ATTY. VICTORIANO V. OROCIO, PETITIONER, VS. EDMUND P. ANGULUAN, LORNA T. DY AND NATIONAL POWER CORPORATION, RESPONDENTS.

G.R. Nos. 179892-93. January 30, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition[1] for Review on Certiorari under Rule 45 of the Rules of Court seeking to set aside the Resolution[2] dated 31 October 2006, Decision[3] dated 29 January 2007, and Resolution[4] dated 27 September 2007, of the Court of Appeals in CA-G.R. SP Nos. 95786 and 95946.

The facts culled from the records are as follows:

On 26 September 1978, the National Power Corporation Board of Directors (NAPOCOR Board), pursuant to its specific power and duty to fix the compensation, allowance and benefits of the NAPOCOR employees under Section 6(c) of Republic Act No. 6395, as amended, passed Resolution No. 78-119 approving the grant of a monthly welfare allowance equivalent to 10% of an employee's basic pay to all NAPOCOR employees effective 1 October 1978.[5] Pursuant thereto, the NAPOCOR Welfare Plan Committee, renamed and reconstituted later on as the NAPOCOR Welfare Fund Board of Trustees (NAPOCOR-WFBT), issued and promulgated a charter for the NAPOCOR Welfare Fund which includes the following provisions:

> ARTICLE VII
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> TERMINATION/AMENDMENT OF THE PLAN
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> "Section 1. Termination/Amendment of the Plan - The Board of Directors may amend, revise, repeal any or all of the provisions herein contained and/or terminate the Plan, subject to the pertinent provisions of the Trust Agreement.
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> Section 2. Payment of Member's share - In the event of termination of the Plan, the balance to the credit of each member and the General Reserve for Employee Benefits shall be paid to the members in full. The accumulated amount in the General Reserve for Employee Benefits shall be distributed among the members in the proportion to the amount outstanding to their credit as of the time of termination.[6]

The NAPOCOR Board subsequently passed Resolution No. 82-172 fixing a NAPOCOR employee's contribution to the NAPOCOR Welfare Fund in a sum equivalent to 5% of his basic pay.[7]

Almost two decades thereafter, on 8 June 2001, Congress passed Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act (EPIRA). EPIRA directed the restructuring of the power industry which includes the reorganization of NAPOCOR. Following the directive of EPIRA, the NAPOCOR Board passed Resolution No. 2003-43 on 26 March 2003 abolishing the NAPOCOR Welfare Fund Department and other departments, and dissolving the NAPOCOR Welfare Fund upon the effectivity of EPIRA on 26 June 2001.[8] Consequently, some of the employees in the NAPOCOR Welfare Fund Department and in other departments

(who were also members of the NAPOCOR Welfare Fund) resigned, retired or separated from service. Thereafter, the liquidation and dissolution process for the NAPOCOR Welfare Fund commenced.

On 11 May 2004, the NAPOCOR-WFBT, with authority from the Commission on Audit, approved Resolution No. 2004-001 authorizing the release of P184 million (which represented 40% of the liquid assets of NAPOCOR Welfare Fund in the total amount of P462 million as of 16 April 2004) for distribution to the NAPOCOR Welfare Fund members who resigned, retired, or separated upon the effectivity of EPIRA on 26 June 2001 (EPIRA separated members).[9]

Pursuant to Resolution No. 2004-001, herein respondent Edmund P. Anguluan (Anguluan), as Ex-Officio Chairman of NAPOCOR-WFBT, issued a memorandum on 17 May 2004 to implement the release of P184 million only to the EPIRA separated members to the exclusion of the NAPOCOR employees (who were also members of the NAPOCOR Welfare Fund) who have resigned, retired, or separated prior to the effectivity of EPIRA (non-EPIRA separated members).[10]

This prompted Mrs. Perla A. Segovia (Segovia), former Vice-President of Human Resources and Administration and former Ex-Officio Chairman of the NAPOCOR-WFBT, in behalf of the 559 non-EPIRA separated members and in her own personal capacity, to write a letter to Mr. Rogelio M. Murga, then NAPOCOR President, demanding their equal shares in the remaining assets of the NAPOCOR Welfare Fund and access to information and records thereof.[11]

On 13 July 2004, there being no action or response on her letter, Segovia, together with Mrs. Emma C. Baysic (Baysic), former President of the NAPOCOR Employees Association and former member of the NAPOCOR-WFBT, in their personal capacities and on behalf of the 559 non-EPIRA separated members, filed with the Quezon City Regional Trial Court (RTC), Branch 217, a Petition for Mandamus, Accounting and Liquidation with a Prayer for the Issuance of Temporary Restraining Order and Injunction against respondents NAPOCOR, the NAPOCOR Board, Anguluan (as NAPOCOR Vice-President, Human Resources, Administration and Finance Department) and Lorna T. Dy (as NAPOCOR Senior Department Manager on Finance).[12] The Petition was docketed as Civil Case No. Q04-53121.

