

ANTONIO DE ZUZUARREGUI, JR., ET AL., PETITIONERS, VS. THE HON. COURT OF APPEALS, REGIONAL TRIAL COURT OF QUEZON CITY AND TORIBIO T. BELLA, RESPONDENT.

G.R. No. 81951. June 06, 1989

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Entry of judgment was made in this case on 18 August 1988.

Notwithstanding full awareness thereof, petitioners filed this "Second Motion for Reconsideration with Request to Refer Case En Banc" on the claim that the Resolution of this Division, dated 13 July 1988, is erroneous and, therefore, cannot attain finality. In that Resolution.

"x x x the Court RESOLVED to DENY the petition for failure of the petitioner to sufficiently show that the Court of Appeals had committed any reversible error in holding that the rates prevailing at the time the complaint was filed should be applied in this case. It would be iniquitous and unconscionable to require the payment of the increased fees which took effect one (1) year and two (2) months after the complaint was filed in the Court below."

Not only has entry of judgment been made, but also, petitioners' Motion for Extension within which to file a Motion for Reconsideration was denied in the Resolution of 31 August 1988, and the present Second Motion for Reconsideration was filed without leave of Court. Ordinarily, therefore, this Second Motion for Reconsideration should be expunged from the records. Nonetheless, we have opted to dwell on the allegations made by petitioners.

To recall the antecedents - on 2 August 1983, private respondent Atty. Toribio R. Bella, filed suit before the Regional Trial Court of Quezon City (Civil Case No. 39001) for payment of attorney's fees. He did not specify the amount of his claim in the body of the Complaint but in the prayer he asked that petitioners be ordered to pay him, "jointly and severally, reasonable attorney's fees based on quantum meruit for services rendered in Civil Case No. 11180." The docket clerk assessed the amount of P210.00 as filing fees.

During the trial, testifying as a witness for himself, private respondent declared the amount of his attorney's fees to be P44,200,000.00, that is, 25% of the market value of the land subject matter of Civil Case No. 11180. That prompted petitioners to file, on 23 April 1984, a Motion praying that private respondent be ordered to pay the "proper amount of filing fee before proceeding with the trial." Said Motion as well as the Motion for Reconsideration filed thereafter was denied by the trial Court, private respondent's claim being on quantum meruit.

Elevated by petitioner to the Court of Appeals on Certiorari and Prohibition (CA-G.R. No. 03868), said Court, on 29 March 1985,[1] disposed of the Petition before it thus:

"WHEREFORE, this petition is hereby granted and respondent judge is prohibited from further hearing Civil Case No. Q-39001 unless and until private respondent pays the correct filing fee. This case is remanded to the

lower court for recomputation of the filing fees based on the 25 percent of the 44 hectares involved in its Civil Case No. 11180 at P400.00 per square meter and on whatever attorney's fees claimed by private respondent in Case No. Q-39001." (Underscoring supplied)

Under the rates in force at the time private respondent filed his Complaint on 2 August 1983, the filing fee due on his claim would have been P89,000.00. In fact, the text of the Decision of the Court of Appeals contains the statement that "the total filing fee is computed at P89,000.00, more or less" (p. 10, Decision). Petitioners arrived at the same computation (p. 2, CA Resolution of January 29, 1988, p. 25, Rollo).

However, on 19 July 1984, the Supreme Court increased the rates of docket fees effective 1 October 1984. Under the increased rates, the filing fees on private respondent's claim would reach P178,164.00.

In January, 1987, private respondent tendered before the lower Court the amount of P89,000.00 but the docket clerk refused to accept the same and insisted on the payment of P178,164.00.

On 21 January 1987 private respondent filed before the Trial Court an Urgent Motion to require the Clerk of Court to accept additional filing fees in accordance with the rates prevailing at the time of filing, which said Court granted.

