

## SECOND DIVISION

[ G.R. NO. 131260, December 06, 2006 ]

**SANTOS VENTURA HOCORMA FOUNDATION, INC., PETITIONER,  
VS. RICHARD V. FUNK, RESPONDENT.**

### DECISION

**CORONA, J.:**

The duty of the court is not only to see that a lawyer acts in a proper and lawful manner but also to ensure that a lawyer is paid his just fees.<sup>[1]</sup>

This is a case involving the failure to pay the balance of attorney's fees. The records show that on July 27, 1983, respondent Atty. Richard Funk was engaged by Teodoro Santos as counsel in Civil Case No. 45679 entitled *Philbanking Corporation v. Santos Ventura Hocorma Foundation, Inc.*<sup>[2]</sup> The agreed attorney's fee was 25% of the market value of the properties involved.

Respondent was further retained by Santos to secure<sup>[3]</sup> several of the latter's properties. He transferred Santos' assets to petitioner Santos Ventura Hocorma Foundation, Inc. via a series of donations. The attorney's fee was 10% of the market value of the properties.

On August 13, 1983, Santos executed a special power of attorney (SPA) authorizing respondent to collect his attorney's fees from petitioner.<sup>[4]</sup> The SPA was confirmed by petitioner's Board of Trustees on December 13, 1983.

Petitioner, however, only made partial payments<sup>[5]</sup> and refused to fully settle with respondent. Hence, respondent filed in the Regional Trial Court of Makati, Branch 66, a claim for attorney's fees against petitioner and its officers. Petitioner and its officers moved for dismissal on the ground that the trial court had no jurisdiction over the case since it was an intra-corporate controversy between a non-stock corporation (petitioner) and one of its members (respondent).<sup>[6]</sup>

The trial court denied the motion to dismiss. The motion for reconsideration was also denied. Hence, on March 17, 1990, petitioner and its officers filed an answer.

Meanwhile, in a petition for certiorari under Rule 65 to the Court of Appeals (CA),<sup>[7]</sup> petitioner sought to set aside the denial of its motion to dismiss with prayer for a temporary restraining order and/or preliminary writ of injunction. The CA ordered respondent to comment on the petition<sup>[8]</sup> and the proceedings before the trial court were temporarily suspended.

On June 29, 1990, the CA dismissed the petition for lack of merit.<sup>[9]</sup> It reasoned that, since the action was filed by respondent as a lawyer collecting attorney's fees

based on a retainer agreement for services rendered,<sup>[10]</sup> the case was a collection suit cognizable by the regular courts. Petitioner did not file a motion for reconsideration or an appeal. On July 25, 1990, the CA decision in the petition for certiorari became final and executory.<sup>[11]</sup>

On February 14, 1994, the trial court<sup>[12]</sup> found petitioner liable to pay respondent his attorney's fees in the amount of P150,000 for Civil Case No. 45679 and P500,000 for his work in transferring Santos' assets to petitioner.<sup>[13]</sup>

On motion for reconsideration filed by respondent, the trial court increased respondent's attorney's fees for the transfer of the properties to P918,919.50. He was also declared co-owner of 10% of the properties<sup>[14]</sup> whose market values were not proven.<sup>[15]</sup>

On appeal, the CA affirmed the trial court's resolution<sup>[16]</sup> entitling respondent to 10% of the market value of the remaining properties but with the modification that there would be no right of co-ownership.<sup>[17]</sup>

Hence this recourse.

The petition is denied.<sup>[18]</sup>

Petitioner challenges the jurisdiction of the trial court over the claim for attorney's fees but this issue was already settled in the June 29, 1990 CA decision in CA-G.R. SP No. 20646 sustaining the trial court. The decision has attained finality and entry of judgment was made on November 26, 1990. Hence, this issue cannot be resurrected anymore.

The next two issues raised by petitioner (whether the SPA was approved by petitioner's Board of Trustees and the reasonableness of the attorney's fees) are questions of fact which we are not at liberty to review. In a petition for review, only questions of law may be raised. The Supreme Court is not the proper venue to consider factual issues as it is not a trier of facts.<sup>[19]</sup>

According to both the trial court and the CA, the minutes of the December 13, 1983 and March 5, 1984<sup>[20]</sup> board meetings<sup>[21]</sup> showed that: (1) the SPA executed by Teodoro Santos, when presented to petitioner's Board of Trustees on December 13, 1983, was unanimously confirmed, acknowledged and approved and (2) petitioner even undertook to implement the retainer agreements between respondent and Teodoro Santos.

The trial court and CA likewise found that the award of attorney's fees was based on the retainer agreements and the pieces of evidence which supported the claim. Since no hard and fast rule may be set in the determination of what a reasonable fee is, it must be established from the facts of each case. As the CA is the final adjudicator of facts, this Court is bound by the former's findings on the propriety of the amount of respondent's attorney's fees.<sup>[22]</sup>

**WHEREFORE**, the petition is hereby **DENIED**.