

## THIRD DIVISION

[ G.R. No. 191470, January 26, 2015 ]

**AUGUSTO M. AQUINO, PETITIONER, VS. HON. ISMAEL P. CASABAR, AS PRESIDING JUDGE REGIONAL TRIAL COURT-GUIMBA, NUEVA ECIJA, BRANCH 33 AND MA. ALA F. DOMINGO AND MARGARITA IRENE F. DOMINGO, SUBSTITUTING HEIRS OF THE DECEASED ANGEL T. DOMINGO, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before us is a special civil action for *certiorari*<sup>[1]</sup> under Rule 65 of the Rules of Court, dated March 17, 2010, filed by Atty. Augusto M. Aquino (*petitioner*) assailing the Order dated January 11, 2010 issued by respondent Presiding Judge Ismael P. Casabar (*public respondent*), in relation to Agrarian Case No. 1217-G,<sup>[2]</sup> for allegedly having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

The facts of the case, as culled from the records, are as follows:

On June 27, 2002, Atty. Angel T. Domingo (now deceased) verbally contracted petitioner to represent him in Agrarian Case No. 1217-G on a contingency fee basis. The case was for the determination of the just compensation for the expropriation and taking of Atty. Domingo's ricelands consisting of 60.5348 hectares, situated in Guimba, Nueva Ecija, by the Department of Agrarian Reform (*DAR*), pursuant to Presidential Decree (P.D.) 27. The DAR and the Land Bank of the Philippines (*Land Bank*) initially valued Atty. Domingo's property at P484,236.27 or P7,999.30 per hectare, which the latter, through petitioner-counsel, opposed in courts.

Eventually, the RTC, acting as Special Agrarian Court (*RTC/SAC*) issued a Decision dated April 12, 2004 fixing the just compensation for Atty. Domingo's property at P2,459,319.70 or P40,626.54 per hectare, or an increase of P1,975,083.43 over the initial DAR and the Land Bank valuation. Land Bank moved for reconsideration, but was denied, thus, it filed a petition for review docketed as CA-G.R. SP No. 85394. However, in a Decision dated June 12, 2007, the appellate court affirmed *in toto* the SAC Decision dated April 12, 2004. Land Bank moved for reconsideration anew, but was denied.

Meanwhile, on September 30, 2007, Atty. Domingo died. Petitioner filed a Manifestation dated December 11, 2007 of the fact of Atty. Domingo's death and the substitution of the latter by his legal heirs, Ma. Ala F. Domingo and Margarita Irene F. Domingo (*private respondents*).

Land Bank assailed the appellate court's decision and resolution before the Supreme Court via a petition for review on *certiorari* dated December 4, 2007 docketed as

G.R. No. 180108 entitled "*Land Bank of the Philippines vs. Angel T. Domingo*". However, in a Resolution dated September 17, 2008, the Court denied the same for failure to sufficiently show any reversible error in the appellate court's decision. On December 15, 2008, the Court denied with finality Land Bank's motion for reconsideration.

On February 11, 2009,<sup>[3]</sup> petitioner wrote private respondent Ma. Ala Domingo and informed her of the finality of the RTC/SAC decision as affirmed by the Court of Appeals and the Supreme Court. He then requested her to inform the Land Bank of the segregation of petitioner's thirty percent (30%) contingent attorney's fees out of the increase of the just compensation for the subject property, or thirty percent (30%) of the total increase amounting to Php1,975,983.43. Petitioner claimed never to have received a reply from private respondent.

On March 30, 2009, petitioner received a copy of the entry of judgment from this Court certifying that its Resolution dated September 17, 2008 in G.R. No. 180108 has already become final and executory on March 3, 2009.

On July 28, 2009, petitioner received a Notice of Appearance dated July 16, 2009 filed by Atty. Antonio G. Conde, entering his appearance as counsel of herein private respondents and replacing him as counsel in Agrarian Case No. 1217-G.

On August 14, 2009, private respondents, through their new counsel, Atty. Conde, filed a Motion for Execution dated August 6, 2009 of the RTC/SAC Decision dated April 12, 2004.

On August 12, 2009, petitioner filed a Motion for Approval of Charging Attorney's Lien and for the Order of Payment.<sup>[4]</sup> Petitioner further executed an Affidavit<sup>[5]</sup> dated August 10, 2009, attesting to the circumstances surrounding the legal services he has rendered for the deceased Atty. Domingo and the successful prosecution of the Agrarian case from the RTC/SAC through the appellate court and the Supreme Court.

On August 18, 2009, private respondents filed a Motion to Dismiss/Expunge Petitioner's Motion.<sup>[6]</sup> Public respondent Presiding Judge Casabar denied the same.<sup>[7]</sup> Private respondents moved for reconsideration.

