

SECOND DIVISION

[G.R. No. 167415, February 26, 2010]

ATTY. MANGONTAWAR M. GUBAT, PETITIONER, VS. NATIONAL POWER CORPORATION, RESPONDENT.

DECISION

DEL CASTILLO, J.:

Truly, there is no doubt that the rights of others cannot be prejudiced by private agreements. However, before this Court can act and decide to protect the one apparently prejudiced, we should remember what Aesop taught in one of his fables: Every truth has two sides; it is well to look at both, before we commit ourselves to either.

A lawyer asserts his right to his contingent fees after his clients, allegedly behind his back, had entered into an out-of-court settlement with the National Power Corporation (NPC). The trial court granted his claim by way of summary judgment. However, this was reversed by the Court of Appeals (CA) because the counsel was allegedly enforcing a decision that was already vacated. In this petition, petitioner Atty. Mangontawar M. Gubat (Atty. Gubat) attempts to persuade us that the compensation due him is independent of the vacated decision, his entitlement thereto being based on another reason: the bad faith of his clients and of the respondent NPC.

Factual Antecedents

In August 1990, plaintiffs Ala Mambuay, Norma Maba, and Acur Macarampat separately filed civil suits for damages against the NPC before the Regional Trial Court of Lanao del Sur in Marawi City (RTC), respectively docketed as Civil Case Nos. 294-90, 295-90, and 296-90. In the said complaint, plaintiffs were represented by Atty. Linang Mandangan (Atty. Mandangan) and petitioner herein, whose services were engaged at an agreed attorney's fees of P30,000.00 for each case and P600.00 for every appearance. Petitioner was the one who signed the complaints on behalf of himself and Atty. Mandangan.^[1]

During the course of the proceedings, the three complaints were consolidated because the plaintiffs' causes of action are similar. They all arose from NPC's refusal to pay the amounts demanded by the plaintiffs for the cost of the improvements on their respective lands which were destroyed when the NPC constructed the Marawi-Malabang Transmission Line.

On the day of the initial hearing on the merits, NPC and its counsel failed to appear. Consequently, respondent was declared in default. Despite the plea of NPC for the lifting of the default order, the RTC of Marawi City, Branch 8, rendered its Decision^[2]

on April 24, 1991, the dispositive portion of which provides:

PREMISES CONSIDERED, judgment is hereby rendered in favor of the herein plaintiffs and against the defendant National Power Corporation as represented by its President Ernesto Aboitiz, P.M. Durias and Rodrigo P. Falcon, ordering the latter jointly and severally:

(1) In Civil Case No. 204-90 to pay plaintiff Ala Mambuay the sum of P103,000.00 representing the value of the improvements and the occupied portion of the land, P32,000.00 as attorney's fees, P20,000.00 as moral and/or exemplary damages, P50,000.00 as actual damages and the costs;

(2) In Civil Case No. 295-90 to pay plaintiff Norma Maba represented by Capt. Ali B. Hadji Ali the sum of P146,700.00 representing the value of the improvements and the occupied portion of the land, P32,000.00 as attorney's fees, P20,000.00 as moral and/or exemplary damages, P50,000.00 as actual damages and the costs;

(3) In Civil Case No. 296-90 to pay plaintiff Acur Macarampat the sum of P94,100.00 representing the value of the improvements and the occupied portion of the land, P32,000.00 as attorney's fees, P20,000.00 as moral and/or exemplary damages, P50,000.00 as actual damages and the costs.^[3]

NPC appealed to the CA which was docketed as CA-G.R. CV No. 33000. During the pendency of the appeal, Atty. Gubat filed an Entry and Notice of Charging Lien^[4] to impose his attorney's lien of P30,000.00 and appearance fees of P2,000.00 on each of the three civil cases he handled, totalling P96,000.00.