Segovia, Baysic and the 559 non-EPIRA separated members were represented in Civil Case No. Q04-53121 by petitioner Atty. Victoriano V. Orocio under a "Legal Retainer Agreement"[13] dated 1 September 2004, pertinent portions of which are reproduced below:

> SUBJECT: Petition for Mandamus with Damages Temporary Restraining
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> Order/Injunction, etc. with the Court "NPC RETIREES versus NPC, NP Board of Directors, et. al. before the RTC Quezon City for the payment/settlement of their claims for NPC Welfare Fund (P462 Million assets and other assets liquid or non-liquid).
>
> Dear Ms. Segovia and Ms. Baysic:
>
> In connection with the above-stated subject, hereunder are our terms and conditions, to wit:
>
> - No acceptance fee;
>
> - All costs of litigation ([filing] and docket fees, etc.), miscellaneous and out-of-pocket expenses the prosecution of said action shall be for the account of the clients;
>
> - No appearance/meeting fee;
>
> - Contingency or success fees of fifteen percent (15%) of whatever amounts/value of assets (liquid and/or non-liquid) are recovered;

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- This Retainer Agreement serves as Legal Authority for the Law Firm to receive and/or collect its contingency/success fee without further demand.

On 22 February 2006, the parties in the above-mentioned case, duly assisted by their respective counsels, executed a Compromise Agreement[14] whereby they agreed to amicably settle their dispute under the following terms and conditions:

COMPROMISE AGREEMENT

x x x x

WHEREAS, the parties have agreed to settle the instant case amicably.

PREMISES CONSIDERED, the parties herein have agreed as follows:

1. Both the NPC EPIRA separated members (those members of the Welfare Fund affected by the EPIRA law and ceased to be members of the Welfare Fund anytime from June 26, 2001 [effectivity of the EPIRA LAW] to March 1, 2003 [implementation of the EPIRA law and date of abolition of the Welfare Fund]) and NPC non-EPIRA separated members (those who ceased to be members of the Fund prior to June 26, 2001) are entitled to "Earnings Differential" of the NPC Welfare Fund;

2. "Corrected Earnings Differential" refers to a benefit which is a result of re-computation of Member's Equity Contributions and Earnings using the correct rates of return vis-à-vis what was used when they were separated. Period covered by the discrepancy is from 1989 to 2003. Hence, affected are WF members separated anytime within the period 1989 to 2003;

x x x x

4. The Corrected Earnings Differential of all affected WF separated members shall earn 6% legal interest per annum computed from the separation of the members from service up to March 31, 2006 for all the non-EPIRA separated members and May 31, 2006 for the EPIRA separated members;

5. As of March 2006, the estimated Corrected Earnings Differential for the non-EPIRA separated members is P119.196 Million while for the EPIRA separated members is P173.589 Million or a total of P292.785 Million, inclusive of the 6% legal interest;

6. In conformity with the Retainer Agreement dated September 1, 2004 between Mrs. Perla A. Segovia, Mrs. Emma Y. Baysic and Atty. Victoriano V. Orocio; and Irrevocable Special Power of Attorney dated July 20, 2005 executed by Mrs. Perla A. Segovia and Mrs. Emma Y. Baysic in favor of Atty. Victoriano V. Orocio, counsel for petitioners, (copies attached as Annexes "A" and "B" respectively), 15% attorney's fees shall be deducted from the corresponding Corrected Earnings Differential of those non-EPIRA separated members who have already executed the corresponding Special Power of Attorney/Written Authority for the deduction/payment of said attorney's fees, and shall be paid to V.V. Orocio and Associates Law Office, represented by Atty. Victoriano V. Orocio, as compensation for his legal services as counsel for the non-EPIRA separated members subject to deduction of applicable taxes;

x x x x

15. The parties herein shall exert their best effort in order that the terms and conditions of this agreement are implemented and complied with in the spirit of fairness, transparency and equity;

16. This Agreement is not contrary to law, good customs, public order or public policy and is voluntarily entered into by the parties of their own free will.[15]

The parties filed with the RTC the very next day, 23 February 2006, a Joint Motion before the RTC for the

approval of their Compromise Agreement.[16] The RTC rendered a Decision on 3 April 2006 granting the parties' Joint Motion and approving the said Compromise Agreement.[17]

On 10 April 2006, petitioner filed with the RTC a Motion for Approval of Charging (Attorney's) Lien. Petitioner asked the RTC to issue an order declaring him entitled to collect an amount equivalent to 15% of the monies due the non-EPIRA separated members as his attorney's fees in conformity with the Compromise Agreement.[18] In an Order dated 15 May 2006, the RTC granted petitioner's motion and decreed that he is entitled to collect the amount so demanded.[19]