On January 11, 2010, public respondent Judge Casabar issued the disputed Order denying petitioner's motion for approval of attorney's lien, the dispositive portion of which reads:

x x x x

Examining the basis of the instant motion for reconsideration, this court agrees with respondents – movants that this court has no jurisdiction over Atty. Aquino's motion for approval of charging (Attorney's) lien having been filed after the judgment has become final and executory. Accordingly, the motion for reconsideration is granted and the motion for approval of (Attorney's) lien is denied and or expunged from the records of the case.

SO ORDERED.

On the same day, January 11, 2010, public respondent issued an Order directing the issuance of a Writ of Execution of the RTC/SAC Decision dated April 12, 2004.

On January 12, 2010, the Clerk of Court of Branch 33, RTC of Guimba, Nueva Ecija, issued a Writ of Execution of the April 12, 2004. On January 15, 2010, the Sheriff of the RTC of Guimba, Nueva Ecija issued a Notice of Garnishment.

Thus, the instant petition for *certiorari* via Rule 65, raising the following issues:

I

WHETHER OR NOT A CHARGING (ATTORNEY'S) LIEN CAN EFFECTIVELY BE FILED ONLY BEFORE JUDGMENT IS RENDERED.

II

WHETHER OR NOT RESPONDENT PRESIDING JUDGE HAS THE JURISDICTION TO TAKE COGNIZANCE OVER PETITIONER'S MOTION FOR APPROVAL OF CHARGING (ATTORNEY'S) LIEN FILED AFTER THE JUDGMENT HAS BECOME FINAL AND EXECUTORY.

III

WHETHER OR NOT THE RESPONDENT PRESIDING JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN ISSUING THE CHALLENGED ORDER.<sup>[8]</sup>

Petitioner maintains that he filed the motion for charging attorney's lien and order of payment in the very same case, Agrarian Case No. 1217-G, as an incident thereof, wherein he was the counsel during the proceedings of the latter, and that he is allowed to wait until the finality of the case to file the said motion.

Private respondents, on the other hand, counter that the motion was belatedly filed and that it was filed without the payment of docket fees, thus, the court *a quo* did not acquire jurisdiction over the case.

***RULING***

In a nutshell, the issue is whether the trial court committed a reversible error in denying the motion to approve attorney's lien and order of payment on the ground that it lost jurisdiction over the case since judgment in the case has already become final and executory.

We rule in favor of the petitioner.

In the case of *Rosario, Jr. v. De Guzman*,<sup>[9]</sup> the Court clarified a similar issue and discussed the two concepts of attorney's fees – that is, ordinary and extraordinary.

In its ordinary sense, it is the reasonable compensation paid to a lawyer by his client for legal services rendered. In its extraordinary concept, it is awarded by the court to the successful litigant to be paid by the losing party as indemnity for damages.

[10] Although both concepts are similar in some respects, they differ from each other, as further explained below:

The attorney's fees which a court may, in proper cases, award to a winning litigant is, strictly speaking, an item of damages. It differs from that which a client pays his counsel for the latter's professional services. However, the two concepts have many things in common that a treatment of the subject is necessary. The award that the court may grant to a successful party by way of attorney's fee is an indemnity for damages sustained by him in prosecuting or defending, through counsel, his cause in court. It may be decreed in favor of the party, not his lawyer, in any of the instances authorized by law. On the other hand, the attorney's fee which a client pays his counsel refers to the compensation for the latter's services. The losing party against whom damages by way of attorney's fees may be assessed is not bound by, nor is his liability dependent upon, the fee arrangement of the prevailing party with his lawyer. The amount stipulated in such fee arrangement may, however, be taken into account by the court in fixing the amount of counsel fees as an element of damages.

The fee as an item of damages belongs to the party litigant and not to his lawyer. It forms part of his judgment recoveries against the losing party. The client and his lawyer may, however, agree that whatever attorney's fee as an element of damages the court may award shall pertain to the lawyer as his compensation or as part thereof. In such a case, the court upon proper motion may require the losing party to pay such fee directly to the lawyer of the prevailing party.

The two concepts of attorney's fees are similar in other respects. They both require, as a prerequisite to their grant, the intervention of or the rendition of professional services by a lawyer. As a client may not be held liable for counsel fees in favor of his lawyer who never rendered services, so too may a party be not held liable for attorney's fees as damages in favor of the winning party who enforced his rights without the assistance of counsel. Moreover, both fees are subject to judicial control and modification. And the rules governing the determination of their reasonable amount are applicable in one as in the other.[11]

Similarly, in the instant case, the attorney's fees being claimed by the petitioner is the compensation for professional services rendered, and not an indemnity for damages. Petitioner is claiming payment from private respondents for the successful outcome of the agrarian case which he represented. We see no valid reason why public respondent cannot pass upon a proper petition to determine attorney's fees considering that it is already familiar with the nature and the extent of petitioner's legal services. If we are to follow the rule against multiplicity of suits, then with more reason that petitioner's motion should not be dismissed as the same is in effect incidental to the main case.