On August 19, 1992, NPC moved to dismiss its appeal^[5] alleging that the parties had arrived at a settlement. Attached to the motion were acknowledgment receipts^[6] dated April 2, 1992 signed by plaintiffs Acur Macarampat, Ala Mambuay, and Norma Maba, who received P90,060.00, P90,000.00, and P90,050.00 respectively, in full satisfaction of their claims against the NPC. The motion stated that copies were furnished to Atty. Mandangan and herein petitioner,

although it was only Atty. Mandangan's signature which appeared therein.^[7]

On January 24, 1996, the CA rendered its Decision^[8] disposing thus:

WHEREFORE, the Order of Default dated December 11, 1990; the Order denying the Motion for Reconsideration to Lift Order of Default dated January 25, 1991; and the Decision dated April 24, 1991, are hereby ANNULLED and SET ASIDE and the records of Civil Case Nos. 294-90, 295-90 and 296-90 are hereby ordered remanded to the court of origin for new trial.^[9]

After the cases were remanded to the RTC, petitioner filed a Motion for Partial Summary Judgment^[10] on his attorney's fees. He claimed that the plaintiffs and the NPC deliberately did not inform him about the execution of the compromise agreement, and that said parties connived with each other in entering into the compromise agreement in order to unjustly deprive him of his attorney's fees. Furthermore, he alleged:

x x x x

12. That, in view of such settlement, there are no more genuine issues between the parties in the above-entitled cases except as to the attorney's fees; As such, this Honorable Court may validly render a partial summary judgment on the claim for attorney's fees; and

13. That the undersigned counsel hereby MOVES for a partial summary judgment on his lawful attorney's fees based on the pleadings and documents on file with the records of this case.^[11]

x x x x

Petitioner thus prayed that a partial summary judgment be rendered on his attorney's fees and that NPC be ordered to pay him directly his lawful attorney's fees of P32,000.00 in each of the above cases, for a total of P96,000.00.

NPC opposed the motion for partial summary of judgment. It alleged that a client may compromise a suit without the intervention of the lawyer and that petitioner's claim for attorney's fees should be made against the plaintiffs. NPC likewise claimed that it settled the case in good faith and that plaintiffs were paid in full satisfaction of their claims which included attorney's fees.

On March 15, 2000, the trial court issued an Order^[12] granting petitioner's motion for summary judgment. It found that the parties to the compromise agreement connived to petitioner's prejudice which amounts to a violation of the provisions of the Civil Code on Human Relations.^[13] It ruled that:

x x x x

There is no dispute that the Compromise Agreement was executed during the pendency of these cases with the Honorable Court of Appeals. Despite the knowledge of the defendant that the services of the movant was on a contingent basis, defendant proceeded with the Compromise Agreement without the knowledge of Atty. Gubat. The actuation of the defendant is fraudulently designed to deprive the movant of his lawful attorney's fees which was earlier determined and awarded by the Court. Had defendant been in good faith in terminating these cases, Atty. Gubat could have been easily contacted.

x x x x^[14]

The dispositive portion of the Order reads:

WHEREFORE, premises considered, plaintiffs Ala Mambuay, Norma Maba and Acur Macarampat as well as defendant National Power Corporation are hereby ordered to pay jointly and solidarily Atty. Mangontawar M. Gubat the sum of P96,000.00.^[15]

NPC filed a Motion for Reconsideration^[16] but the motion was denied by the

trial court in its June 27, 2000 Order.^[17] Thus, NPC filed a Petition for *Certiorari*^[18] before the CA docketed as CA-G.R. SP No. 60722, imputing grave abuse of discretion on the court *a quo* for granting petitioner's Motion for Partial Summary Judgment. It prayed that the subject order be set aside insofar as NPC is concerned.

NPC maintained that it acted in good faith in the execution of the compromise settlement. It likewise averred that the lower court's award of attorney's fees amounting to P96,000.00 was clearly based on the award of attorney's fees in the April 24, 1991 Decision of the trial court which had already been reversed and set aside by the CA in CA-G.R. CV No. 33000. Moreover, NPC contended that petitioner cannot enforce his charging lien because it presupposes that he has secured a favorable money judgment for his clients. At any rate, since petitioner is obviously pursuing the compensation for the services he rendered to his clients, thus, recourse should only be against them, the payment being their personal obligation and not of respondent. NPC further alleged that even assuming that the subject attorney's fees are those that fall under Article 2208 of the Civil Code^[19] which is in the concept of indemnity for damages to be paid to the winning party in a litigation, such fees belong to the clients and not to the lawyer, and this form of damages has already been paid directly to the plaintiffs.

