

ALLEN MCCONN, PLAINTIFF AND APPELLANT, VS. PAUL HARAGAN, ET AL., DEFENDANTS, AND ASSOCIATED INSURANCE & SURETY CO., INC., DEFENDANT AND APPELLEE.

G.R. No. L-16550. January 31, 1962

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0feb2ab41057/>

CONCEPCION, J.:

On June 30, 1955—pending hearing of Civil Case No. 24790 of the Court of First Instance of Manila, entitled "Morris McConn vs. Paul Haragan", which was scheduled to take place on September 16, 1955—the Bureau of Immigration advised said court that defendant Paul Haragan had applied for an immigration clearance and a re-entry permit to enable him to leave the Philippines for 15 days only and requested information whether the court had any objection thereto. By an order dated July 11, 1955, the court required Haragan to file a bond of P4,000 "to answer for his return to the Philippines and the prosecution of this case against him, with the understanding that upon his failure to return, said bond will answer pro tanto for any judgment that may be rendered against him". Thereupon, on July 12, 1955, Haragan submitted a bond, subscribed by him and the Associated Insurance & Surety Co., as principal and surety, respectively, reading:

"WHEREAS, the above-bounden PRINCIPAL, is intending to leave the Philippines on a business trip to Hongkong and Tokyo, Japan, for a period of thirty (30) days from date of his departure, in connection with his business;

"WHEREAS, the above-bounden PRINCIPAL, has a pending case before the Court of First Instance of Manila, Branch III, entitled: "Allen McConn, Plaintiff vs. Paul Haragan, Defendant", Civil Case No. 24790, which is scheduled for hearing on September 16, 1955;

"WHEREAS, before the above-bounden PRINCIPAL could leave the Philippines for Hongkong and Tokyo, Japan, the above-mentioned Court has required him to post a Surety Bond, in the amount of PESOS FOUR THOUSAND ONLY (P4,000.00) Philippine Currency, to guarantee that he will return to the Philippines on or before September 16, 1955;

"NOW, THEREFORE, for and in consideration of the above premises, the principal and the Surety, hereby bind themselves, jointly and severally, in favor of the Republic of the Philippines, or its authorized representatives! in the sum of PESOS FOUR THOUSAND ONLY (P4,000.00) Philippine Currency, that the herein principal will return to the Philippines on or before September 16, 1955 and that should he fail to do so, said bond will answer pro tanto for any judgment that may be rendered against him".

Soon thereafter, on July 19, 1955, the court issued an order stating that "in view of said bond, it would have no objection" to Haragan's "departure from the Philippines for a short stay abroad" and that "formal leave" was thereby given him. On the date set for the hearing of the case, Haragan's counsel moved for continuance, whereupon, the hearing was postponed to November 14, 1955. On the date last mentioned, the same counsel informed the court that Haragan had been unable to return to the Philippines because the Philippine Consulate in Hongkong had advised Haragan of a communication from our Department of Foreign Affairs banning him from

returning to the Philippines. The court then postponed the hearing to January 6, 1956. Subsequently, Herbert T. Fallis was impleaded as defendant and, later on, one Inocencio Ortiz Luis, Jr. was allowed to intervene. In due course, thereafter, or on February 19, 1959, the court rendered judgment, which, inter alia, sentenced Haragan to pay to plaintiff the sum of P5,500, with 6% interest thereon from December 8, 1954, until full payment, plus P1,000 as attorney's fees and costs. After this judgment had become final and executory, plaintiff moved for the execution of the aforementioned bond to satisfy said judgment against Haragan. The surety company objected thereto upon several grounds and, after due hearing, the lower court issued an order dated October 13, 1959, releasing said company from liability under the bond aforementioned and denying plaintiff's motion. A reconsideration of this order having been denied, the case is now before us on record on appeal filed by the plaintiff.

The issue is whether the Surety Company is liable to plaintiff under the bond quoted above, in view of the failure of Haragan to return to the Philippines. The lower court decided the issue in the negative upon the following ground:

"* * * A careful reading of the surety bond, Exhibit F, indicate that the surety's principal commitment is 'to guarantee that he (Haragan) will return to the Philippines on or before September 16, 1955' (See the third 'Whereas'). In the last paragraph of said surety bond, Exhibit F, it appears that said bond was executed in favor of the Republic of the Philippines or its duly authorized representatives to guarantee 'that the herein principal (Haragan) will return to the Philippines on or before September 16, 1955 and that should he fail to do so, said bond will answer pro tanto for any judgment that may be rendered against him.' As the terms of the bond so state, it appears clearly that, the bond will only answer for the judgment which may be rendered against defendant, should he (defendant Haragan) fail to return to the Philippines. In other words, if defendant Haragan should return to the Philippines on or before September 16, 1955, said bond will not answer for the judgment. It is now the contention of the Associated Insurance that since it was the Republic of Philippines (obligee under the bond) who rendered the return of defendant Haragan to the Philippines impossible, said surety company is thereby released from its obligation, and cites in support thereof Articles 1266 and 2076 of the New Civil Code. Upon a consideration of this contention, the Court finds it tenable and well grounded, for as the surety company has so well stated 'where the principal obligation (of returning to the Philippines) has been extinguished by the action of the obligee, Philippine Government, in preventing such return, the accessory obligation of the surety is likewise extinguished and the bond released of its liability.' Paraphrasing the last paragraph of the bond in a negative way, it will read thus: 'should he (not) fail to do so, said bond will (not) answer pro tanto for any judgment that may be rendered against him.'"

We are fully in agreement with the foregoing view, which is in accord with the principle that:

"The debtor in obligation to do shall also be released when the prestation becomes legally or physically impossible without the fault of the obligor." (Article 1266, Civil Code of the Philippines.)

Thus, in *Tabora vs. Lazatin*, G. R. No. L-5245, May 29, 1953, we said:

"This Court finds that despite his efforts to secure the necessary building permit for the reconstruction, he failed because of the disapproval or unfavorable attitude of the Urban Planning Commission toward reconstruction unless they conformed to the plan of widening the city streets. Finding that defendant had done all he could to secure the permit and to comply with his obligations, but because of the refusal of the government authorities to issue and permit, he failed to fulfill his undertaking, he should be absolved and released from said obligation."

To same effect, substantially, is the decision of this Court in *House vs. De la Costa* (40 Off. Gaz., [3 S] 47).

Wherefore, the order appealed from is hereby affirmed, with the costs of this instance against plaintiff-appellant. It is so ordered.

Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.