On 20 June 2006, petitioner filed with the RTC a Motion for the Issuance of a Writ of Execution of the RTC Order dated 15 May 2006.[20] Respondents opposed the motion on the ground that there was no stipulation in the Compromise Agreement to the effect that petitioner is entitled to collect an amount equivalent to 15% of the monies due the non-EPIRA separated members. Respondents contended that the amount of P119,196,000.00 due the non-EPIRA separated members under the compromise agreement was a mere estimate and, as such, cannot be validly used by petitioner as basis for his claim of 15% attorney's fees.[21]

The RTC issued an Order on 25 July 2006 granting petitioner's Motion[22] and, accordingly, a Writ of Execution of the RTC Order dated 15 May 2006 was issued on 26 July 2006. Pursuant to the said Writ of Execution, RTC Branch Sheriff Reynaldo B. Madoloria (Sheriff Madoloria) issued a Notice of Garnishment to Ms. Aurora Arenas (Arenas), Assistant Vice-President and Business Manager of the Philippine National Bank (PNB)-NAPOCOR Extension Office, Diliman, Quezon City, and to Mr. Emmanuel C. Mendoza (Mendoza), Unit Head of the Landbank of the Philippines-NAPOCOR Extension Office, Diliman, Quezon City.[23]

Respondents filed a Motion for Reconsideration of the RTC Order dated 25 July 2006.[24]

On 12 August 2006, Sheriff Madoloria served to Arenas an "Order for Delivery of Money."[25]

Respondents Anguluan and Dy filed before the Court of Appeals on 22 August 2006 a Petition for Certiorari under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 95786, assailing the RTC Order dated 25 July 2006 and praying that a temporary restraining order and/or a writ of preliminary injunction be issued enjoining the implementation of the said RTC order.[26] Respondent NAPOCOR filed with the Court of Appeals on the same date another Petition for Certiorari under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 95946, also challenging the RTC Order dated 25 July 2006 and praying that it be set aside and a temporary restraining order and/or a writ of preliminary injunction be issued prohibiting the RTC from enforcing the said order and the corresponding writ of execution and notice of garnishment.[27] Subsequently, respondent NAPOCOR filed a Motion to Consolidate CA-G.R. SP No. 95946 with CA-G.R. SP No. 95786 which was granted by the appellate court.[28]

On 31 October 2006, the Court of Appeals issued a Resolution granting respondents' application for a TRO and writ of preliminary injunction. It enjoined the RTC from implementing its Order dated 25 July 2006 and the corresponding writ of execution and notice of garnishment during the pendency of CA-G.R. SP No. 95946 and No. 95786. Petitioner filed a motion for reconsideration of the said resolution.[29]

On 29 January 2007, the Court of Appeals promulgated its Decision annulling and setting aside: (1) the RTC Order dated 25 July 2006; (2) the corresponding Writ of Execution dated 26 July 2006; (3) the Notice of Garnishment dated 28 July 2006; and (4) Order for Delivery of Money dated 10 August 2006. It also held that petitioner was entitled only to an amount of P1,000,000.00 as attorney's fees on the basis of quantum meruit.

The Court of Appeals held that the amount of P17,794,572.70 sought to be collected by petitioner as attorney's fees, equivalent to 15% of the P119,196,000.00 estimated corrected earnings differential for non-EPIRA separated

members, was excessive based on the following reasons: (1) the corrected earnings differential in the amount of P119,196,000.00 due the non-EPIRA separated members was a mere estimate and was hypothetical. Thus, petitioner was unjustified in using said amount as basis for his 15% attorney's fees; (2) there was hardly any work by petitioner since (a) the compromise agreement was reached without trial or hearing on the merits; (b) there was no issue regarding the release and distribution of the NAPOCOR Welfare Fund to the non-EPIRA separated members as the enactment of EPIRA, not the efforts of petitioner, made such distribution possible; (c) there was no issue on how much each non-EPIRA separated members would receive because the amount of their respective contribution was duly recorded by the respondents; (d) respondents have already distributed the corrected earnings differential to some non-EPIRA separated members, and have given petitioner his corresponding partial attorney's fees amounting to P3,512,007.32; (e) most of the non-EPIRA separated members have not yet received their share under the compromise agreement but petitioner, who was merely their agent, was already given partial payment as attorney's fees; (f) the amount of P17,794,572.70 represents "only less than one fourth partial release of the NAPOCOR Welfare Fund which means that the equivalent of three-fourths more would be demanded [by petitioner] in the future;" and (3) the money claim of the non-EPIRA separated members was settled through a compromise agreement and not won by petitioner in a trial on the merits.