On the other hand, petitioner claimed that he was not informed of the compromise agreement or furnished a copy of NPC's Motion to Dismiss Appeal. He alleged that the same was received only by Atty. Mandangan who neither signed any of the pleadings nor appeared in any of the hearings before the RTC. Petitioner clarified that his motion for a partial summary judgment was neither a request for the revival of the vacated April 24, 1991 Decision nor an enforcement of the lien, but a grant of his contingent fees by the trial court as indemnity for damages resulting from the fraudulent act of NPC and of his clients who conspired to deprive him of the fees due him. He asserted that NPC cannot claim good faith because it knew of the existence of his charging lien when it entered into a compromise with the plaintiffs.

Petitioner also alleged that NPC's remedy should have been an ordinary appeal and not a petition for *certiorari* because the compromise agreement had settled the civil suits. Thus, when the trial court granted the motion for partial summary judgment on his fees, it was a final disposition of the entire case. He also argued that the issue of bad faith is factual which cannot be a subject of a *certiorari* petition. He also insisted that NPC's petition was defective for lack of a board resolution authorizing Special Attorney Comie Doromal (Atty. Doromal) of the Office of the Solicitor General (OSG) to sign on NPC's behalf.

On September 9, 2002, the CA rendered the herein assailed Decision^[20] ruling that:

The reasoning of Atty. Gubat is a 'crude palusot' (a sneaky fallacious reasoning) for how can one enforce a part of a decision which has been declared void and vacated. In legal contemplation, there is no more decision because, precisely, the case was remanded to the court a quo for further proceeding.

It was bad enough that Atty. Gubat tried to pull a fast [one] but it was [worse] that respondent Judge fell for it resulting in a plainly erroneous resolution.

Like his predecessor Judge Adiong, Judge Macarambon committed basic errors unquestionably rising to the level of grave abuse of discretion amounting to lack or excess of jurisdiction.

WHEREFORE, finding merit in the petition, the Court issues the writ of certiorari and strikes down as void the Order dated March 15, 2000 granting Atty. Mangontawar M. Gubat's Motion for Partial Summary Judgment as well as the Order dated June 27, 2000 denying petitioner National Power Corporation's Motion for Reconsideration.

SO ORDERED.^[21]

Petitioner filed a motion for reconsideration but the motion was denied by the CA in its January 19, 2005 Resolution,^[22] Hence, this petition.

Petitioner insists on the propriety of the trial court's order of summary judgment on his attorney's fees. At the same time, he imputes grave abuse of discretion amounting to lack or excess of jurisdiction on the CA for entertaining respondent's Petition for *Certiorari*. He maintains that the petition should have been dismissed outright for being the wrong mode of appeal.

Our Ruling

The petition lacks merit.

Petitioner's resort to Rule 65 is not proper.

At the outset, the petition should have been dismissed outright because petitioner resorted to the wrong mode of appeal by filing the instant petition for *certiorari* under Rule 65. Section 1 of the said Rule explicitly provides that a petition for *certiorari* is available only when there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. In this case, the remedy of appeal by way of a petition for review on *certiorari* under Rule 45 is not only available but also the proper mode of appeal. For all intents and purposes, we find that petitioner filed the instant petition for *certiorari* under Rule 65 as a substitute for a lost appeal. We note that petitioner received a copy of the January 19, 2005 Resolution of the CA denying his motion for reconsideration on January 28, 2005. Under Section 2 of Rule 45, petitioner has 15 days from notice of the said Resolution within which to file his petition for review on *certiorari*. As such, he should have filed his appeal on