

FLORENCIO FABILLO AND JOSEFA TANA (SUBSTITUTED BY THEIR HEIRS GREGORIO FABILLO, ROMAN FABILLO, CRISTETA F. MAGLINTE AND ANTONIO FABILLO), PETITIONERS, VS. THE HONORABLE INTERMED...

G.R. No. 68838. March 11, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

In the instant petition for review on certiorari, petition-ers seek the reversal of the appellate court's decision interpreting in favor of lawyer Alfredo M. Murillo the contract of services entered into between him and his clients, spouses Flo-rencio Fabillo and Josefa Taña.

In her last will and testament dated August 16, 1957, Justi-na Fabillo bequeathed to her brother, Florencio, a house and lot in San Salvador Street, Palo, Leyte which was covered by tax declaration No. 19335, and to her husband, Gregorio D. Brioso, a piece of land in Pugahanay, Palo, Leyte.[1] After Justina's death, Florencio filed a petition for the probate of said will. On June 2, 1962, the probate court approved the project of partition "with the reservation that the ownership of the land declared under Tax Declaration No. 19335 and the house erected thereon be litigated and determined in a separate proceedings."[2]

Two years later, Florencio sought the assistance of lawyer Alfredo M. Murillo in recovering the San Salvador property. Acquiescing to render his services, Murillo wrote Florencio the following handwritten letter:

"Dear Mr. Fabillo:

I have instructed my stenographer to prepare the complaint and file the same on Wednesday if you are ready with the filing fee and sheriffs fee of not less than P86.00 including transportation expenses.

Considering that Atty. Montilla lost this case and the present action is a revival of a lost case, I trust that you will gladly give me 40% of the money value of the house and lot as a contingent (sic) fee in case of a success. When I come back I shall prepare the contract of services for your signature.

Thank you.

Cordially yours,

(Sgd.) Alfredo M. Murillo

Aug. 9, 1964"[3]

Thirteen days later, Florencio and Murillo entered into the following contract:

"CONTRACT OF SERVICES"

KNOW ALL MEN BY THESE PRESENTS:

That I, FLORENCIO FABILLO, married to JOSEFA TANA, of legal age, Filipino citizen and with residence and postal address at Palo, Leyte, was the Petitioner in Special Proceedings No. 843, entitled "In the Matter of the Testate Estate of the late Justina Fabillo, Florencio Fabillo, Petitioner" of the Court of First Instance of Leyte;

That by reason of the Order of the Court of First Instance of Leyte dated June 2, 1962, my claim for the house and lot mentioned in paragraph one (1) of the last will and testament of the late Justina Fabillo, was denied although the will was probated and allowed by the Court;

That acting upon the counsel of Atty. Alfredo M. Murillo, I have cause(d) the preparation and filing of another case, entitled "Florencio Fabillo vs. Gregorio D. Briosio," which was docketed as Civil Case No. 3532 of the Court of First Instance of Leyte;

That I have retained and engaged the services of Atty. ALFREDO M. MURILLO, married and of legal age, with residence and postal address at Santa Fe, Leyte to be my lawyer not only Special Proceedings No. 843 but also in Civil Case No. 3532 under the following terms and conditions:

That he will represent me and my heirs, in case of my demise in the two cases until their successful conclusion or until the case is settled to my entire satisfaction;

That for and in consideration for his legal services, in the two cases, I hereby promise and bind myself to pay Atty. ALFREDO M. MURILLO, in case of success in any or both cases the sum equivalent to FORTY PER CENTUM (40%) of whatever benefit I may derive from such cases to be implemented as follows:

If the house and lot in question is finally awarded to me or a part of the same by virtue of an amicable settlement, and the same is sold, Atty. Murillo, is hereby constituted as Atty. in-fact to sell and convey the said house and lot and he shall be given as his compensation for his services as counsel and as attorney-in-fact the sum equivalent to forty per centum of the purchase price of the house and lot;

If the same house and lot is just mortgage(d) to any person, Atty. Murillo shall be given the sum equivalent to forty per centum (40%) of the proceeds of the mortgage;

If the house and lot is leased to any person, Atty. Murillo shall be entitled to receive an amount equivalent to 40% (FORTY PER CENTUM) of the rentals of the house and lot, or a part thereof;

If the house and lot or a portion thereof is just occupied by the undersigned or his heirs, Atty. Murillo shall have the option of either occupying or leasing to any interested party FORTY PER CENT of the house and lot.

