



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**PHILIPPINE
CONSTRUCTION
CORPORATION**

NATIONAL

G. R. No. 190957

Petitioner,

Present:

- versus -

SERENO, *CJ*,
Chairperson,
VELASCO, JR.,*
LEONARDO-DE CASTRO,
BERSAMIN, and
REYES, *JJ*.

**APAC MARKETING
CORPORATION, represented by
CESAR M. ONG, JR.,**
Respondents.

Promulgated:

JUN 05 2013

X ----- X

DECISION

SERENO, *CJ*:

In this Petition for Review on Certiorari under Rule 45 of the Revised Rules on Civil Procedures, the primordial issue to be resolved is whether the Court of Appeals (CA)¹ correctly affirmed the court *a quo*² in holding petitioner liable to respondent for attorney's fees.

* Designated additional member per raffle dated 22 March 2010 in lieu of Associate Justice Martin S. Villarama.

¹ CA (Special Fourth Division) Decision dated 09 July 2009 penned by Associate Justice Fernanda Lampas Peralta and concurred in by then former CA (now Supreme Court) Associate Justice Martin S. Villarama, Jr. and Associate Justice Andres B. Reyes, Jr.

² The present Petition had its origins in the Regional Trial Court (RTC) of Quezon City, Branch 96, in Civil Case No. Q-99-38492, with APAC Marketing Corporation (herein respondent) as the plaintiff and Philippine National Construction Corporation (PNCC), Rogelio Espiritu and Rolando Macasaet, as respondents. PNCC is the petitioner in this case.

The Antecedent Facts

Considering that there are no factual issues involved, as the Court of Appeals (CA) adopted the findings of fact of the Regional Trial Court (RTC) of Quezon City, Branch 96, we hereby adopt the CA's findings, as follows:

The present case involves a simple purchase transaction between defendant-appellant Philippine National Construction Corporation (PNCC), represented by defendants-appellants Rogelio Espiritu and Rolando Macasaet, and plaintiff-appellee APAC, represented by Cesar M. Ong, Jr., involving crushed basalt rock delivered by plaintiff-appellee to defendant-appellant PNCC.

On August 17, 1999, plaintiff-appellee filed with the trial court a complaint against defendants-appellees for collection of sum of money with damages, alleging that (i) in March 1998, defendants-appellants engaged the services of plaintiff-appellee by buying aggregates materials from plaintiff-appellee, for which the latter had delivered and supplied good quality crushed basalt rock; (ii) the parties had initially agreed on the terms of payment, whereby defendants-appellants would issue the check corresponding to the value of the materials to be delivered, or "Check Before Delivery," but prior to the implementation of the said payment agreement, defendants-appellants requested from plaintiff-appellee a 30-day term from the delivery date within which to pay, which plaintiff-appellee accepted; and (iii) after making deliveries pursuant to the purchase orders and despite demands by plaintiff-appellee, defendants-appellants failed and refused to pay and settle their overdue accounts. The complaint prayed for payment of the amount of ₱782,296.80 "plus legal interest at the rate of not less than 6% monthly, to start in April, 1999 until the full obligation is completely settled and paid," among others.

On November 16, 1999, defendants-appellants filed a motion to dismiss, alleging that the complaint was premature considering that defendant-appellant PNCC had been faithfully paying its obligations to plaintiff-appellee, as can be seen from the substantial reduction of its overdue account as of August 1999.

In an Order dated January 17, 2000, the trial court denied the motion to dismiss. Thus, defendants-appellants filed their answer, alleging that the obligation of defendant-appellant PNCC was only with respect to the balance of the principal obligation that had not been fully paid which, based on the latest liquidation report, amounted to only ₱474,095.92.

After the submission of the respective pre-trial briefs of the parties, trial was held. However, only plaintiff-appellee presented its evidence. For their repeated failure to attend the hearings, defendants-appellants were deemed to have waived the presentation of their evidence.

On July 10, 2006, the trial court rendered a Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff, ordering defendants jointly and solidarily to pay:

1. ₱782,296.80 as actual damages;
2. ₱50,000.00 as attorney's fees, plus ₱3,000.00 per court appearance;
3. Cost of suit.

SO ORDERED.

Defendants-appellants filed a motion for reconsideration, alleging that during the pendency of the case, the principal obligation was fully paid and hence, the award by the trial court of actual damages in the amount of ₱782,269.80 was without factual and legal bases.

In an Order dated October 6, 2006, the trial court considered defendants-appellants' claim of full payment of the principal obligation, but still it ordered them to pay legal interest of twelve per cent (12%) per annum. Thus:

“WHEREFORE, the decision dated July 10, 2006 is hereby modified, by ordering defendants jointly and solidarily to pay plaintiff as follows, to wit:

1. ₱220,234.083
2. ₱50,000.00 as attorney's fees, plus ₱3,000.00 per court appearance;
3. Cost of Suit.

SO ORDERED.”

Defendants-appellants filed the present appeal which is premised on the following assignment of errors:

- I. THE REGIONAL TRIAL COURT GRAVELY ERRED IN AWARDING INTEREST AT THE RATE OF 12% PER ANNUM AMOUNTING TO ₱220,234.083 AND ATTORNEY'S FEES IN FAVOR OF PLAINTIFF-APPELLEE.
- II. THE REGIONAL TRIAL COURT GRAVELY ERRED IN HOLDING DEFENDANTS ROGELIO ESPIRITU AND ROLANDO MACASAET JOINTLY AND SOLIDARILY LIABLE WITH DEFENDANT PNCC.

THE RULING OF THE COURT OF APPEALS

On 9 July 2009, the Special Fourth Division of the CA promulgated a Decision³ in CA-G.R. CV No. 88827, affirming with modification the

³ Supra note 2.

assailed Decision of the court *a quo*. The dispositive portion of the CA Decision reads as follows:

WHEREFORE, the appealed Order dated October 6, 2006 is affirmed, subject to the modification that defendant-appellant PNCC is ordered to pay legal interest at six per cent (6%) per annum on the principal obligation, computed from January 8, 1999 until its full payment in January 2001. Defendants-appellants Rogelio Espiritu and Rolando Macasaet are absolved from liability. The Order dated October 6, 2006 is affirmed in all other respects.

On 29 July 2009, herein petitioner filed a Motion for Reconsideration, which raised the lone issue of the propriety of the award of attorney's fees in favor of respondent.⁴ It should be noted that in said motion, petitioner fully agreed with the CA Decision imposing 6% legal interest per annum on the principal obligation and absolving Rogelio Espiritu and Rolando Macasaet from any liability as members of the board of directors of PNCC.⁵ Thus, the main focus of the Motion for Reconsideration was on the CA's affirmation of the court *a quo*'s Decision awarding attorney's fees in favor of respondent. However, the appellate court's Former Special Fourth Division denied petitioner's Motion for Reconsideration in a Resolution dated 18 January 2010.⁶

THE SOLE ISSUE

Aggrieved, petitioner now assails before us the 9 July 2009 Decision of the CA by raising the sole issue of whether the CA gravely erred in awarding attorney's fees to respondent.

THE COURT'S RULING

The Petition is impressed with merit.

Article 2208 of the New Civil Code of the Philippines states the policy that should guide the courts when awarding attorney's fees to a litigant. As a general rule, the parties may stipulate the recovery of attorney's fees. In the absence on such stipulation, this article restrictively enumerates the instances when these fees may be recovered, to wit:

⁴ *Rollo*, p. 70.

⁵ *Id.*

⁶ *Id.* at 81. Resolution dated 18 January 2010 of the CA's Former Special Fourth Division, penned by Associate Justice Fernanda Lampas-Peralta and concurred in by Associate Justices Andres B. Reyes, Jr. and Mario L. Guarina, III.

Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

In *ABS-CBN Broadcasting Corp. v. CA*,⁷ this Court had the occasion to expound on the policy behind the grant of attorney's fees as actual or compensatory damages:

(T)he law is clear that in the absence of stipulation, attorney's fees may be recovered as actual or compensatory damages under any of the circumstances provided for in Article 2208 of the Civil Code.

The general rule is that attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. Even when a claimant

⁷ 361 Phil.499 (1999).

is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.

In *Benedicto v. Villaflores*,⁸ we explained the reason behind the need for the courts to arrive upon an actual finding to serve as basis for a grant of attorney's fees, considering the dual concept of these fees as ordinary and extraordinary:

It is settled that the award of attorney's fees is the exception rather than the general rule; counsel's fees are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate. Attorney's fees, as part of damages, are not necessarily equated to the amount paid by a litigant to a lawyer. In the ordinary sense, attorney's fees represent the reasonable compensation paid to a lawyer by his client for the legal services he has rendered to the latter; while in its extraordinary concept, they may be awarded by the court as indemnity for damages to be paid by the losing party to the prevailing party. Attorney's fees as part of damages are awarded only in the instances specified in Article 2208 of the Civil Code. As such, it is necessary for the court to make findings of fact and law that would bring the case within the ambit of these enumerated instances to justify the grant of such award, and in all cases it must be reasonable.

