

FIRST DIVISION

[G.R. No. 140356, March 20, 2001]

**DOLORES FAJARDO, PETITIONER, VS. COURT OF APPEALS AND
REXIE EFREN A. BUGARING, RESPONDENTS.**

D E C I S I O N

PUNO, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals dated February 4, 1999 and its resolution dated September 30, 1999 in CA-G.R. SP No. 49866 entitled "Dolores S. Fajardo vs. Hon. Percival M. Lopez, RTC, Branch 78, Quezon City, and Rexie Efren A. Bugaring."

This case originated from a complaint filed by respondent Rexie Efren A. Bugaring before the Regional Trial Court of Quezon City against petitioner Dolores Fajardo for collection of attorney's fees. The complaint alleged that petitioner engaged the services of respondent to represent her in several civil and criminal cases pending before various courts. However, despite successful termination of some of these cases and subsequent demands made by respondent upon petitioner, the latter refused to pay respondent's fees. Respondent prayed that petitioner be ordered to pay his unpaid attorney's fees and other legal service fees, plus interest, moral damages, exemplary damages, and other litigation expenses and costs.^[1]

Respondent was allowed to present evidence *ex parte* after the trial court declared petitioner as in default for failure to appear during the pre-trial.

After the presentation of evidence, the trial court rendered a decision dated October 15, 1997 in favor of respondent. The dispositive portion stated:

"ACCORDINGLY, judgment is hereby rendered in favor of plaintiff, Efren Rexie Bugaring and against defendant Dolores Fajardo, ordering the latter to pay plaintiff in the amount of THREE MILLION FIVE HUNDRED THIRTY TWO THOUSAND ONE HUNDRED SEVENTY (P3,532,170.00) PESOS for plaintiff's attorney's fees covering Civil Case No. B-3472 and Civil Case No. B-3896 plus legal interest reckoned from the time of the filing of this instant case, as actual and compensatory damages; plus costs of suit.

SO ORDERED."^[2]

On December 10, 1997, respondent filed before the trial court a motion for correction of judgment.

On February 3, 1998, petitioner, alleging that she received a copy of the trial court's decision on January 19, 1998, filed a notice of appeal.

On the same day, the trial court denied the notice of appeal for being premature, considering that there was a pending motion for correction of the decision dated October 15, 1997.^[3]

On February 13, 1998, the trial court issued an order granting respondent's motion for correction. It revised the dispositive portion of the decision which now reads:

"WHEREFORE, judgment is hereby rendered in favor of plaintiff, Efren C. Bugaring and against defendant Dolores Fajardo, ordering the latter to pay plaintiff in the amount of THREE MILLION FIVE HUNDRED THIRTY TWO THOUSAND ONE HUNDRED SEVENTY (P3,532,170.00) PESOS, Philippine Currency, for plaintiff's unpaid attorney's fees covering the legal cases which he handled in favor of defendant, as actual and compensatory damages; plus costs of suit.

SO ORDERED."^[4]

Respondent subsequently filed a motion for issuance of a writ of execution which was granted by the trial court in its resolution dated September 28, 1998.^[5]

On December 11, 1998, petitioner filed before the Court of Appeals a petition for certiorari seeking the annulment of: (1) Order dated February 3, 1998, (2) Order dated February 13, 1998, and (3) Resolution dated September 28, 1998, all issued by the trial court. She contended that the trial court acted with grave abuse of discretion in holding that the notice of appeal was premature because of the pendency of respondent's motion for correction. She argued that said motion for correction was a mere scrap of paper because first, she was not furnished a copy thereof, and second, it contained no notice of hearing. She claimed that the filing of the notice of appeal perfected the appeal and consequently, the trial court no longer had jurisdiction over the case when it issued the order dated February 13, 1998 and resolution dated September 28, 1998.^[6]

The Court of Appeals dismissed the petition and affirmed the resolution of the trial court dated September 28, 1998 directing the issuance of a writ of execution. It held that the decision of the trial court became final and executory when petitioner failed to file a notice of appeal after she received a copy of the order amending its dispositive portion. The notice of appeal filed by petitioner on February 3, 1998 was not sufficient to elevate the case to the Court of Appeals as it was filed prematurely due to the pendency of the motion for correction filed by respondent. The Court of Appeals further ruled that even if the court considered the notice of appeal as an appeal from the original decision dated October 15, 1997, the same should still be dismissed for being late. Relying on the certification issued by Ms. Melina D. Oliva, Chief of Records Section, Philippine Postal Corporation, stating that a copy of the decision was received by petitioner on December 15, 1997, the Court of Appeals ruled that the notice of appeal submitted by petitioner on February 3, 1998 was filed out of time.^[7]

The Court of Appeals likewise denied petitioner's motion for reconsideration.^[8]

Petitioner filed the instant petition with the following assignment of errors: