professional fees.

In estate settlement proceedings, it is of course imperative that the administrator be notified of any claim that is in fact asserted against the estate so as to afford him every opportunity to dispute the claim.[8] This notice requirement is basically an implication of due process. Clearly, in the instant petition, the administratrix was deprived of her day in court. She was not afforded any opportunity to opposing Virginia Ramos' claim, which she could have disputed had she been aware of it.

It may be noted that no formal claim had been-filed by petitioner Ramos against the estate for her professional fees. Initially, her claim was brought to the respondent Court's attention through a verbal manifestation in open court where she alleged that a written contract for services had been entered into between her and the administratrix. As early as 1905. this Court identified the appropriate procedures for collecting counsel fees in *Escueta v. Sy-Juillione*;[9]

"There are decisions, which are numerous, are practically unanimous between the administrator and the lawyer does not bind the estate to such an extent that the lawyer can maintain an action against it and recover a judgment which is binding upon it. In such a case the creditor has two remedies: He can prosecute an action against the administrator as an individual. If judgment is rendered against the administrator and it is paid by him, when he presents his final account to the Court of First Instance as such administrator he can include the amounts so paid as an expense of administration. The creditor can also present a petition in the proceeding relating to the settlement of the estate, asking that the court, after notice to all persons interested, allow his claim and direct the administrator to pay it as an expense of administration. Whichever course is adopted the heirs and other persons interested in the estate will have a right to inquire into the necessity for making the contract and the value of the work performed by the attorney." (Italics supplied)

Petitioner Ramos failed to resort to either procedure in pressing for her attorney's fees before the respondent Court. We find that the respondent Court exceeded its jurisdiction in awarding petitioner Ramos professional fees without either a formal claim therefor in the estate proceedings or a claim against the administratrix for which the latter sought to reimburse herself as an allowable expense of administration.

The services of Virginia Ramos, it appears, were terminated — due to loss of confidence — on 19 December 1980 or during the pendency of the herein petitions. As a practical matter, she may find it more expeditious to file a claim for her attorney's fees in the estate proceedings, with proper notice to the administratrix and heirs.

ACCORDINGLY, the portions of the orders of respondent Court dated 8 May 1979, 5 October 1979 and 14 March 1980 relating to the attorney's fees of petitioner Virginia Ramos, are hereby SET ASIDE. This case is REMANDED to the corresponding Regional Trial Court for further proceedings consistent with this decision.

SO ORDERED.

Fernan, Gutierrez, Jr., and Cortes, JJ., concur.
Bidin, J., took no part.

[1] The petitions were subsequently consolidated by Resolution of 21 November 1980.

[2] An action for judicial settlement of the estate of the late Felixberto Jaldon was instituted on 27 December 1958 by the surviving spouse, Rosaura Jaldon before the Court of First Instance of Zamboanga, which was docketed as Special Case No. 529. By 23 January 1959. the court appointed Rosaura Jaldon as administratrix of the estate.

[3] Entered her appearance as counsel for the administratrix on 14 March 1978.

[4] The last sentence of Section 24, Rule 138 of the Revised Rules of Court.

[5] *Cruz v. Court of Industrial Relations*, 8 SCRA 826 (1963); *Francisco v. Matias*, 10 SCRA 89 (1964); *Mambulao Lumber Co. v. Philippine National Bank*, 22 SCRA 359 (1968); *Borcena v. 1AC*, 147 SCRA 111 (1987).

[6] 106 Phil. 425 (1959).

[7] 106 Phil, at 429.

[8] Sec. 9, Rule 86, Revised Rules of Court; and see cases cited in note 9, *infra*.

[9] 5 Phil. 505 (1905); see also *Occena v. Marquez*, 60 SCRA 38 (1974); *Aldamis v. CFI*, 85 Phil. 228 (1949); *Palileo v. Mendoza*, 70 Phil. 297 (1940); and *Piliin v. Joson, et al.*, 41 Phil. 26 (1920).

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