

SYLLABI/SYNOPSIS

THIRD DIVISION

[G.R. No. 117422. May 12, 1999]

NEOMENIA PETILLA PIMENTEL, *petitioner*, vs. COURT OF APPEALS and ZOSIMO B. NAMIT, *respondents*.

D E C I S I O N

GONZAGA-REYES, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the decision dated April 29, 1994 of respondent Court of Appeals in CA-G.R. CV. No. 33618 and its resolution dated September 28, 1994 denying petitioner Neomenia Petilla-Pimentels motion for reconsideration of said decision.

The antecedent facts of the case are as follows:

Sometime in December 1976, petitioner through her lawyer, Atty. Pedro O. Laurel, filed an application for the payment of benefits with the US Department of Labor, Honolulu, Hawaii, USA in connection with the death of her husband, Pedro Petilla, Jr., who was a former employee in Wake Island, USA under the employ of Facilities Management Corporation, USA. After the filing of the said application for payment and during its pendency, Atty. Laurel died and for failure of petitioner to respond to a pre-hearing statement requested by the US Department of Labor, the case was considered closed. Sometime in 1985, petitioner requested private respondent Zosimo Namit, husband of her first cousin, to help her in reviving and pursuing her claim for death benefits before the US Department of Labor. Private respondent Namit accepted petitioners request and initially wrote a letter addressed to the US Department of Labor regarding petitioners application for death benefits, and as a result, the case was reopened. Private respondent was required to submit a pre-hearing statement together with a special power of attorney from petitioner authorizing him (private respondent Namit) to appear in behalf of petitioner; private respondent submitted the requirements to the Labor Department. The Continental Insurance company manifested its objection to the reopening of the claim and filed its Answer. After the issues were joined, a hearing on the claim was conducted at the US Embassy in Manila and the deposition of a certain Dr. Consolacion Altez-Montes was submitted to the Labor Department. The US Department of Labor rendered a decision granting petitioner benefits in the amount of US\$53,347.80. Thereafter, petitioner received the lump sum award as embodied in the decision and the subsequent monthly benefits in checks. Petitioner then paid private respondent the sum of US\$2,500.00 as attorneys fees for the services he had rendered. Dissatisfied, private respondent demanded payment of the alleged balance of his attorneys fees but petitioner did not heed respondents demands.

On November 16, 1988, private respondent filed with the Regional Trial Court of Pasay City a complaint for sum of money against petitioner to recover from the latter the alleged balance of his attorneys fees alleging among others that petitioner approached him and pleaded for his

assistance in reviving her husbands application for payment with the US Department of Labor; that private respondent acceded to petitioners request to handle the claim at an agreed attorneys fees of 25% of the amount that may be recovered, thus adopting the arrangement for attorneys fees which petitioner had with her former counsel; that after a favorable decision on petitioners claim, he was paid the amount of US\$2,500 only hence he demanded payment of the balance of US\$10,836.95 but petitioner refused to pay. Petitioner filed her answer alleging that there was no agreement between her and private respondent as to attorneys fees nor was there any agreement with her former counsel as to the latters attorneys fees; that the amount of US\$2,500 which she paid private respondent was more than commensurate to the nature and extent of private respondents services since the re-opening of a closed file of her claim with the Department was not a difficult proceeding. By way of counterclaim, petitioner alleged that she failed to receive her monthly death benefits in checks when private respondent instructed the insurance company to mail these checks to his own address and since private respondent refused to return these checks amounting to US\$680, they all became stale; that she was hospitalized by reason of private respondents unfounded demand for attorneys fees and suffered great embarrassment among her relatives.

After trial, the Regional Trial Court rendered its decision on February 26, 1991, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered awarding an additional amount of US\$2,500.00 in favor of plaintiff as his attorneys fees in the labor case plus ₱10,000.00 attorneys fees for his counsel, for this case, without pronouncement as to costs. The counterclaim of the defendant is dismissed for lack of legal and factual basis.i[1]

An appeal was interposed before the respondent Court of Appeals which affirmed the decision appealed from.ii[2]

Motion for reconsideration of the decision having been denied,iii[3] the instant petition was filed submitting that the Court *a quo* committed reversible errors of law and acted with grave abuse of discretion:

I. IN HOLDING HEREIN PETITIONER LIABLE FOR ADDITIONAL ATTORNEYS FEES IN THE HUGE AND UNREASONABLE AMOUNT OF US\$2,500 ON THE BASIS OF UNSUBSTANTIATED CONCLUSIONS IN UTTER DISREGARD OF THE GUIDING PRINCIPLES ENUNCIATED BY THE HONORABLE SUPREME COURT IN DETERMINING THE REASONABLENESS OF ATTORNEYS FEES.