Atty. Alfredo M. Murillo shall also be given as part of his compensation for legal services in the two cases FORTY PER CENTUM of whatever damages, which the undersigned can collect in either or both cases, provided, that in case I am awarded attorney's fees, the full amount of attorney's fees shall be given to the said Atty. ALFREDO M. MURILLO;

That in the event the house and lot is (sic) not sold and the same is maintained by the undersigned or his heirs, the costs of repairs, maintenance, taxes and insurance premiums shall be for the account of myself or my heirs and Attorney Murillo, in proportion to our rights and interest thereunder - that is forty per cent shall be for the account of Atty. Murillo and sixty per cent shall be for my account or my heirs.

IN WITNESS HEREOF, I hereby set unto my signature below this 22nd day of August 1964 at Tacloban City.

(Sgd.)

FLORENCIO FABILLO

(Sgd.) JOSEFA T. FABILLO

WITH MY CONFORMITY:

(Sgd.)

ALFREDO M. MURILLO

(Sgd.) (Sgd.)

ROMAN T. FABILLO CRISTETA F. MAGLINTE

(Witness) (Witness)"[4]

Pursuant to said contract, Murillo filed for Florencio Fabillo Civil Case No. 3532 against Gregorio D. Briosio to recover the San Salvador property. The case was terminated on October 29, 1964 when the court, upon the parties' joint motion in the nature of a compromise agreement, declared Florencio Fabillo as the lawful owner not only of the San Salvador property but also the Pugahanay parcel of land.

Consequently, Murillo proceeded to implement the contract of services between him and Florencio Fabillo by taking possession and exercising rights of ownership over 40% of said properties. He installed a tenant in the Pugahanay property.

Sometime in 1966, Florencio Fabillo claimed exclusive right over the two properties and refused to give Murillo his share of their produce.[5] Inasmuch as his demands for his share of the produce of the Pugahanay property were unheeded, Murillo filed on March 23, 1970 in the then Court of First Instance of Leyte a complaint captioned "ownership of a parcel of land, damages and appointment of a receiver" against Florencio Fabillo, his wife Josefa Taña, and their children Ramon (sic) Fabillo and Cristeta F. Maglinte.[6]

Murillo prayed that he be declared the lawful owner of forty per cent of the two properties; that defendants be directed to pay him jointly and severally P900.00 per annum from 1966 until he would be given his share of the produce of the land plus P5,000 as consequential damages and P1,000 as attorney's fees, and that defendants be ordered to pay moral and exemplary damages in such amounts as the court might deem just and reasonable.

In their answer, the defendants stated that the consent to the contract of services of the Fabillo spouses was vitiated by old age and ailment; that Murillo misled them into believing that Special Proceedings No. 843 on the probate of Justina's will was already terminated when actually it was still pending resolution; and that the contingent fee of 40% of the value of the San Salvador property was excessive, unfair and unconscionable considering the nature of the case, the length of time spent for it, the efforts exerted by Murillo, and his professional standing.

They prayed that the contract of services be declared null and void; that Murillo's fee be fixed at 10% of the assessed value of P7,870 of the San Salvador property; that Murillo be ordered to account for the P1,000 rental of the San Salvador property which he withdrew from the court and for the produce of the Pugahanay property from 1965 to 1966; that Murillo be ordered to vacate the portion of the San Salvador property which he had occupied; that the Pugahanay property which was not the subject of either Special Proceedings No. 843 or Civil Case No. 3532 be declared as the exclusive property of Florencio Fabillo, and that Murillo be ordered to pay moral damages and the total amount of P1,000 representing expenses of litigation and attorney's fees.

In its decision of December 2, 1975,[7] the lower court ruled that there was insufficient evidence to prove that the Fabillo spouses' consent to the contract was vitiated. It noted that the contract was witnessed by two of their children who appeared to be highly educated. The spouses themselves were old but literate and physically fit.

In claiming jurisdiction over the case, the lower court ruled that the complaint being one "to recover real property from the defendant spouses and their heirs or to enforce a lien thereon," the case could be decided independent of the probate proceedings. Ruling that the contract of services did not violate Article 1491 of the Civil Code as said contract stipulated a contingent fee, the court upheld Murillo's claim for "contingent attorney's fees of 40% of the value of recoverable properties." However, the court declared Murillo to be the lawful owner of 40% of both the San Salvador and Pugahanay properties and the improvements thereon. It directed the defendants to pay jointly and severally to Murillo the amount of P1,200 representing 40% of the net produce of the Pugahanay property from 1967 to 1973; entitled Murillo to 40% of the 1974 and 1975 income of the Pugahanay property which was on deposit with a bank, and ordered defendant's to pay the costs of the suit.

Both parties filed motions for the reconsideration of said decision: Fabillo, insofar as the lower court awarded 40% of the properties to Murillo and the latter insofar as it granted only P1,200 for the produce of the properties from 1967 to 1973. On January 29, 1976, the lower court resolved the motions and modified its decision thus:

"ACCORDINGLY, the judgment heretofore rendered is modified to read as follows:

- (a) Declaring the plaintiff as entitled to and the true and lawful owner of forty percent (40%) of the parcels of land and improvements thereon covered by Tax Declaration Nos. 19335 and 6229 described in Paragraph 5 of the complaint;
- (b) Directing all the defendants to pay jointly and severally to the plaintiff the sum of Two Thousand Four Hundred Fifty Pesos (P2,450.00) representing 40% of the net produce of the Pugahanay property from 1967 to 1973;
- (c) Declaring the plaintiff entitled to 40% of the 1974 and 1975 income of said riceland now on deposit with the Prudential Bank, Tacloban City, deposited by Mr. Pedro Elona, designated receiver of the property;
- (d) Ordering the defendants to pay the plaintiff the sum of Three Hundred Pesos (P300.00) as attorney's fees; and
- (e) Ordering the defendants to pay the costs of this suit.

SO ORDERED."

In view of the death of both Florencio and Justina Fabillo during the pendency of the case in the lower court, their children, who substituted them as parties to the case, appealed the decision of the lower court to the then Intermediate Appellate Court. On March 27, 1984, said appellate court affirmed in toto the decision of the lower court.[8]

The instant petition for review on certiorari which was interposed by the Fabillo children, was filed shortly after Murillo himself died. His heirs likewise substituted him in this case. The Fabillos herein question the appellate court's interpretation of the contract of services and contend that it is in violation of Article 1491 of the Civil Code.

The contract of services did not violate said provision of law. Article 1491 of the Civil Code, specifically paragraph 5 thereof, prohibits lawyers from acquiring by purchase even at a public or judicial auction, properties and rights which are the objects of litigation in which they may take part by virtue of their profession. The said prohibition, however, applies only if the sale or assignment of the property takes place during the pendency of the litigation involving the client's property.[9]

Hence, a contract between a lawyer and his client stipulating a contingent fee is not covered by said prohibition under Article 1491 (5) of the Civil Code because the payment of said fee is not made during the pendency of the

litigation but only after judgment has been rendered in the case handled by the lawyer. In fact, under the 1988 Code of Professional Responsibility, a lawyer may have a lien over funds and property of his client and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements.[10]

As long as the lawyer does not exert undue influence on his client, that no fraud is committed or imposition applied, or that the compensation is clearly not excessive as to amount to extortion, a contract for contingent fee is valid and enforceable.[11] Moreover, contingent fees were impliedly sanctioned by No. 13 of the Canons of Professional Ethics which governed lawyer-client relationships when the contract of services was entered into between the Fabillo spouses and Murillo.[12]

However, we disagree with the courts below that the contingent fee stipulated between the Fabillo spouses and Murillo is forty percent of the properties subject of the litigation for which Murillo appeared for the Fabillos. A careful scrutiny of the contract shows that the parties intended forty percent of the value of the properties as Murillo's contingent fee. This is borne out by the stipulation that "in case of success of any or both cases," Murillo shall be paid "the sum equivalent to forty per centum of whatever benefit" Fabillo would derive from favorable judgments. The same stipulation was earlier embodied by Murillo in his letter of August 9, 1964 aforequoted.

