

**JOSE V. DEL ROSARIO, PETITIONER, VS. HON. COURT OF APPEALS
AND DE DIOS MARIKINA TRANSPORTATION CO., INC.,
RESPONDENTS.**

G.R. No. 98149. September 26, 1994

Ponente: VITUG, J.

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VITUG, J.:

Petitioner suffered physical injuries, requiring two (2) major operations, when he fell from, and then dragged along the asphalted road by, a passenger bus operated by private respondent transportation company. The incident occurred when the bus driver bolted forward at high speed while petitioner was still clinging on the bus door's handle bar that caused the latter to lose his grip and balance. The refusal of private respondent to settle petitioner's claim for damages constrained petitioner to file, on 26 June 1985, a complaint for damages against private respondent.

After the reception of evidence, the trial court, on 11 December 1989, rendered its decision, the dispositive portion reading thusly:

"WHEREFORE, judgment is hereby rendered dismissing defendant De Dios Marikina Transportation Co., Inc.'s counterclaim for lack of merit and ordering said defendant to pay plaintiff Jose V. Del Rosario: (a) the sum of P76,944.41, as actual and compensatory damages; (b) the sum of P15,000.00, as moral and exemplary damages; and (c) the sum of P33,641.50, as attorney's fees, as well as to pay the costs of suit; and, as regards the third-party complaint herein, ordering third-party defendant First Quezon City Insurance Co., Inc. to indemnify third-party plaintiff De Dios Marikina Transportation Co., Inc. in the sum of P12,000.00, with interest thereon at the legal rate from date of filing of the third-party complaint on August 20, 1985, until full payment thereof. Further, there being no satisfactory warrant, therefor, the Court hereby dismisses the rest of the claims in the complaint and third-party complaint herein.

"IT IS SO ORDERED."

On appeal to it, the Court of Appeals affirmed in toto the findings of fact of the trial court, as well as the grant to petitioner of damages, but it reduced the award for attorney's fees from P33,641.50 to P5,000.00. Petitioner's motion for reconsideration questioning the reduction of attorney's fees was denied by the appellate court. Hence, this petition raising this sole issue.

We see merit in the petition.

There is no question that a court may, whenever it deems it just and equitable, allow the recovery by the prevailing party of attorneys fees.[1] In determining the reasonableness of such fees, this Court in a number of cases[2] has provided various criteria which, for convenient guidance, we might collate thusly:

- a) the quantity and character of the services rendered;
- b) the labor, time and trouble involved;

- c) the nature and importance of the litigation;
- d) the amount of money or the value of the property affected by the controversy;
- e) the novelty and difficulty of questions involved;
- f) the responsibility imposed on counsel;
- g) the skill and experience called for in the performance of the service;
- h) the professional character and social standing of the lawyer;
- i) the customary charges of the bar for similar services;
- j) the character of employment whether casual or for established client;
- k) whether the fee is absolute or contingent (it being the rule that an attorney may properly charge a higher fee when it is contingent than when it is absolute); and
- l) the results secured.

In this instance, the complaint for damages was instituted by petitioner in June 1985, following the refusal of private respondent to settle petitioner's claim, and the decision thereon was promulgated by the court a quo only in December 1989 or about four years and six months later. Several pleadings were filed and no less than twenty appearances were made by petitioner's counsel, not counting the various other pleadings ultimately filed with the Court of Appeals and now before this Court. Given the nature of the case, the amount of damages involved, and the evident effort exerted by petitioner's counsel, the trial court's award of attorney's fees for P33,641.50 would appear to us to be just and reasonable.

WHEREFORE, the instant petition is hereby GRANTED, and the decision of the Court of Appeals is MODIFIED by REINSTATING the trial court's award of attorney's fees.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

[1] Article 2208, Civil Code; Consolidated Plywood Industries, Inc. vs. CA, 214 SCRA 209; Alitalia vs. IAC, 192 SCRA 9; Tongoy vs. CA, 123 SCRA 99.

[2] Borcena vs. Intermediate Appellate Court, 147 SCRA 111; Occena vs. Marquez, 60 SCRA 38; Medenilla vs. Kayanan, 40 SCRA 154; Meralco Workers Union vs. Gaerlan, 32 SCRA 419; Mambulao Lumber Co. vs. Philippine National Bank, 22 SCRA 359; Francisco vs. Matias, 10 SCRA 89; Martinez vs. Banogon, 7 SCRA 913.

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