The Court of Appeals determined that petitioner was entitled only to an amount of P1,000,000.00 as attorney's fees on the basis of quantum meruit. However, since petitioner already received P3,512,007.32 from respondents as partial payment of his supposed 15% attorney's fees, it ruled that such amount was more than sufficient and petitioner was not entitled to claim anymore the additional amount of P14,282,565.38. The fallo of the Decision of the Court of Appeals reads:

> WHEREFORE, premises considered, the assailed July 25, 2006 Order, the July 26, 2006 Writ of Execution, the July 28, 2006 Notice of Garnishment, and the August 10, 2006 Order of Delivery of Money are hereby ANNULLED and SET ASIDE, and a new one is ordered, CAPPING at P3,512,007.32, the amount manifested to have already been received from the welfare fund as attorneys fees, as the maximum amount that may be billed or collected as attorneys fees from the whole welfare fund - which amount is NOTED to have already exceeded what this court had fixed at P1,000,000.00 as the reasonable amount, on quantum meruit, that may be collected as attorneys' fees, pursuant to the guidelines codified in Rule 20.01, Canon 20 of the Code of Professional Responsibility.[30]

Petitioner filed a motion for reconsideration of the aforementioned Decision but this was denied by the Court of Appeals in its Resolution dated 27 September 2007.[31]

Hence, petitioner brought the instant petition before us assigning the following errors:

> I.
>
> THE COURT OF APPEALS ERRED IN RULING THAT RESPONDENTS EDMUND P. ANGULUAN, LORNA T. DY AND NATIONAL POWER CORPORATION (NPC) ARE ENTITLED TO [PRELIMINARY] INJUNCTION AS THEY HAVE MATERIAL AND SUBSTANTIAL RIGHTS, WHICH ARE CLEAR AND UNMISTAKABLE, i.e. RIGHTS OF BEING CLIENTS TO QUESTION THE REASONABLENESS OF THE ATTORNEY'S FEES OF A LAWYER. THIS ALLEGED RIGHT IS NON-EXISTENT AND IN FACT FABRICATED CONSIDERING THAT THE RESPONDENTS ARE NOT THE CLIENTS AT ALL OF PETITIONER, ATTY. VICTORIANO V. OROCIO;
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> II.
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> THE COURT OF APPEALS ERRED IN RULING THAT THE FIFTEEN PERCENT (15%) CONTINGENCY/SUCCESS FEE OF PETITIONER VICTORIANO V. OROCIO IS UNCONSCIONABLE AND UNREASONABLE DESPITE THE UNDISPUTED FACT THAT THE SAID ATTORNEY'S FEES IS

> AMONG THE TERMS AND CONDITIONS OF A JUDICIALLY APPROVED COMPROMISE AGREEMENT AND COURT ORDER APPROVING HIS CHARGING LIEN, WHICH AGREEMENT AND ORDER HAVE ALREADY BECOME FINAL AND EXECUTORY.[32]

In his first assigned error, petitioner assails the Resolution dated 31 October 2006 of the Court of Appeals granting respondents' application for a writ of preliminary injunction. He claims that the Court of Appeals issued a writ of preliminary injunction in favor of respondents because petitioner allegedly violated respondents' material and substantial right as petitioner's clients to pay only reasonable attorney's fees. Petitioner asserts that none of the respondents is his client in the present case; that even respondents themselves have not alleged or claimed that they are his clients; that the amount of attorney's fees he claimed was chargeable on a portion of the NAPOCOR Welfare Fund due his clients, the non-EPIRA separated employees; that if anyone would be injured by his claim of attorney's fees, it would be his clients, the non-EPIRA separated employees, and not respondents; that none of his clients has questioned or complained about the amount of attorney's fees he is claiming; that respondents are not the real parties-in-interest and at most are merely nominal parties-in-interest; that as mere nominal parties-in-interest, respondents are not entitled to a writ of preliminary injunction under the Rules of Court; and that the requisites for the proper issuance of a writ of preliminary injunction are lacking in the instant case.[33]

In its Resolution dated 31 October 2006, the Court of Appeals granted respondents' application for a writ of preliminary injunction based on the following reasons:

> This Court finds that [herein respondents] have prima facie established [their] compliance with strict requirements for issuance of a writ of preliminary injunction in this case. Under the leading case of Valencia vs. Court of Appeals, 352 SCRA 72 (2001), the requisites of preliminary injunction are as follows: (a) the invasion of the right of [herein respondents] is material and substantial; (b) the right of [herein respondents] is clear and unmistakable; and (c) there is an urgent and paramount necessity for the writ to prevent serious irreparable damage to [herein respondents].
>
> The right of [herein respondents] alleged to have been invaded is that a client has the right to pay only a reasonable amount of attorney's fees and only for services actually rendered - which is clearly and unmistakably available to all clients. What [herein respondents] are claiming is a material and substantial right. This Court finds that [herein respondents] have prima facie established an urgent and paramount necessity for the issuance of the writ of preliminary injunction prayed for, to avoid irreparable injury to [herein respondents]. x x x.

As can be gleaned from the foregoing, the basis of the Court of Appeals in granting the writ was petitioner's alleged violation or invasion of respondents' right, as petitioner's clients, to pay only a reasonable amount of attorney's fees to, and only for services actually rendered by, petitioner.

