

FIRST DIVISION

[G.R. No. 138882, May 12, 2000]

JOSE S. LIZARDO, SR., PETITIONER, VS. ATTY. CARMELITO A. MONTANO, RESPONDENT.

DECISION

PARDO, J.:

The case before the Court is an appeal from a decision of the Court of Appeals dismissing the petition instituted by petitioner for annulment of an order of execution requiring him to pay respondent attorney's fees of 25% on the property and/or to direct the Register of Deeds of Marikina to annotate the attorney's lien on the title, notwithstanding the obvious merit of the petition invoking the ground that the lower court had lost jurisdiction over the case as the judgment had become final and indeed, had been executed more than ten years prior to the order to pay attorney's fees and such order was a substantial variation of the final judgment.

On April 08, 1983, the Regional Trial Court, Kalookan City, Branch 125 in Civil Case No. C-9009, instituted by petitioner Jose S. Lizardo, Sr. against one Eddie H. Mirano, for collection of a sum of money, rendered decision in favor of petitioner, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered and pursuant to Sec. 1, Rule 19 of the Rules of Court, judgment is hereby rendered on the pleading and the defendant is ordered to pay the plaintiff as follows:

"(a) the sum of P19,893.95 as principal obligation plus 12% interest per annum from August 25, 1980 the date the obligation became due and demandable until fully paid;

"(b) the sum equivalent to 25% of the amount payable under paragraph (a) as attorney's fees; and

"(c) costs of suit." (Emphasis supplied)

No appeal from the judgment was interposed in the case, and in time, the decision became final and executory.

On October 24, 1985, the trial court issued a writ of execution of the judgment. In due course, the Deputy Sheriff of Kalookan City levied on a parcel of land, with an area of ten thousand square meters, registered in the names of spouses Edgardo H. Mirano and Adelina C. Ponce, situated in the municipality of Antipolo, province of Rizal, covered by Transfer Certificate of Title No. 357965. In the consequent execution sale at public auction of the property, the sheriff sold the land to petitioner Lizardo as the highest bidder. His bid was in the amount of P44,2392.47, the full amount of the judgment debt of Eddie H. Mirano.^[1]

On March 14, 1986, the trial court ordered the Register of Deeds of Marikina to consolidate the title to the property in petitioner's name, and on September 9, 1986, the Register of Deeds issued TCT No. 122925 in petitioner Lizardo's name.^[2]

On January 5, 1996, thirteen (13) years after the case had been decided, and more than ten years after the judgment was fully satisfied, respondent Atty. Carmelito A. Montano who was the lawyer for petitioner, filed with the trial court an omnibus motion for payment of his attorney's fees. Without hearing petitioner, on January 29, 1996, the trial court, at this time presided over by Judge Geronimo S. Mangay issued an order directing petitioner to pay respondent attorney "the agreed attorney's fees of 25% on the property and/or direct the Register of Deeds of Marikina to annotate the attorney's lien of 25% on TCT No. 122925 if plaintiff (herein petitioner) fails to pay the equivalent value to which Atty. Carmelito A. Montano is entitled to."^[3]

On July 30, 1997, petitioner elevated the case to the Court of Appeals, filing an action to nullify the lower court's order directing petitioner to pay attorney's fees of respondent.^[4]

On October 20, 1998, the Court of Appeals promulgated its decision dismissing the petition.^[5]

Hence, this appeal via petition for review on certiorari.^[6]

The basic issue raised is whether the Court of Appeals erred, as a matter of law, in ruling that the trial court still had jurisdiction over the case in 1996, when the respondent judge ordered petitioner to pay attorney's fees to respondent which was even at variance with the terms of the final judgment.

We resolve the issue in favor of petitioner. The lower court no longer had jurisdiction over the case when it issued its order of January 29, 1996.

Rewinding the facts, we note that:

On April 08, 1983, the trial court rendered decision on, the decretal portion of which is quoted earlier in this decision.

There was no appeal interposed by the parties. The decision became final and executory in 1983. In fact, it was executed and fully satisfied in 1985.

On January 5, 1996 respondent Montano who was counsel for petitioner in the case below filed with the trial court an omnibus motion for payment of his attorney's fees. Without hearing, on January 29, 1996, the trial court, presided over by respondent Judge Mangay issued an order directing petitioner Lizardo to pay respondent Atty. Carmelito A. Montano "the agreed attorney's fees of 25% on the property and/or direct the Register of Deeds of Marikina Branch to annotate the attorney's lien of 25% on TCT No. 122925 if plaintiff fails to pay the equivalent value to which Atty. Carmelito A. Montano is entitled to."