Worth noting are the provisions of the contract which clearly states that in case the properties are sold, mortgaged, or leased, Murillo shall be entitled respectively to 40% of the "purchase price," "proceeds of the mortgage," or "rentals." The contract is vague, however, with respect to a situation wherein the properties are neither sold, mortgaged or leased because Murillo is allowed "to have the option of occupying or leasing to any interested party forty per cent of the house and lot." Had the parties intended that Murillo should become the lawful owner of 40% of the properties, it would have been clearly and unequivocally stipulated in the contract considering that the Fabillos would part with actual portions of their properties and cede the same to Murillo.

The ambiguity of said provision, however, should be resolved against Murillo as it was he himself who drafted the contract.[13] This is in consonance with the rule of interpretation that in construing a contract of professional services between a lawyer and his client, such construction as would be more favorable to the client should be adopted even if it would work prejudice to the lawyer.[14] Rightly so because of the inequality in situation between an attorney who knows the technicalities of the law on the one hand and a client who usually is ignorant of the vagaries of the law on the other hand.[15]

Considering the nature of the case, the value of the properties subject matter thereof, the length of time and effort exerted on it by Murillo, we hold that Murillo is entitled to the amount of Three Thousand Pesos (P3,000.00) as reasonable attorney's fees for services rendered in the case which ended on a compromise agreement. In so ruling, we uphold "the time-honored legal maxim that a lawyer shall at all times uphold the integrity and dignity of the legal profession so that his basic ideal becomes one of rendering service and securing justice, not money-making. For the worst scenario that can ever happen to a client is to lose the litigated property to his lawyer in whom all trust and confidence were bestowed at the very inception of the legal controversy." [16]

WHEREFORE, the decision of the then Intermediate Appellate Court is hereby reversed and set aside and a new one entered (a) ordering the petitioners to pay Atty. Alfredo M. Murillo or his heirs the amount of P3,000.00 as his contingent fee with legal interest from October 29, 1964 when Civil Case No. 3532 was terminated until the amount is fully paid less any and all amounts which Murillo might have received out of the produce or rentals of the Pugahanay and San Salvador properties, and (b) ordering the receiver of said properties to render a complete report and accounting of his receivership to the court below within fifteen (15) days from the finality of this decision. Costs against the private respondent.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

- [1] Exhibit J.
- [2] Exhibit C.
- [3] Exhibit 5, underscoring supplied.
- [4] Exhibit A, underscoring supplied; acknowledgement omitted.
- [5] Record on Appeal, p. 4.
- [6] Civil Case No. 4434.
- [7] Penned by Judge Auxencio C. Dacuycuy.
- [8] Penned by Justice Mariano A. Zosa and concurred in by Justices Jorge R. Coquia and Florelina Castro-Bartolome.
- [9] Director of Lands vs. Ababa, G.R. No. 26096, February 27, 1979, 88 SCRA 513.
- [10] Rule 16.03, Canon 16.
- [11] Ulanday vs. Manila Railroad Co., 45 Phil. 540, 554.
- [12] See Recto vs. Harden, 100 Phil. 427, 428.
- [13] Reyes vs. De la Cruz, 105 Phil. 372.
- [14] De los Santos vs. Palanca, 119 Phil. 765.
- [15] Amalgamated Laborers Association vs. CIR, 131 Phil. 374.
- [16] Licudan et al. vs. The Hon. Court of Appeals and Teodoro O. Domalanta, G.R. No. 91958, January 24, 1991.

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