The Court of Appeals is clearly mistaken.

It should be made clear that petitioner is the counsel for the non-EPIRA separated members in the latter's quest to claim their shares in the NAPOCOR Welfare Fund. Petitioner was never hired or employed by respondents as their counsel in the cases at bar. Respondents themselves do not claim or allege that they are clients of petitioner. In fact, petitioner is representing the non-EPIRA separated members, the opposing party to the respondents in the present cases.

Further, the amount of attorney's fees being claimed by petitioner is chargeable to the P119,196,000.00 corrected earnings differential of his clients, the non-EPIRA separated members. Respondents have actually partially distributed such amount to some non-EPIRA separated members pursuant to the Compromise Agreement. In other words, the non-EPIRA separated members are the lawful owners/beneficiaries of the amount from which petitioner's attorney's fees had been and shall be taken.

Hence, if anyone would be injured by petitioner's claim for attorney's fees, it would be his clients, the non-EPIRA separated members, and not respondents. It appears, however, that none of the non-EPIRA separated members has questioned or complained about petitioner's claim for attorney's fees.

A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts.[34] A writ of preliminary injunction is a provisional remedy, an adjunct to a main suit, as well as a preservative remedy issued to preserve the status quo of the things subject of the action or the relations between the parties during the pendency of the suit.[35] For a writ of preliminary injunction to issue, the applicant is tasked to establish and convincingly show the following: (1) a right in esse or a clear and unmistakable right to be protected; (2) a violation of that right; and (3) there is an urgent and permanent act and urgent necessity for the writ to prevent serious damage.[36]

A clear legal right means one clearly founded on or granted by law or is enforceable as a matter of law.[37] The existence of a right violated is a prerequisite to the granting of a writ of preliminary injunction.[38] A writ of preliminary injunction will not issue to protect a right not in esse and which may never arise.[39] It may be issued only if the applicant has clearly shown an actual existing right that should be protected during the pendency of the principal action.[40] In the absence of a clear legal right, or when the applicant's right or title is doubtful or disputed, preliminary injunction is not proper.[41]

It is evident from the foregoing that respondents do not have a clear right or right in esse to pay only a reasonable amount of attorney's fees to the petitioner because such right belongs solely to petitioner's clients, the non-EPIRA separated members. There can be no violation of a right which does not exist in the first place. Also, there was no necessity for the writ of preliminary injunction since the non-EPIRA separated members do not claim any damage or injury caused by the execution of the RTC Order dated 15 May 2006. Even assuming that respondents would probably suffer damages as administrators or custodians of the NAPOCOR Welfare Fund if the writ of preliminary injunction was not granted, our ruling would still be the same. We have held that the possibility of irreparable damage without proof of an actual existing right is not a ground for the issuance of a writ of preliminary injunction.[42] Given these considerations, we hold that the issuance by the Court of Appeals of a writ of preliminary injunction in favor of respondents in its Resolution, dated 31 October 2006, was improper.

With regard to his second assigned error, petitioner maintained that his claim for attorney's fees equivalent to 15% of the P119,196,000.00 estimated corrected earnings differential due the non-EPIRA separated members was not unreasonable or unconscionable because such amount was expressly agreed upon in the Compromise Agreement between the non-EPIRA separated members and respondents. The Compromise Agreement was submitted to the RTC for approval through the joint motion of the non-EPIRA separated members and respondents, and the RTC had rendered a final and executory decision approving the same. By virtue of res judicata, the Court of Appeals cannot alter or change the terms of the Compromise Agreement by prohibiting petitioner from collecting his stipulated amount of attorney's fees.[43]

Petitioner also avers that the amount of P17,794,572.70, which is equivalent to 15% of the P119,196,000.00 estimated corrected earnings differential due the non-EPIRA separated members from the NAPOCOR Welfare Fund is already the total, not partial, amount he is claiming as attorney's fees; that the P119,196,000.00 estimated corrected earnings differential due the non-EPIRA separated members from the NAPOCOR Welfare Fund is not hypothetical, such amount having been actually computed and fixed by respondents themselves without the participation of petitioner and his clients, the non-EPIRA separated members; that he did a lot of legal work and utilized his legal skills on discovery procedures to force respondents to enter into the Compromise Agreement with the non-EPIRA separated members; that the passage of EPIRA merely paved the way for the distribution of

the remaining assets of the NAPOCOR Welfare Fund; that if not for his legal work and skills, the non-EPIRA separated members would not have received their lawful shares in the remaining assets of the NAPOCOR Welfare Fund; and that his claim for 15% attorney's fees is supported by jurisprudence.[44]

An attorney's fee, in its ordinary concept, refers to the reasonable compensation paid to a lawyer for the legal services he has rendered to a client.[45] The client and his lawyer may enter into a written contract whereby the latter would be paid attorney's fees only if the suit or litigation ends favorably to the client. This is called a contingency fee contract. The amount of attorney's fees in this contract may be on a percentage basis, and a much higher compensation is allowed in consideration of the risk that the lawyer may get nothing if the suit fails.[46] In the case at bar, the non-EPIRA separated members and petitioner voluntarily entered into a contingency fee contract whereby petitioner did not receive any acceptance fee or appearance/meeting fee. The non-EPIRA separated members expressly agreed to pay petitioner "contingency or success fees of fifteen percent (15%) of whatever amount/value of assets (liquid and/or non-liquid)" recovered; and authorized petitioner's law firm "to receive and/or collect its contingency/success fee without further demand."

