

**EDUARDO GUTIERREZ REPIDE, PLAINTIFF AND APPELLEE, VS.
GUTIERREZ HERMANOS, DEFENDANT AND APPELLANT.***G.R. No. 8896. December 29, 1913*

Ponente: TORRES, J.

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This appeal, through a bill of exceptions, was raised by counsel for the commercial firm of Gutierrez Hermanos from the judgment of February 10, 1913, rendered by the Honorable A. S. Crossfield, judge, in favor of the plaintiff and against the defendant firm of Gutierrez Hermanos, for the sum of P1,600, together with interest thereon at 6 per cent per annum from the first day of March, 1912, and for the costs of the action.

On February 26, 1912, the attorney Eduardo Gutierrez Repide filed suit in the Court of First Instance of this city against the commercial firm of Gutierrez Hermanos, alleging that he had at its request rendered it services as attorney in case No. 7719, in which the firm of Gutierrez Hermanos was plaintiff and Oria Hermanos & Co. defendant; which suit, instituted for the collection of P12,218.51 and interest thereon, was decided and afterwards appealed by the defendant to the Supreme Court, which affirmed the judgment of the lower court by sentencing the defendant to pay the said sum to the plaintiff;^[1] and that, after the litigation was decided in this second instance, the plaintiff endeavored to collect from Gutierrez Hermanos P2,000 as fees for all the professional services he had rendered in that suit, but that this sum had not been paid him either wholly or partly, although it was a just, reasonable and equitable compensation in consideration of the subject matter of the suit and the kind and value of his services as attorney. He therefore asked that Gutierrez Hermanos be sentenced to pay the said sum, with legal interest thereon from the date of the filing of the complaint, and the costs.

The defendant firm, in its amended answer, alleged as a special defense that on August 12 and November 27, 1909, it agreed with the plaintiff that the fee which the latter was to collect for all his professional services and for all the suits which he might have to bring against Oria Hermanos, including all procedure had therein until their termination, should not exceed P10,000, and that, in case the work should turn out to be less than was supposed and he should not have to make any trip to the provinces, the said sum should be reduced by such amount as would be just and reasonable; that, on January 3, the plaintiff collected from the defendant, on account of his contract for fees, the sum of P3,000 and, in addition thereto, received from the grocery store of Gutierrez Hermanos effects and merchandise amounting to P1,669.81, making a total of P4,669.81 received by the plaintiff; that, because of the delay in the prosecution of case No. 7289,^[2] Oria Hermanos & Co. succeeded in selling all the property of the firm to Manuel Oria y Gonzalez, on which account Gutierrez Hermanos had to seek a temporary attachment of such property; that the plaintiff, failing to comply with his engagements, ceased to defend the defendant and withdrew as its attorney just prior to the date set for the hearing, without giving the defendant time to turn over its defense to another attorney, and, ignoring his contract, commenced to sue the defendant; and that there was no need of filing a complaint in this case, since it could have been included as a second cause of action in case No. 7289; and it therefore requested that the plaintiff's complaint be dismissed, with the costs of the action.

We accept the statement of facts, the conclusions and the legal grounds of the judgment appealed from, since they are in accordance with the law and the merits of the case, and affirm the said judgment, with the costs against the appellant.

Arellano, C. J., Johnson, Carson, Moreland, and Trent, JJ., concur.

[1] 19 Phil. Rep., 104.

[2] 21 Phil. Rep., 243.

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