II. IN AFFIRMING THE AWARD OF P10,000 TO PRIVATE RESPONDENT AS ATTORNEYS FEES FOR HIS COUNSEL, DESPITE THE ABSENCE OF EXPRESS FINDINGS OF FACT AND LAW IN THE TEXT OF THE DECISION OF THE TRIAL COURT, AND THE FACT THAT SAID AWARD IS STATED ONLY IN THE DISPOSITIVE PORTION OF THE TRIAL COURTS DECISION.

III. IN REJECTING PETITIONERS COUNTERCLAIMS, WITHOUT PASSING UPON THE MERITS OF THE BASIS THEREOF, NAMELY, AMONG OTHERS, THE PROVEN

UNETHICAL AND UNPROFESSIONAL CONDUCT OF THE PRIVATE RESPONDENT
(AS LAWYER) TOWARD HIS CLIENT, THE HEREIN PETITIONER.

We find no merit in the first assigned error.

Petitioner contends that absent any agreement on attorneys fees, the determination of the compensation for the lawyers services will have to be based on *quantum meruit*, such as but not limited to the extent and character of the services rendered, the labor, time and trouble involved, the skill and experience called for in performing the services, the professional and social standing of the lawyer, and the results secured (citing cases). Petitioner further contends that private respondent failed to demonstrate the circumstances showing the extent of services rendered and that there were no specific findings of fact in the courts decision that would justify the award of an additional US\$2,500.00 as attorney fees to private respondent.

The issue of the reasonableness of attorneys fees based on *quantum meruit* is a question of fact, and well-settled is the rule that conclusions and findings of fact by the lower courts are entitled to great weight on appeal and will not be disturbed except for strong and cogent reasons. The findings of the Court of Appeals by itself, which are supported by substantial evidence are almost beyond the power of review by the Supreme Court.^{iv[4]} We find no cogent reason to disturb the factual findings of the respondent court as follows:

If it were really true as appellant alleged, that it was not difficult to reopen the closed file of her claim as the same did not involve a legal matter, why is it that she did not handle her claim single-handedly? Why did she took (sic) pains in requesting legal assistance from appellee?

In her testimony before the trial court, appellant testified that her former lawyer, Atty. Pedro Laurel died after the filing of her application for payment. Hence, during the pendency thereof, Atty. Laurel should therefore be credited the commencement of appellants claim. Appellant likewise testified that after the death of Atty. Laurel, the case was considered closed obviously for the reason that no earnest efforts were exerted in relation thereto. It was at this crucial stage that appellees services were utilized to its successful completion in the revival of reopening of appellants claim. Needless to say, appellees handling of appellants claim demanded close and constant communication and dealings with foreign agencies like the U. S. Department of Labor and Continental Insurance. Even granting that appellee handled only a single hearing for appellants case and that was when Dra. Altes-Montes deposition was taken, the same was very material as it established the validity of appellants claim. The degree and extent of service rendered by an attorney for a client is best measured in terms other than mere number of sheets of paper. A lawyer is entitled to have and receive the just and reasonable compensation for services rendered.^{v[5]}

The respondent courts ratiocination in affirming the reasonableness of the additional compensation of US\$2,500.00 awarded by the trial court properly took into account the character and extent of the services rendered, the results secured which amounted to an award of \$53,347.80, and the critical nature of counsels intervention to pursue the claims after the death of the former counsel, in justifying the award. Petitioners attempt to belittle the value of said services at this time does not appeal to our sense of reason and fairness. Also the fact that no

evidence was presented concerning private respondents professional standing does not necessarily rule out a claim for attorneys fees. The absence of evidence on this point will only result in such factor not being considered to enhance or diminish private respondents claims.