Contingent fee contracts are permitted in this jurisdiction because they redound to the benefit of the poor client and the lawyer "especially in cases where the client has meritorious cause of action, but no means with which to pay for legal services unless he can, with the sanction of law, make a contract for a contingent fee to be paid out of the proceeds of litigation. Oftentimes, the contingent fee arrangement is the only means by which the poor clients can have their rights vindicated and upheld." Further, such contracts are sanctioned by Canon 13 of the Canons of Professional Ethics.[47]

However, in cases where contingent fees are sanctioned by law, the same should be reasonable under all the circumstances of the case, and should always be subject to the supervision of a court, as to its reasonableness, such that under Canon 20 of the Code of Professional Responsibility, a lawyer is tasked to charge only fair and reasonable fees.[48]

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 to be unreasonable or unconscionable. If the stipulated amount for attorney's fees is excessive, the contract may be disregarded even if the client expressed their conformity thereto.[49] Attorney's fees are unconscionable if they affront one's sense of justice, decency or reasonableness, or if they are so disproportionate to the value of the services rendered. In such a case, courts are empowered to reduce the attorney's fee or fix a reasonable amount thereof taking into consideration the surrounding circumstances and the established parameters.[50]

The principle of quantum meruit (as much as he deserves) may be a basis for determining the reasonable amount of attorney's fees. Quantum meruit is a device to prevent undue enrichment based on the equitable postulate that it is unjust for a person to retain benefit without paying for it. It is applicable even if there was a formal written contract for attorney's fees as long as the agreed fee was found by the court to be unconscionable. In fixing a reasonable compensation for the services rendered by a lawyer on the basis of quantum meruit, factors such as the time spent, and extent of services rendered; novelty and difficulty of the questions involved; importance of the subject matter; skill demanded; probability of losing other employment as a result of acceptance of the proferred case; customary charges for similar services; amount involved in the controversy and the benefits resulting to the client; certainty of compensation; character of employment; and professional standing of the lawyer, may be considered.[51]

It appears that the non-EPIRA separated members chose petitioner as their counsel because the latter, as former member of the NAPOCOR-WFBT for two terms or four years, is familiar and knowledgeable on the operation of

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the NAPOCOR Welfare Fund.[52] Yet, according to the contingency fee contract agreement between petitioner and the non-EPIRA separated members, petitioner received no acceptance fee and appearance/meeting fee when he took on the non-EPIRA separated members' case. Petitioner's attorney's fees were absolutely dependent on the success of non-EPIRA separated members' claim on the NAPOCOR Welfare Fund. Despite these circumstances, petitioner worked diligently in advocating the claims of the non-EPIRA separated members against respondents as shown by the following: (1) petitioner took pains in verifying the identity and claim of each of the 559 non-EPIRA separated members on the NAPOCOR Welfare Fund; (2) petitioner prepared and filed a well-researched and well-argued petition with the RTC for the claims of the non-EPIRA separated members;[53] (3) he prepared and presented several witnesses and numerous pertinent documents before the RTC in support of their application for the issuance of a temporary restraining order and/or writ of preliminary injunction against respondents' plan to exclude the non-EPIRA separated members from receiving their shares in the NAPOCOR Welfare Fund; (4) he participated, as non-EPIRA separated members' counsel, in the conduct of several hearings regarding the said application for the issuance of temporary restraining order and/or writ of preliminary injunction;[54] (5) he obtained a temporary restraining order and a writ of preliminary injunction from the RTC which enjoined/prohibited respondents from excluding the non-EPIRA separated members from their shares in the NAPOCOR Welfare Fund;[55] (6) he held numerous conferences with the non-EPIRA separated members wherein he apprised the latter of the status of their claims and his legal strategies pertinent thereto;[56] and (7) he exerted utmost efforts which eventually led to the execution of the Compromise Agreement between the non-EPIRA separated members and respondents.

By reason of petitioner's dedication and persistence as can be gleaned above, respondents finally agreed to settle amicably with the non-EPIRA separated members as regards the latter's claim for shares in the NAPOCOR Welfare Fund by virtue of the Compromise Agreement.