We can glean from the above ruling that attorney's fees are not awarded as a matter of course every time a party wins. We do not put a premium on the right to litigate. On occasions that those fees are awarded, the basis for the grant must be clearly expressed in the decision of the court.

Petitioner contends that the RTC's Decision has no finding that would fall under any of the exceptions enumerated in Article 2208 of the new Civil Code. Further, it alleges that the court *a quo* has not given any factual, legal, or equitable justification for applying paragraph 11 of Article 2208 as basis the latter's exercise of discretion in holding petitioner liable for attorney's fees.⁹ We agree with petitioner on these points.

We have consistently held that an award of attorney's fees under Article 2208 demands factual, legal, and equitable justification to avoid speculation and conjecture surrounding the grant thereof.¹⁰ Due to the special nature of the award of attorney's fees, a rigid standard is imposed on the courts before these fees could be granted. Hence, it is imperative that they clearly and distinctly set forth in their decisions the basis for the award thereof. It is not enough that they merely state the amount of the grant in the

⁸ G.R. No. 185020, 06 October 2010, 632 SCRA 446.

⁹ *Rollo*, p. 19.

¹⁰ *Delos Santos v. Papa*, G.R. No. 154427, 08 May 2009, 587 SCRA 385.

dispositive portion of their decisions.¹¹ It bears reiteration that the award of attorney's fees is an exception rather than the general rule; thus, there must be compelling legal reason to bring the case within the exceptions provided under Article 2208 of the Civil Code to justify the award.¹²

We have perused the assailed CA's Decision, but cannot find any factual, legal, or equitable justification for the award of attorney's fees in favor of respondent. The appellate court simply quoted the portion of the RTC Decision that granted the award as basis for the affirmation thereof. There was no elaboration on the basis. There is therefore an absence of an independent CA finding of the factual circumstances and legal or equitable basis to justify the grant of attorney's fees. The CA merely adopted the RTC's rationale for the award, which in this case we find to be sorely inadequate.

The RTC found as follows:

x x x since it is clear that plaintiff was compelled to hire the services of a counsel, to litigate and to protect his interest by reason of an unjustified act of the other party, plaintiff is entitled to recover attorney's fees in the amount of ₱50,000.00 which it paid as acceptance fee and ₱3,000.00 as appearance fee.¹³

The only discernible reason proffered by the trial court in granting the award was that respondent, as complainant in the civil case, was forced to litigate to protect the latter's interest. Thus, we find that there is an obvious lack of a compelling legal reason to consider the present case as one that falls within the exception provided under Article 2208 of the Civil Code. Absent such finding, we hold that the award of attorney's fees by the court *a quo*, as sustained by the appellate court, was improper and must be deleted.

WHEREFORE, the foregoing Petition is **GRANTED**. The assailed Decision dated 9 July 2009 of the Court of Appeals in CA-G.R. CV No. 88827 is **MODIFIED**, in that the award of attorney's fees in the amount of ₱50,000 as acceptance fee and ₱3,000 as appearance fee, in favor of respondent APAC Marketing Incorporated, is hereby **DELETED**.

No pronouncement as to costs.

¹¹ *Philippine National Bank v. Court of Appeals*, 443 Phil.351(2003) citing *Pimentel v. Court of Appeals*, 366 Phil. 494 (1999).

¹² *Espino v. Spouses Bulut*, G.R. No. 183811, 30 May 2011, 649 SCRA 453.

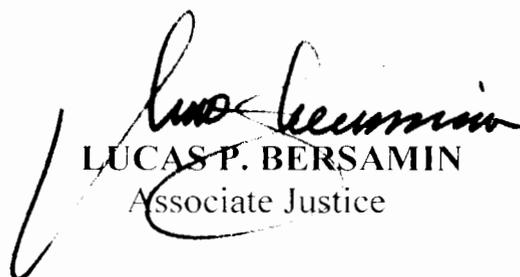
¹³ *Rollo*, p. 19.

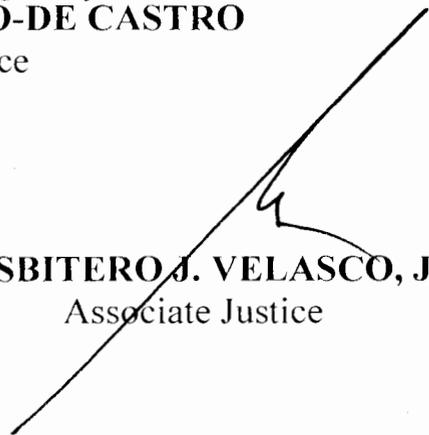
SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice


BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice