

CASES ADJUDGED  
IN THE  
SUPREME COURT OF THE  
REPUBLIC OF LIBERIA

AT THE  
OCTOBER TERM, 1975

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SOLOMON BAKY, Appellant, *v.* MARY GEORGE,  
et al., Appellees.

APPEAL FROM THE DEBT COURT,  
MONTSERRADO COUNTY.

Argued December 2, 1975. Decided December 31, 1975.

1. When counsel for a party is changed or dismissed, he must be served with notice thereof, for his statement of consent thereto is required on the notice of change filed with the Clerk of the Court.
2. Opposing counsel must be informed of the intention of appellant to withdraw the appeal.
3. When an appeal has been perfected it is improper to file notices of change of counsel and withdrawal of the appeal with the lower court, which has lost its jurisdiction over the matter.

When the case was called before the Court, counsel for appellant informed the Court that the appeal had been withdrawn. However, he had not notified opposing counsel, nor filed the notice of withdrawal with the Clerk of the Court. At the same time the Court was informed that appellees had discharged their attorney, who had not received notice from them.

The Court was critical of both sides for having failed to follow the applicable procedure in withdrawal of an appeal and changing counsel. As a consequence, the Court *dismissed* the appeal.

*T. Gyibli Collins* for appellant. *Francis Gardiner* for appellees.

MR. JUSTICE HENRIES delivered the opinion of the Court.

When this case was called for hearing, it was revealed by Counsellor Francis Gardiner, counsel for defendant, who is the appellant herein, that the appeal before this Court had been withdrawn. This was evidenced by a certificate from the Clerk of the Debt Court for Montserrado County, from where this case emanates, stating that the appellant had withdrawn his appeal on May 2, 1975, almost two years after an appeal had been taken to this Court in 1973. When queried about this, the opposing counsel, Counsellor T. Gyibli Collins, said he knew nothing about the withdrawal.

Further perusal of the record shows that a notice of change of counsel was filed by the appellees on May 1, 1975, to the effect that the services of their counsel, Counsellor Collins, had been terminated, and that they were representing themselves. A month later the appellees sent a letter, dated June 2, 1975, to the Chief Justice.

"May it please Your Honor:

"We, the surviving heirs of the late George Neahdo, deceased, of the Settlement of New Georgia, Montserrado County, have the honor to most respectfully attach hereto, a self-explanatory photo copy of a notice of change of counsel which we have filed in the Debt Court for Montserrado County.

"Your Honor, as far as we are concerned, we do not have any case on appeal before the Supreme Court, nor in any other court within the Republic, against Mr. Solomon A. Baky, a Lebanese national doing merchandise business in the City of Monrovia, or anybody else for that matter. The debt action which we

instituted in the Debt Court sometime in 1967, against the then defendant Solomon A. Baky, was subsequently withdrawn by both parties, sharing the costs of court in view of a family compromise reached on the first Sunday in March, 1975.

"It is a fact that there was an appeal announced in the Debt Court by Mr. Baky, but there are no appeal records before the Supreme Court at the moment due to the compromise. We have, therefore, been wondering why Counsellor T. G. Collins has been bothering the Supreme Court on our behalf when we do not have any case before it; and especially so when the debt action in the court below has long been withdrawn.

"Wherefore, in view of the above, and for some substantial reasons which time cannot permit us to outline, we hereby severally and jointly disassociate ourselves from Counsellor T. G. Collins, in any action or actions he may find fit to institute hereafter against anybody in our interest. Meanwhile, we are appealing to you in this public manner to advise Counsellor Collins to stop troubling us and to keep out of our late father's estate, as we are all mature women and can manage whatever our father left with us."

While this Court is not adverse to the withdrawal of cases by parties, and would prefer that matters be settled amicably by the parties themselves whenever possible, it is our opinion that once the parties elect to bring their matters to courts of law for adjudication, they should follow strictly the procedures that govern the handling of cases in the courts. We are not satisfied that the procedures prescribed by law and the rules of court were followed in changing counsel or withdrawing the appeal.

It is mandatory that notice of change of counsel be served upon the opposing party, and it is equally manda-

tory that the counsel who is being changed be given a similar notice, pursuant to our Civil Procedures Law.

*"Change of attorney.* An attorney of record may be changed by court order or, unless the party is an infant or an incompetent person, by filing with the clerk of the court a notice of change together with a statement of consent to the change signed by the attorney and the party. A copy of notice of such change shall be served on the other parties." Rev. Code 1:1.8(2). See also *Findley v. Weeks*, 18 LLR 245 (1968).

Counsellor Collins contends that he was not informed that he had been dismissed as counsel until the case was called for hearing. This is very unfair to him, and he is entitled to compensation for whatever legal services he rendered his clients.

With respect to the withdrawal of the appeal, again it appears that this was done without the knowledge of counsel for appellees. This is highly improper and it gives the impression of a connivance to keep him uninformed of the circumstances surrounding a case he had been retained to handle. The relationship of a lawyer to his client is not a one-way street. It demands the highest type of professional integrity and service from the lawyer; but it also envisages the client's confidence in, and respect for, his lawyer.

We also observe that the notices of change of counsel and withdrawal of appeal were filed in the office of the clerk of the Debt Court. This was irregular as the case was already on appeal and, therefore, such notices should have been filed with the clerk of the appellate court, and not in the court that had lost jurisdiction over the matter.

Since the matter has been withdrawn, and costs of court paid, there is no need to review this matter. However, this Court does frown upon the improper and irregular manner in which the notice of change of counsel and

withdrawal were carried out. The appeal is hereby dismissed and the case stricken from the docket. And it is so ordered.

*Appeal dismissed.*