Undoubtedly, were it not for petitioner's vigilance and zeal, respondents would not have executed the Compromise Agreement with the non-EPIRA separated members. Hence, it is fair to conclude that petitioner was entitled to a reasonably high compensation.

However, petitioner's attorney's fees in the amount of P17,794,572.70 or equivalent to 15% of the P 119,196,000.00 corrected earnings differential of the non-EPIRA separated members should be equitably reduced.

In NPC Drivers and Mechanics Association (NPC DAMA) v. The National Power Corporation (NPC),[57] we awarded separation pay in lieu of reinstatement plus backwages to several NPC employees because they were illegally dismissed by the NPC. The NPC employees were represented by a certain Atty. Cornelio P. Aldon (Atty. Aldon) and Atty. Victoriano V. Orocio, (the petitioner in the instant cases) under a legal retainer agreement which provides: (1) no acceptance fee; (2) miscellaneous/out of pocket expenses in the amount of P25,000.00; and (3) twenty-five percent (25%) of whatever amounts/monies are recovered in favor of said NPC personnel contingent on the success of the case. Atty. Aldon and Atty. Orocio filed a Motion for Approval of Charging (Attorney's) Lien pursuant to the legal retainer agreement. Although we granted the said motion, we reduced the amount of attorney's fees which was chargeable on the monies recoverable by the NPC employees from 25% to 10% because:

> While we duly recognize the right of Atty. Aldon and Atty. Orocio to a charging lien on the amounts recoverable by petitioners pursuant to our 26 September 2006 Decision, nevertheless, we deem it proper to reduce the same. Under Section 24, Rule 138 of the Rules of Court, a written contract for services shall control the amount to be paid therefor unless found by the court to be unconscionable or unreasonable. The amounts which petitioners may recover as the logical and necessary consequence of our Decision of 26 September 2006, i.e., backwages and separation pay (in lieu of reinstatement), are essentially the same awards which we grant to illegally dismissed employees in the private sector. In such cases, our Labor Code explicitly limits

> attorney's fees to a maximum of 10% of the recovered amount. Considering by analogy the said limit on attorney's fees in this case of illegal dismissal of petitioners by respondent NPC, a government-owned and controlled corporation; plus the facts that petitioners have suffered deprivation of their means of livelihood for the last five years; and the fact that this case was originally filed before us, without any judicial or administrative proceedings below; as well as the fundamental ethical principle that the practice of law is a profession and not a commercial enterprise, we approve in favor of Atty. Aldon and Atty. Orocio a charging lien of 10% (instead of 25%) on the amounts recoverable by petitioners from NPC pursuant to our Decision dated 26 September 2006.

The abovementioned case may be reasonably applied by analogy in the instant case since they have substantially similar circumstances. In the case before us, although the non-EPIRA separated members were not illegally dismissed, they were, nevertheless, separated from work by reason of EPIRA. In addition, the non-EPIRA separated members had a legal retainer agreement/contingency fee contract with petitioner as their counsel.

It should also be emphasized that the practice of law is a profession not a moneymaking venture. A lawyer is not merely the defender of his client's cause and a trustee of his client's cause of action and assets; he is also, and first and foremost, an officer of the court and participates in the fundamental function of administering justice in society. It follows that a lawyer's compensation for professional services rendered is subject to the supervision of the court, not just to guarantee that the fees he charges and receives remain reasonable and commensurate with the services rendered, but also to maintain the dignity and integrity of the legal profession to which he belongs. Upon taking his attorney's oath as an officer of the court, a lawyer submits himself to the authority of the courts to regulate his right to charge professional fees.[58]

Thus, taking into account the foregoing circumstances and recognized principles, the 15% attorney's fees of petitioner should be reduced to 10%. As such, petitioner is entitled to collect only, as attorney's fees, an amount equivalent to 10% of the P119,196,000.00 or P11,919,600.00.

We note, however, that the compromise agreement was partially implemented in the first week of April 2006 with the payment of P23,416,000.00 to some non-EPIRA separated members.[59] Petitioner admitted having already received an amount of P3,512,007.32 as his attorney's fees on the said partial payment of P23,416,000.00.[60] Accordingly, the amount of P3,512,007.32 received by petitioner as attorney's fees should be deducted from the fixed 10% attorney's fees or the amount of P11,919,600.00. Per computation, petitioner is entitled to recover the amount of P8,407,592.68 as attorney's fees.

WHEREFORE, premises considered, the Resolution of the Court of Appeals dated 31 October 2006 in CA-G.R. SP Nos. 95786 and 95946 granting the issuance of a writ of preliminary injunction is hereby ANNULLED and SET ASIDE. The Decision and Resolution, dated 29 January 2007 and 27 September 2007, respectively, of the Court of Appeals in CA-G.R. SP Nos. 95786 and 95946 are hereby AFFIRMED with the MODIFICATION that petitioner is entitled to recover attorney's fees in the amount of P8,407,592.68 on the corrected earnings differential of the non-EPIRA separated members. No costs.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga[*], Leonardo-De Castro[**], and Peralta, JJ., concur.