On 16 March 1987, or, three (3) years after they had filed their Motion to require private respondent to pay "the proper amount for filing fee" dated 23 April 1984, and after the Decision of the Court of Appeals of 29 March 1985 had become final and executory (p. 2, CA Resolution of January 29, 1988, p. 25, Rollo), petitioners raised for the first time the matter of increased filing fee in a Motion for Clarification filed before the Court of Appeals. Petitioners alleged that there was a "seeming ambiguity" in said Court's Decision of 29 March 1985 when it referred to the "correct filing fee," and urged said Court to make the necessary "clarification" so as to effect a recomputation of the filing fee based on the new rates.

On 17 July 1987 the Court of Appeals denied the Motion for Clarification for absence of any ambiguity. On 29 January 1988, petitioners' Motion for Reconsideration was similarly denied, with said Court[2] stating:

"x x x In any case, if the phrase 'correct filing fee' as used in the dispositive portion of the decision needs clarification, which it does not, it should be interpreted as the filing fee based on the rates at the time the complaint was filed. x x x "

Hence, this Petition for Review on Certiorari, which we denied in the Resolution of 13 July 1988, heretofore quoted.

Anent petitioners' plea that the issue raised should be referred to the Court en banc, petitioners are hereby informed that it was so referred "en consulta" on 28 June 1988 and, after deliberation, the Court en banc "Resolved to RETURN this case to the Second Division of this Court" (p. 98, Rollo), the unanimous opinion being to apply the old rates. Accordingly, on 13 July 1988, the Second Division issued the questioned Resolution.

Petitioners insist that the aforequoted Resolution of 13 July 1988 is erroneous because it reverses the Manchester case (G. R. No. L-75919, May 7, 1987, 149 SCRA 562), holding that the complaint is not deemed filed until the prescribed docket fees are paid and that only then shall the Court acquire jurisdiction over the case.

There is no error nor any reversal.

The focal issue is: which rate of docket fees should be paid by the private respondent - the new rates which took effect on 1 October 1984 before the promulgation of the Decision of the Court of Appeals on 29 March 1985, or the rates in force on 2 August 1983 when the Complaint was filed?

We ruled that the old rates should apply. The Resolution of this Court, dated 19 July 1984, amending Rule 141 of the Rules of Court and prescribing new rates of docket fees, was expressly made to take effect on 1 October 1984 thereby making the same applicable to cases filed from that date onward. The general rule, therefore, that procedural statutes may be applied retrospectively finds no applicability to the present case. The Complaint was filed on 2 August 1983 while petitioners filed their Motion for payment of the correct filing fee on 23 April 1984, both pleadings way before the prescribed effectivity date.

Moreover, in the Manchester case, there was a deliberate attempt to evade the payment of the correct filing fees prompting the Court to condemn such "fraudulent practice." In this case, however, as observed by the Court of Appeals:

"x x x It is the sense of this Court - in the very least, there is no allegation, much less proof, to the contrary - that private respondent acted in good faith in originally paying a lesser amount of attorney's fee, laboring on the belief that the amount of attorney's fee that he was seeking to recover was based on quantum meruit, so that the filing fee would depend on the amount of the award in the final decision. x x x" (p. 3, Resolution, January 29, 1988)

Note should also be taken of the fact that the ruling in the Manchester case has been relaxed in *Sun Insurance Office Ltd. vs. Hon. Maximo C. Asuncion* (G. R. Nos. 79337-38, February 13, 1989) wherein it was held: "This Court reiterates the rule that the trial court acquires jurisdiction over a case only upon the payment of the prescribed fee. However, the court may allow the payment of the said fee within a reasonable time."

ACCORDINGLY, petitioners' Second Motion for Reconsideration is hereby DENIED with FINALITY. The entry of judgment made on 18 August 1988 stands. No further pleadings in this case will be entertained.

SO ORDERED.

Paras, Padilla, and Regalado, JJ., concur.
Sarmiento, J., on leave.

[1] Penned by Justice Santiago M. Kapunan and concurred in by Justice Milagros A. German, Jose A. R. Melo and Alfredo M. Lazaro.

[2] By Justice Santiago M. Kapunan, with Justices Bienvenido C. Ejercito, Nathanael P. de Pano, Jr., and Pedro A. Ramirez, concurring, and Justices A.R. Melo, dissenting.

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