

**SOLICITOR GENERAL AND SERAFIN D. QUIASON, PETITIONERS, VS.
ABUNDIO P. GARRIDO AND HON. FRANCISCO GERONIMO, AS
PRESIDING JUDGE OF BRANCH XII OF THE COURT OF FIRST
INSTANCE OF MAN...**

G.R. No. L-28535. October 10, 1980

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The disposition of this prohibition and certiorari proceeding poses no difficulty in the light of the recent decision in *Anti-Graft League of the Philippines v. Ortega*.^[1] The then Solicitor General, now Associate Justice, Antonio P. Barredo and Director Serafin D. Quiason sought to annul a preliminary injunction issued by then respondent Judge Francisco Geronimo,^[2] now deceased, restraining "the Solicitor General or any of his Assistants from further appearing in the preliminary investigation of this case in the office of the City Fiscal; and the City Fiscal or any of his Assistants from allowing the Solicitor General or any of his Assistants to appear thereat, until further orders from this Court."^[3] What was being investigated then was a complaint against Director Quiason and a certain Manuel P. Portugal for violation of the Civil Service Law, rules and regulations. In the afore-cited case of *Anti-Graft League of the Philippines v. Ortega*, this Court ruled that at such stage of the investigation before the office of the City Fiscal, a government official, like petitioner Director Quiason in this litigation, can avail himself of the services of the Office of the Solicitor General, if the offense imputed to him arose from the exercise of an official function. As we rule then, so we rule now.

The very language of the challenged resolution argues against its correctness: "The following facts appear to be undisputed: On July 7, 1967, the petitioner Abundio P. Garrido filed with the office of the City Fiscal a criminal complaint against respondent Serafin D. Quiason, Director of the National Library, and his co-respondent Manuel P. Portugal for violation of Section 23 of the Civil Service Law and Article 171 of the Revised Penal Code. On September 25, 1967, the Solicitor General in a memorandum to Solicitor Eulogio Raquel-Santos authorized the latter to appear as counsel for Director Serafin D. Quiason in the preliminary investigation to be conducted by the office of the City Fiscal. During the preliminary investigation held by Assistant Fiscal Solidum, the counsel for the complainant objected to the appearance of Solicitor [Raquel-Santos] in representation of the Solicitor General on the ground that the Solicitor General is not authorized by law to appear as counsel on behalf of a public official who is being accused criminally in his private capacity. The objection was overruled, and the matter was elevated to the City Fiscal. The records do not show that the City Fiscal had made any written formal resolution of his action, but the Court was made to understand during the preliminary hearing that the City Fiscal concurred in the opinion of Assistant Fiscal Solidum to the effect that 'since the Solicitor General has authority to represent any officer of the government in an official investigation requiring the services of a lawyer, then he is authorized to appear in the preliminary investigation * * *.'"^[4]

This Court, in sustaining the competence of the Solicitor General to enter his appearance on behalf of public officials charged with violating a penal statute for acts connected with the performance of their official duties,

relies on the specific language of Section 1661 of the Revised Administrative Code. It reads as follows: "As principal law officer of the Government, the Solicitor General shall have authority to act for and represent the Government of the Philippine Islands, its officers, and agents in any official investigation, proceeding, or matter requiring the services of a lawyer." [5] As the opinion in the Anti-Graft League decision aptly put it: "The statutory authority of the Solicitor General is thus amply demonstrated." [6] This Court, however, has this caveat: "It is a different matter, of course, where a complaint results in an information. In that case, respondent official will have to get his own counsel." [7] In the present case, that stage has not been reached. There is occasion, therefore, to reiterate the conclusion in the aforesaid controlling decision: "It is our ruling, therefore, that the competence of the Office of the Solicitor General to appear for public respondents is fully warranted by law." [8]

There is an equally relevant excerpt from the above opinion: "The conclusion reached by this Court rests on a more solid foundation – the Constitution no less. [Reference was then made to the duty of the President to 'take care that the laws be faithfully executed.'] In the final analysis, therefore, what is involved is the exercise of executive authority. Not much reflection is needed to show that if in the performance thereof not only by the President but by officials in the executive department, they could be subjected to suits, whether ill-founded or not, the possibility of delay in the implementation of applicable statutes and decrees would not be remote. For parties adversely affected could, by threats of possible criminal prosecution stay the hand of the officials concerned." [9]

WHEREFORE, the petition for certiorari is granted and the preliminary injunction issued by then respondent Judge Geronimo declared null and void. The Judge who has been assigned to take his place is prohibited from enforcing or in any way implementing the aforesaid writ of preliminary injunction. The petition filed before such sala by private respondent Garrido, entitled "Abundio P. Garrido v. Solicitor General, City Fiscal of Manila, Serafin D. Quiason, and Manuel P. Portugal", praying for the disqualification of the Solicitor General from appearing for Director Quiason is hereby dismissed. No pronouncement as to costs.

Aquino, Fernandez, Santos, and De Castro, JJ., concur.

Barredo, J., took no part.

Concepcion, Jr., J., on leave.

[1] G.R. No. L-33912, September 11, 1980.

[2] The private respondent is Abundio P. Garrido.

[3] Petition, par. 16 and Annex J.

[4] Annex J, 1-2.

[5] First sentence of Section 1661, Revised Administrative Code

[6] Anti-Graft League of the Philippines v. Ortega, L-33912, Sept. 11, 1980, 4.

[7] Ibid., 5.

[8] Ibid.

[9] Ibid., 4-5. Cf. Article VIII, Section 10, par. (1) of the 1935 Constitution and Article IX, Section 16 of the present Constitution.

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