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[*] Associate Justice Dante O. Tinga was designated to sit as additional member replacing Associate Justice Consuelo Ynares-Santiago per Raffle dated 21 January 2009.

[**] Associate Justice Teresita J. Leonardo-De Castro was designated to sit as additional member replacing

Associate Justice Antonio Eduardo B. Nachura per Raffle dated 28 January 2009.

[1] Petitioner impleaded Hon. Lydia Q. Layosa, in her capacity as Presiding Judge of the Regional Trial Court, Branch 271, Quezon City, and the Branch Sheriff of the said court as his co-petitioners in the instant petition. We excluded Judge Layosa and the Branch Sheriff as co-petitioners in this Decision pursuant to Section 4, Rule 45 of the Revised Rules of Court which, in part, provides: "SEC. 4. Contents of petition. - The petition shall x x x (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents x x x." Rollo, pp. 9-43.

[2] Penned by Associate Justice Vicente Q. Roxas with Associate Justices Josefina Guevara-Salonga and Apolinario D. Bruselas, Jr., concurring; rollo, pp. 308-309.

[3] Rollo, pp. 44-63.

[4] Id. at 81-82.

[5] Records, pp. 37-48.

[6] Id. at 42.

[7] Id. at 11.

[8] Rollo, p. 87.

[9] Id. at 88-89.

[10] Id. at 90-91.

[11] Id. at 92-93 & 95-97.

[12] Id. at 98-120.

[13] Id. at 121-122.

[14] Id. at 142-148.

[15] Rollo, pp. 142-147.

[16] Records, pp. 592-593.

[17] Rollo, pp. 149-155.

[18] Id. at 156-163.

[19] Id. at 164-167.

[20] Id. at 168-173.

[21] Id. at 174-180.

[22] Id. at 197-200.

[23] Id. at 201-206.

[24] Id. at 207-216.

[25] Id. at 227-228.

[26] Id. at 229-248.

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[27] Id. at 290-305.

[28] Id. at 306-307.

[29] Id. at 310-316.

[30] Rollo, p. 63.

[31] Id. at 64-82.

[32] Id. at 26.

[33] Id. at 27-31.

[34] Revised Rules of Court, Rule 58, Section 1.

[35] Yujuico v. Quiambao, G.R. No. 168639, 29 January 2007, 513 SCRA 243, 262.

[36] Samahan ng Masang Pilipino sa Makati, Inc. v. Bases Conversion Development Authority, G.R. No. 142255, 26 January 2007, 513 SCRA 88, 98.

[37] Tomawis v. Tabao-Caudang, G.R. No. 166547, 12 September 2007, 533 SCRA 68, 85.

[38] Rosauro v. Cuneta, 235 Phil. 575, 580 (1987).

[39] Marquez v. Presiding Judge (Hon. Ismael B. Sanchez), RTC Br. 58, Lucena City, G.R. No. 141849, 13 February 2007, 515 SCRA 577, 593.

[40] Duvaz Corporation v. Export and Industry Bank, G.R. No. 163011, 7 June 2007, 523 SCRA 405, 413.

[41] Ocampo v. Sison Vda. de Fernandez, G.R. No. 164529, 19 June 2007, 525 SCRA 79, 94-95.

[42] Id. at 95.

[43] Rollo, pp. 31-39.

[44] Id.

[45] Pineda, Legal and Judicial Ethics (1999 Ed.), p. 249.

[46] Rayos v. Hernandez, G.R. No. 169079, 12 February 2007, 515 SCRA 517, 528; Sesbreño v. Court of Appeals, 314 Phil. 884, 893 (1995); Taganas v. National Labor Relations Commission, G.R. No. 118746, 7 September 1995, 248 SCRA 133, 136; Licudan v. Court of Appeals, G.R. No. 91958, 24 January 1991, 193 SCRA 293, 299; Director of Lands v. Larrazabal and Ababa, 177 Phil. 467, 478 (1979).

[47] Id.

[48] Roxas v. De Zuzuarregui, Jr., G.R. No. 152072, 31 January 2006, 481 SCRA 258, 278-279.

[49] Sesbreño v. Court of Appeals, supra note 46; Roxas v. De Zuzuarregui, id. at 277; Licudan v. Court of Appeals, supra note 46.

[50] Id.

[51] Id.; Rayos v. Hernandez, supra note 46 at 531; Code of Professional Responsibility, Canon 20.

[52] Rollo, p. 36.

[53] Id. at 97-120.

[54] Id. at 342-385.

[55] Id.

[56] Id.

[57] G.R. No. 156208, 17 September 2008.

[58] Rayos v. Hernandez, supra note 46 at 527.

[59] Rollo, pp. 170-171.

[60] Id.

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