



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

CESAR T. TIROL and ARTURO M. ALINIO, G.R. No. 211017

Petitioners, Present:

- versus -

GESMUNDO, C.J., Chairperson,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

**GLORIA TAYENGCO-
LOPINGCO, ELIZABETH S. TAYENGCO, ESTATE OF THE
LATE ROBERT S. TAYENGCO,
SR., represented by his daughter,
DULCE A. TAYENGCO,*
ARTHUR S. TAYENGCO,
YVONNE TAYENGCO-
PACQUING, TESTATE ESTATE
OF THE LATE LOUISE
TAYENGCO- PONCE,
represented by the Executor,
PELAEZ GREGORIO
GREGORIO and LIM,
THOMAS S. TAYENGCO,
FRANCIS S. TAYENGCO,
ROSE MARIE S. TAYENGCO
and ANNE MARIE S. TAYENGCO,**

Promulgated:

MAR 15 2022

Respondents.

X

X

DECISION

INTING, J.:

* Per Court Resolution dated June 7, 2017, the Court noted the Manifestation dated November 2, 2016 filed by Atty. Arturo M. Alinio which explained that petitioners have no knowledge or information on the present or current address of Dulce A. Tayengco; and the additional information that a settlement of the estate of the late Roberto S. Tayengco, Sr. was filed by Cynthia Tayengco Lota. Further, the Formal Entry of Appearance as Counsel of Cynthia Tayengco Lota filed by Atty. Edgardo J. Gil was noted by the Court and thereafter, Cynthia Tayengco Lota was required to file a comment on the petition for review filed by petitioners.

Before the Court is a Petition¹ for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision² dated November 29, 2012 and the Resolution³ dated December 6, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 03098. The assailed Decision upheld the Orders dated June 9, 2006⁴ and May 16, 2007⁵ of Branch 29, Regional Trial Court (RTC), Iloilo City in Special Proceeding Nos. 2186 and 2809 that directed Tirol & Tirol Law Office (Law Office) to pay the docket fees for its Motion (To Fix Attorney's Fees and To Direct Administratrix/Executrix to Pay It)⁶ filed in the cases.

The Antecedents

The case involves two petitions filed in the RTC by the Heirs of Jose and Salvacion Tayengco (Spouses Tayengco): (1) Special Proceeding No. 2186 entitled "In Re: Intestate Estate of the Late Salvacion Sydeco Tayengco, Elizabeth S. Tayengco, Administratrix"⁷ and (2) Special Proceeding No. 2809 entitled "In the Matter of the Petition to Approve the Will of the Deceased Jose C. Tayengco, Elizabeth S. Tayengco, Executrix."⁸ The Law Office represented the Heirs of Tayengco in the cases until its withdrawal as counsel on October 17, 1997.⁹

On April 30, 1999, the Law Office, through Atty. Arturo M. Alinio (Atty. Alinio), filed in the RTC a motion to: (1) fix the attorney's fees, and (2) direct the administratrix/executrix to pay the attorney's fees. It alleged that the Law Office filed the petitions on November 11, 1969 and July 13, 1983, respectively, for petitioners therein.¹⁰ However, on October 17, 1997, the Law Office withdrew its representation because of the conflict among the heirs. Moreover, the fact that Atty. Cesar T. Tirol

¹ *Rollo*, pp. 47-65.

² *Id.* at 11-24; penned by Executive Justice Pampio A. Abarintos with Associate Justices Gabriel T. Ingles and Pedro B. Corales, concurring.

³ *Id.* at 41-42; penned by Executive Justice Pampio A. Abarintos with Associate Justices Gabriel T. Ingles and Marilyn B. Lagura-Yap, concurring.

⁴ *Id.* at 156-158; issued by Judge Gloria G. Madero.

⁵ *Id.* at 187-189.

⁶ *Id.* at 90-96.

⁷ Filed on November 4, 1969 per Statement of Account dated March 30, 1998; *id.* at 101-102.

⁸ Filed on July 13, 1983 per Statement of Account dated March 30, 1998; *id.*

⁹ *Id.* at 90. Per Statement of Account dated March 30, 1998, the date of withdrawal as counsel by Tirol & Tirol Law Office is on September 23, 1997; see *id.* at 101.

¹⁰ *Id.* at 90.

(Atty. Tirol), a senior member of the Law Office, is the first cousin of the heirs resulted in a “conflict-in-interest situation.”¹¹

The motion further averred that the project of partition disposing of the bulk of the properties of the estate was already approved; the certificates of title to the properties were already transferred in the name of the heirs; and the rest of the real properties were sold by the administratrix/executrix.¹² The Law Office claimed that while it had no written contract with respect to the attorney’s fees, it is entitled thereto on a *quantum meruit* basis.¹³ Thus, on March 30, 1998 and July 14, 1998, Atty. Alinio and Atty. Tirol (petitioners) sent a billing to Elizabeth S. Tayengco (Elizabeth), the administratrix/executrix of the estate, for its attorney’s fees in the amount of ₱13,463,500.00, equivalent to 7% of the fair market value of the estates.¹⁴ However, Elizabeth ignored the billing.¹⁵

Thus, the motion prayed that the RTC fix the attorney’s fees of the Law Office and that an order be issued directing the administratrix/executrix of the estates to pay the amount. Meanwhile, pending the determination of the attorney’s fees, it also prayed that the administratrix/executrix be ordered to pay an amount equivalent to 1/3 of the bill in the sum of ₱4,487,900.00.¹⁶

Elizabeth and the other heirs opposed the motion on the ground of unreasonableness of the fees demanded. Before the motion could be heard, Atty. Thomas S. Tayengco (Atty. Tayengco), one of the heirs, filed a Formal Entry of Appearance with Motions: To Set Aside Order to Hear Motion to Fix Attorney’s Fees With Prayer to Deny/Dismiss the Same Instead and To Quash Subpoena *Duces Tecum Ad Testificandum* Addressed to Elizabeth S. Tayengco and Marilyn Tardaguada.¹⁷ Atty. Tayengco argued that the motion filed by the Law Office should be denied on the ground of nonpayment of docket fees. Hence, the RTC cannot validly act on the motion because the court did not acquire

¹¹ *Id.* at 91.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 101-102.

¹⁵ *Id.* at 93.

¹⁶ *Id.* at 94.

¹⁷ *Id.* at 103-105.

jurisdiction over it.¹⁸

The Ruling of the RTC

In an Order¹⁹ dated August 23, 2000, the RTC dismissed the motion on the ground of lack of jurisdiction for failure of the Law Office to pay the docket fees. The latter sought reconsideration²⁰ and the RTC granted it in an Order²¹ dated August 1, 2005. The RTC ruled that the motion was not in the nature of an action but a claim for attorney's fees against the estates under settlement in the proceedings before it.²²

The heirs filed their respective Motions for Reconsideration²³ and Consolidated Opposition²⁴ and questioned the Order dated August 1, 2005. On June 9, 2006,²⁵ the RTC reinstated its Order dated August 23, 2000 and directed the Law Office to pay the corresponding docket fees before it takes cognizance of its claim for attorney's fees.²⁶ It held that the claim of the Law Office was directed against its client, the administratrix/executrix, and not against the Estates of Spouses Tayengco. Thus, the RTC cannot acquire jurisdiction over the subject matter of the case without the payment of docket fees.²⁷

Petitioners moved for reconsideration,²⁸ but the RTC denied it on May 16, 2007.²⁹ Thereafter, petitioners went to the CA on a Petition³⁰ for *Certiorari* under Rule 65 of the Rules of Court.

¹⁸ *Id.* at 105.

¹⁹ *Id.* at 107-109; penned by Judge Rene B. Honrado.

²⁰ See Motion for Reconsideration dated September 12, 2000, *id.* at 110-112.

²¹ *Id.* at 116-118; penned by Acting Presiding Judge Alfonso V. Combong, Jr.

²² *Id.* at 117.

²³ *Id.* at 119-123, 126-130 and 132-140.

²⁴ *Id.* at 142-154.

²⁵ *Id.* at 156-158.

²⁶ *Id.* at 158.

²⁷ *Id.* at 157.

²⁸ *Id.* at 159-165.

²⁹ *Id.* at 187-189.

³⁰ *Id.* at 68-88.

The Ruling of the CA

The CA denied the Rule 65 petition in the assailed Decision³¹ dated November 29, 2012. While the CA agreed with petitioners that their motion to fix attorney's fees was filed against the estates involved, and thus, they need not pay separate docket fees for it, the CA, however, declared that the error on the part of the RTC cannot be corrected by way of the petition for *certiorari*. The CA explained that even though the RTC erred in issuing the assailed Orders, the error did not amount to grave abuse of discretion that may be the subject of a petition for *certiorari* under Rule 65.³²

Undaunted, petitioners filed a Motion for Reconsideration,³³ but the CA likewise denied it in the assailed Resolution³⁴ dated December 6, 2013.

Hence, the instant petition.

The Issue

The issue before the Court is whether the Orders of the RTC directing the payment of docket fees before it could take cognizance of petitioners' motion to fix their attorney's fees constitute grave abuse of discretion reviewable by a petition for *certiorari* before the CA.

During the pendency of the case before the Court, a Notice of Death³⁵ with the attached Certificate of Death³⁶ was filed stating that Atty. Alinio passed away on January 24, 2019. He is survived by his widow, Atty. Dolores P. Abad Alinio, and his daughter, Pamela Grace Alinio-Haresco.³⁷

Petitioners aver that the RTC, relying on the case of *Lacson v.*

³¹ *Id.* at 11-24.

³² *Id.* at 23.

³³ *Id.* at 230-239.

³⁴ *Id.* at 41-42.

³⁵ *Id.* at 394-396.

³⁶ *Id.* at 397-398.

³⁷ *Id.* at 394; as noted by the Court in its Resolution dated July 13, 2020.

*Judge Reyes*³⁸ (*Lacson*), erred in ordering them to pay the docket fees, and such error constitutes grave abuse of discretion amounting to lack of jurisdiction. They assert that the RTC Orders violate existing jurisprudence and are tantamount to overruling a judicial pronouncement of the Court which, in turn, is grave abuse of discretion.³⁹

For their part, Yvonne Tayengco-Pacquing, Arthur S. Tayengco, and the Testate Estate of Louise Tayengco-Ponce counter that even though the RTC erred in issuing the assailed Orders, it is not an arbitrary, despotic, capricious, and whimsical exercise of judgment that is a ground for granting the petition.⁴⁰ They contend that petitioners should have filed an ordinary appeal and not a petition for *certiorari*.⁴¹ Moreover, they submit that petitioners' claim for attorney's fees had already prescribed pursuant to Section 2, Rule 86 of the Rules of Court, which provides that claims against the estate shall not be filed more than 12 months after the date of first publication of the notice to creditors.⁴²

Gloria Tayengco-Lopingco, Francis S. Tayengco, Rose Marie S. Tayengco, and Anne Marie S. Tayengco echo the foregoing arguments and insist that petitioners have lost their right to avail themselves of the appropriate legal remedy of appeal.⁴³ They emphasize that without alleging with particularity the facts of the alleged arbitrariness, capriciousness, and whimsical conduct of the RTC Presiding Judge, all decisions, resolutions or orders rendered in good faith and done in a regular manner should be accorded respect.⁴⁴

The Court's Ruling

The Court grants the petition.

In ruling for the respondents,⁴⁵ the RTC relied on the case of

³⁸ 261 Phil. 876 (1990).

³⁹ *Rollo*, pp. 53-55.

⁴⁰ *Id.* at 267-268.

⁴¹ *Id.* at 265-266.

⁴² *Id.* at 270-271.

⁴³ *Id.* at 282-K.

⁴⁴ *Id.* at 282-Q.

⁴⁵ The respondents in this case are the following: Gloria Tayengco-Lopingco, Elizabeth S. Tayengco, Estate of the Late Robert S. Tayengco, Sr., represented by his Executor, Cynthia Tayengco Lota, Arthur S. Tayengco, Yvonne Tayengco-Pacquing, Testate Estate of the late Louise Tayengco-

Lacson in stating that the Law Office should have paid the docket fees when it filed its Motion (To Fix Attorney's Fees and To Direct Administratrix/Executrix to Pay It).

In *Lacson*, the counsel for the heirs therein filed a "motion for attorney's fees" in a probate proceeding which was granted by the trial court. In ruling for the heirs, the Court held in *Lacson* that while the claim for attorney's fees is an incident in the main case, docket fees should still be paid before the trial court could acquire jurisdiction over it. As in all actions, the payment of docket fees is necessary, whether separate or as an offshoot of a pending proceeding.⁴⁶

Here on appeal, the CA did not agree with the RTC's reliance in *Lacson* and held that the case of *Pascual v. Court of Appeals*⁴⁷ (*Pascual*) is applicable. In *Pascual*, the trial court awarded attorney's fees to the counsel of the surviving spouse in a probate proceeding.⁴⁸ The petitioner therein questioned the award and invoked the ruling in *Lacson* in that the counsel should have paid docket fees for the trial court to be vested with jurisdiction over the subject matter or nature of the claim. In *Pascual*, the Court held that *Lacson* is not applicable because the payment of separate docket fees is not necessary where the claim for attorney's fees is directed against the estate of the decedent in a probate proceeding, viz.:

While not exactly a ground for annulment, the Court has held that it is the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject matter or nature of the action. Petitioner avers that the intestate court had no jurisdiction to award the disputed attorney's fees before private respondent paid docket fees, as required in *Lacson v. Reyes*.

The argument is untenable. The Court required in *Lacson* the payment of a separate docket fee, since the lawyer's "motion for attorney's fees" was in the "nature of an action commenced by a lawyer against his client." In contrast, the private respondent filed a claim for his attorney's fees against the estate of Don Andres. The

Ponce, represented by the Executor, Pelaez Gregorio Gregorio and Lim, Thomas S. Tayengco, Francis S. Tayengco, Rose Marie S. Tayengco and Anne Marie S. Tayengco.

⁴⁶ *Lacson v. Judge Reyes*, *supra* note 38 at 882.

⁴⁷ 360 Phil. 403 (1998).

⁴⁸ *Id.* at 409-410.

difference in the modes of action taken renders *Lacson* inapplicable to the case at bar.

In addition, where the judgment awards a claim not specified in the pleadings, or if specified, its amount was left for the court's determination, the additional filing fees shall constitute a lien on the judgment. In its Order dated April 19, 1994, the intestate court required the payment of the docket fee for the claim. In fact, the private respondent paid the prescribed docket and additional filing fees.⁴⁹

The foregoing was reiterated in *Sheker v. Estate of Alice O. Sheker*⁵⁰ (*Sheker*), as follows:

On the issue of filing fees, the Court ruled in *Pascual v. Court of Appeals*, that the trial court has jurisdiction to act on a money claim (attorney's fees) against an estate for services rendered by a lawyer to the administratrix to assist her in fulfilling her duties to the estate even without payment of separate docket fees because the filing fees shall constitute a lien on the judgment pursuant to Section 2, Rule 141 of the Rules of Court, or the trial court may order the payment of such filing fees within a reasonable time. After all, the trial court had already assumed jurisdiction over the action for settlement of the estate. Clearly, therefore, non-payment of filing fees for a money claim against the estate is not one of the grounds for dismissing a money claim against the estate.⁵¹

Following the ruling of the Court in the case of *Pascual*, as reiterated in *Sheker*, it is clear that separate docket fees need not be paid by petitioners for their motion to fix the amount of attorney's fees.⁵²

It must be emphasized, however, that there is no more issue at this point regarding the non-applicability of *Lacson*. The only question raised in the petition is whether the reliance of the RTC on the case of *Lacson* instead of *Pascual* constitutes grave abuse of discretion that would warrant the grant of the instant petition.

⁴⁹ *Id.* at 417-418.

⁵⁰ 564 Phil. 684-695 (2007).

⁵¹ *Id.* at 691.

⁵² *Pascual v. Court of Appeals*, *supra* note 47 at 417-418.

In *United Coconut Planters Bank v. Looyuko*,⁵³ the Court explained the concept of grave abuse of discretion as follows:

By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.

Grave abuse of discretion refers not merely to palpable errors of jurisdiction; or to violations of the Constitution, the law and jurisprudence. It refers also to cases in which, for various reasons, there has been a gross misapprehension of facts.⁵⁴

In other words, the only issue that may be raised in a special civil action for *certiorari* is whether or not the court acted without or in excess of jurisdiction or with grave abuse of discretion.⁵⁵ This was precisely what was raised by petitioners in the petition before the CA. They averred that the RTC issued the Orders dated June 9, 2006 and May 16, 2007 without or in excess of jurisdiction, or with grave abuse of discretion in that they violated or overruled a judicial pronouncement of the Court.⁵⁶ As found by the CA, the RTC should have applied the case of *Pascual* as earlier argued by petitioners instead of the *Lacson* case.⁵⁷

In *Ocampo v. Rear Admiral Enriquez*⁵⁸ (*Ocampo*), the Court held that “there is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence or (2) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias.”⁵⁹ Verily, the RTC adamantly relied on *Lacson* despite the repeated submissions of the petitioner that the *Pascual* case should be applied in accordance with jurisprudence. Per *Ocampo*, an act done contrary to the Constitution, the law, or jurisprudence constitutes grave abuse of

⁵³ 560 Phil. 581 (2007).

⁵⁴ *Id.* at 591-592, citing *Rimbunan Hijau Group of Companies v. Oriental Wood Processing Corp.*, 507 Phil. 631, 645 (2005) and *Presidential Commission on Good Government v. Desierto*, 445 Phil. 154, 175 (2003).

⁵⁵ *Arceta v. Mangrobang*, 476 Phil. 106, 114 (2004).

⁵⁶ *Rollo*, p. 69.

⁵⁷ *Id.* at 22-23.

⁵⁸ 798 Phil. 227 (2016).

⁵⁹ *Id.* at 294, citing *Almario v. Executive Secretary*, 714 Phil. 127, 169 (2013).

discretion that warrants the grant of the extraordinary writ of *certiorari* in petitioners' favor.

The Court notes the contention of respondents that petitioners should have filed an appeal before the CA to question the RTC Orders. Assuming this argument to be tenable, settled is the rule that the Court would still allow a writ of *certiorari* even when an appeal is available: (1) where the appeal does not constitute a speedy and adequate remedy; (2) *where the orders were also issued either in excess of or without jurisdiction or with grave abuse of discretion*; (3) for certain special considerations, as public welfare or public policy; (4) where in criminal actions, the court rejects rebuttal evidence for the prosecution as, in case of acquittal, there could be no remedy; (5) where the order is a patent nullity; and (6) where the decision in the *certiorari* case will avoid future litigations.⁶⁰ Such is the case here.

A review of the billing sent to the administratrix/executrix would show that petitioners' claim covers legal services rendered beginning the year 1969.⁶¹ It appears that petitioners' legal work was done for decades. The Court cannot simply close its eyes and not afford them any opportunity to present their claim for attorney's fees on grounds of technicality.

In conclusion, the Court holds that the CA committed grave abuse of discretion when it declared that the error on the part of the RTC cannot be corrected by way of a petition for *certiorari*. As earlier stated, an act done contrary to jurisprudence constitutes grave abuse of discretion that warrants the grant of the extraordinary writ of *certiorari*.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 29, 2012 and the Resolution dated December 6, 2013 of the Court of Appeals in CA-G.R. SP No. 03098 are **REVERSED** and **SET ASIDE**. Further, Branch 29, Regional Trial Court, Iloilo City is **DIRECTED** to give due course, with immediate dispatch, to the Motion (To Fix Attorney's Fees and To Direct Administratrix/Executrix to Pay It) filed by herein petitioners in Special Proceeding Nos. 2186 and 2809.


⁶⁰ *Republic v. Coalbrine International Philippines, Inc.*, 631 Phil. 487, 499 (2010).

⁶¹ *Rollo*, p. 101.


SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.


ALEXANDER G. GESMUNDO
Chief Justice



