

DOMINGO RAGUA, ET AL., COMPLAINANTS, VS. ATTY. EDUARDO P. GOSIENGFIAO, RESPONDENT.

Adm. Case No. 951. October 27, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

The complainants Domingo, Miguel, Marciana, Juana, and Remedios, all surnamed Ragua, charge the respondent lawyer, Eduardo P. Gosiengfiao, with having instituted, absent their previous consent and authority, litigation on their behalf in civil case 19192 of the City Court of Quezon City. In his answer filed with this Court, the respondent denies the charge. By resolution of August 31, 1970, we referred this case to the Solicitor General for investigation, report and recommendation.

On October 8, 1973, the Solicitor General, after hearing the parties and their witnesses, submitted his report and recommendation.

It would appear that for sometime prior to the present incident, the heirs of the late Eulalio Ragua, numbering ten in all (the present complainants being five of them), had been engaging the legal services of one Atty. Adriano Dasalla. When their property in Quezon City was forcibly entered by armed men on May 11, 1970, however, the said Atty. Dasalla, after being consulted on the matter, did not act decisively, thus forcing the heirs, or some of them, to retain the services of the respondent. In his verification of the complaint for forcible entry subsequently filed by Gosiengfiao, one of the heirs, Valeriano Ragua, declared that he was subscribing to the said verification as an heir as well as a representative of the heirs of the late Eulalio Ragua.

Apparently at the prodding of Atty. Dasalla and his associates, five of the heirs (the present complainants), appeared before the City Court of Quezon City in civil case 19192 and declared that the respondent Gosiengfiao had absolutely no authority to act for them or for the heirs of Eulalio Ragua. Upon the other hand, four of the heirs and, subsequently, one of the complainants attested in a joint affidavit to the fact that they had indeed authorized the respondent Gosiengfiao to act on their behalf and on behalf of all the heirs. It is from this background that the present administrative case evolved.

The issue posed for resolution is whether the respondent Gosiengfiao, in filing the complaint in civil case 19192 for forcible entry on behalf of the heirs of Eulalio Ragua, did so without proper authorization of the plaintiffs in that case and in violation of the duties of his office.

Judging from the findings of the Solicitor General, it is doubtful that the complainants were not previously informed of the retention of the respondent Gosiengfiao as counsel for the heirs in the forcible entry case. Four heirs, among them the complainants Miguel and Remedios Ragua themselves, testified that because of the failure of Atty. Dasalla to do anything decisive with respect to their common problem, all the heirs met and agreed to refer the forcible entry case to the respondent Gosiengfiao. Only two heirs, the complainants Domingo and Marciana Ragua, insist that such meeting and agreement had not taken place, but their declarations are faulted by the Solicitor General for their improbability. We need not, however, go into this matter. What is important is that

according to the testimonies of Miguel, Francisco and Valeriano Ragua, all of them heirs, the respondent Gosiengfiao, in taking on the litigation, was made to understand, and has acted with full faith, that he had been retained by all the heirs to represent their collective interest in the suit. No evidence to the contrary has been presented.

As pointed out by both the respondent and the Solicitor General, under article 487 of the Civil Code of the Philippines, any one of the several co-heirs may bring an action in ejectment for the benefit of all of them. Indeed, "a co-owner may bring such an action, without the necessity of joining all the other co-owners as co-plaintiffs because the suit is deemed to be instituted for the benefit of all."^[1] Hence, even if it were to be presumed that two of the heirs had no knowledge of the ejectment suit brought at the instance of the co-heirs, this fact cannot materially obstruct the prosecution of the action. Of course, although the suit was instituted in the name of the "Heirs of Eulalio Ragua," nothing would prevent a number of the said heirs from taking an exception from the suit or engaging a different counsel like the complainants have done.

In sum, we hold that the respondent Gosiengfiao had the proper authorization from a majority, if not all, of the heirs of Eulalio Ragua to institute the litigation in civil case 19192 of the City Court of Quezon City. The charge against him must fall.

ACCORDINGLY, the respondent Atty. Eduardo P. Gosiengfiao is hereby absolved of the charge lodged against him by the complainants, and the complaint is hereby dismissed.

Makalintal, C.J., Zaldivar, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] Tolentino, Civil Code of the Philippines, 1963 ed., Vol. II, p. 148, citing Sentencias of April 6, 1896 and June 5, 1918.

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