With respect to petitioners contention that the respondent court erred in affirming the trial courts decision awarding P10,000.00 attorneys fees to private respondent, we rule in favor of petitioner. The text of the trial courts decision does not mention the reason for the award of attorneys fees and the award was simply contained in the dispositive portion of the trial courts decision. It is now settled that the reasons or grounds for an award must be set forth in the decision of the court. As held in a long line of cases and recently in the case of Scott Consultants and Resource Development Corporation Inc. vs. CA :

It is settled that the award of attorneys fees is the exception rather than the rule and counsels fees are not to be awarded everytime a party wins a suit. The power of the court to award attorneys fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification; its basis cannot be left to speculation or conjecture. Where granted, the court must explicitly state in the body of the decision, and not only in the dispositive portion thereof, the legal reason for the award of attorneys fees.^{vi[6]}

Since the trial courts decision failed to state the justification for the award of attorneys fees, it was a reversible error to affirm the same.

With respect to the third issue raised in this petition, petitioner contends that she was able to substantiate her counterclaim for damages arising from private respondents wrongful acts consisting of the diversion of petitioners checks to private respondents address, and opening the mails consisting said checks (four checks amounting to a total of US\$ 680.00) and refusing to turn them over to petitioner; as a consequence the said checks became stale and private respondent should be held liable in actual damages. In addition, private respondent had been spreading gossips in the community that petitioner is balasubas and that he would cause petitioner and her children to lose the benefits they are receiving from the insurance company. These actuations allegedly caused petitioner to be hospitalized and to incur therefore expenses of approximately P15,000.00. Petitioner thus seeks payment of moral and exemplary damages, as well as attorneys fees.

We find no error in the rejection of petitioners counterclaims. In civil cases, the party having the burden of proof must establish his case by preponderance of evidence.^{vii[7]} He who alleges a fact has the burden of proving it and a mere allegation is not evidence.^{viii[8]} Respondent court ruled that while defendant (appellant therein) was able to present receipts attesting to the fact of her hospitalization, she was unable to establish a causal connection between her hospitalization and the mental anguish she allegedly suffered from the adverse partys actuations. The receipts were dated January and February 1989^{ix[9]} but nowhere can it be deduced therein that the cause of petitioners hospitalization was in anyway related to private respondents alleged actuations; in fact the nature of the ailment is not disclosed. The mere fact that a complaint was filed against petitioner in November 1988 does not necessarily give rise to a cause of action for damages arising from the filing of the complaint.^{x[10]} As regards the alleged diversion of the four checks, it is clear that private respondent received them in his capacity as counsel of petitioner and that

private respondent never pretended to claim them as his own. In fact private respondent filed a Manifestation and Motion in court on March 7, 1989 to be allowed to surrender the checks in his possession for disposition by the court in accordance with the fee arrangement between him and petitioner.^{xi[11]} Although the said Manifestation and Motion was opposed by petitioner and eventually denied by the court, we are convinced that private respondent did not cause the diversion of said checks to his benefit.

WHEREFORE, premises considered, the petition is hereby DENIED, and the decision of respondent Court of Appeals is hereby AFFIRMED, insofar as it upheld the trial courts ad of an additional US\$2,500.00 and dismissed the counterclaim, but is MODIFIED in that the attorneys fees awarded in favor of private respondent in the sum of ₱ 10,000.00 is hereby DELETED.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and Purisima., JJ., concur.

^{i[1]} *Rollo*, p. 55.

^{ii[2]} Penned by Justice Justo P. Torres, Jr. (retired Supreme Court Associate Justice) and concurred in by Justice Vicente V. Mendoza and Justice Bernardo P. Pardo, (now both Associate Justices of the Supreme Court), *Rollo*, p. 38.

^{iii[3]} *Rollo*, p. 41.

^{iv[4]} *Atlantic Gulf and Pacific Company of Manila, Inc. vs. CA*, 247 SCRA 606.

^{v[5]} *Rollo*, pp. 36-37.

^{vi[6]} 242 SCRA 393.

^{vii[7]} *New Testament Church of God vs. CA*, 246 SCRA 266.

^{viii[8]} *P.T. Cerna Corporation vs. CA*, 221 SCRA 19.

^{ix[9]} Exhibits 8 to 8-C.

^{x[10]} *Saba vs. CA*, 189 SCRA 50; *PNB vs. CA*, 159 SCRA 433.

^{xi[11]} pp 30-31, Records.