

HON. JOSEPH P. FINDLEY, Assigned Circuit Judge presiding over the September 1966 Term, Montserrado County, and RASAMNY BROTHERS, represented by its General Manager, Appellants, *v.* MONROE T. WEEKS, Appellee.

APPEAL FROM RULING OF JUSTICE PRESIDING IN CHAMBERS.

Argued October 19, 1967. Decided January 18, 1968.

1. A party litigant may, during the course of legal proceedings, at any stage employ other counsel to represent his interests, but he must designate such counsel by proper notice to the court and parties, pursuant to § 229 of the Civil Procedure Law, 1956 Code, tit. 6, or notice may be given by his counsel of record of the participation of another attorney.
2. And where a party in an action is acting as his own attorney, in such capacity as an attorney he is thereafter bound to give proper notice of substitution of another attorney in the case.

On appeal from a ruling by the Justice presiding in Chambers denying the application of counsel appearing at the hearings for defendants in error *pro se* to be substituted without prior notice, and granting default upon the application of plaintiff in error, the *ruling* was *affirmed*.

Tilman Dunbar and *P. Amos George* for appellants.
Jacob H. Willis for appellee.

MR. JUSTICE WARDSWORTH delivered the opinion of the Court.

This matter emanates from the ruling of the Justice presiding in Chambers, on appeal by appellants.

At the call of the case for hearing in Chambers, it was discovered that Richard Rasamny, representing the general manager of Rasamny Bros., signed the returns in person, and also the notice of assignment setting down the case to be heard on June 9, 1966. Despite the fact that

during the trial of the basic case in the court below the records disclose that Rasamny Bros. was represented by counsellor P. Amos George, and that notice of change of counsel had not been filed by Rasamny Bros., counsellor Tilman Dunbar announced himself as representing them. Monroe T. Weeks, representing himself, and assisted by counsellor Jacob H. Willis, objected to the announcement made by counsellor Dunbar, as follows:

“At this stage, counsellor Jacob H. Willis of counsel for plaintiff in error objects to counsellor Tilman Dunbar’s announcement of representation for the defendants in error, on the ground that their return is signed by Richard Rasamny, general manager for Rasamny Bros., who is representing himself in person. And since our rules permit parties to represent themselves in person, plaintiff in error contends that Richard Rasamny is competent to represent and prosecute this case in person and make additional announcement of representation; and more so, counsellor Dunbar is not counsel of record both in the court below as well as in this Court.

“Wherefore, plaintiff in error prays that his application be denied and the case proceeded with in accordance with the rules of this Court, in regards to an absent party, and submits.”

In opposing this application of plaintiff in error, counsellor Dunbar in an effort to defend his position taken, made this record:

“1. That the plaintiff in error’s application should be denied upon his failure to specifically cite any rule of Court prohibiting counsel from representing a party, even though the pleadings in the Supreme Court may not have been signed by counsel.

“2. Counsellor Dunbar submits that he is one of the counsel of Rasamny Brothers, whose services were engaged by a regular contract of employment and which he is prepared to submit to the Justice in Chambers at

any time suitable to him at his convenience. Counselor Dunbar respectfully contends that it will be introducing a dangerous practice in this Court if the application of the plaintiff in error should be granted.

"3. Counsellor Dunbar further submits that his principal, Mr. Rasamny, who is presently exercising the function of general manager for Rasamny Brothers, informed him by telephone this morning of his inability to be present at Court this afternoon at 3:00 o'clock P.M., because of his previous engagement with his medical doctor and submits."

The Justice in Chambers having carefully considered the application and the opposition of the parties herein, made the following ruling:

"Objections were made for the record by plaintiff in error to the announcement made by counsellor Dunbar that he is representing the Rasamny Brothers in these proceedings, in view of the fact that Rasamny Brothers signed the return in these proceedings, and not Counsellor Dunbar, which fact is supported by the return to the application of the alternative writ of error filed by the plaintiff in error. On the other hand, it would appear to be reasonable if, Rasamny Brothers being indisposed, and unable to attend Court this afternoon, for the safeguard of his own interest, should have indicated this inability to be present and perhaps requested the Court to postpone the hearing of this matter to another date. Although counsellor Dunbar is one of the retained counsel, yet, this Court takes cognizance only of matters of record before it and observing that counsellor Dunbar's name does not appear in the record, the announcement just made by him is hereby denied; and the plaintiff in error under the Rules of Court may proceed to argue his side of the case now pending. And it is hereby so ordered."

This appeal revolves around one single point, that is to say, whether or not counsellor Tilman Dunbar was

legally clothed to represent the defendants in error in keeping with his announcement at the call of this case by the Justice presiding in Chambers for hearing. We regard it imperative to resolve this one point for the benefit of the practitioners in this jurisdiction. In his brief quoting from *Tuning v. Greet, et al.*, 15 L.L.R. 137, 143 (1962), counsellor Dunbar made the following point:

“It is the usual practice in the courts of Liberia that a party litigant may employ as many legal representatives as he possibly can to defend his legal rights in any matter pending before a tribunal at any stage of the case without notice to the opposing party. This is the inherent right of a party litigant, and is not subject to review.”

The learned counsellor endeavored to convince the Court that a lawyer whose services have been retained by a party litigant, although he may not be counsel of record in a given case, in which the party retaining his services may be engaged, yet, without any announcement by the party litigant or a counsel of record, can represent the party without notice of change of counsel or any other legal formality. This interpretation advanced by counsellor Dunbar is not only misleading but would have the tendency to nullify the Rules of this Court and statutory provisions now applying thereto.

The true meaning, intent, and spirit of the citation is that a party litigant, during the progress of a legal proceeding, may at any stage of the case employ any number of lawyers to protect his legal interests before any tribunal within this Republic but in so doing he must conform to the Rules of this Court and other laws controlling. Accordingly, a lawyer who is not on record as counsel must be designated by the party litigant himself, who might at the time be representing his own interest, or by a lawyer of record who was retained by the party litigant to conduct the case on behalf of the party litigant. Counsellor Dunbar failed to comply with this, and al-

though Rasamny Brothers signed the return in these proceedings in person, as they did the notice of assignment, and although counsellor P. Amos George represented the legal interest of defendants in error in the court below, yet he undertook to announce himself as representing the defendants in error without a notice of change of counsel. The statute on this point clearly provides:

“If after the commencement of an action either party changes his counsel, he must forthwith file in the clerk’s office notice of such change and serve a copy thereof on the other parties to the action.” Civil Procedure Law, 1956 Code 6:229.

Counsellor P. Amos George having represented the case in the court below, as revealed by the records in said case, and being a regular practitioner of the law at the time, should have announced counsellor Dunbar as assisting him in the prosecution of defendant in error’s legal interest.

In view of the foregoing, the Justice presiding in Chambers had no alternative but to deny the application of counsellor Dunbar to represent the defendants in error in these proceedings, and upon application by plaintiffs in error apply our Rules of Court with respect to absent parties and grant that application. See revised Rules of Supreme Court, Rule IV, Part 6.

Therefore, having carefully considered every aspect of the grounds upon which this appeal is predicated and discovering that defendants in error neglected and failed to take the proper legal steps in having their side of the case represented during the hearing by the Justice presiding in Chambers, we have no other alternative but to affirm the ruling of the Justice in these proceedings. Costs against appellants. And it is hereby so ordered.

Affirmed.