

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
RICARDO ORNALES, DEFENDANT; ALTO SURETY & INSURANCE  
CO., INC., BONDSMEN AND APPELLANT.**

*G.R. No. L-20078. January 30, 1965*

Ponente: BARRERA, J.

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**BARRERA, J.:**

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The facts of this case are not disputed:

To secure the provisional liberty of Ricardo Ornales y Quiambao pending his appeal from the judgment of conviction of the Court of First Instance of Manila, for theft, in Criminal Case No. 10824, a bond was filed, subscribed by the Alto Surety & Insurance Co., Inc., in the sum of P5,000.00. Upon affirmance of the appealed decision by the appellate court, the court a quo set the case for promulgation of the judgment on September 14, 1959 at 8:30 in the morning, accordingly notifying the surety company thereof. On the scheduled date, the accused failed to appear. Consequently, the court ordered his arrest and the confiscation of the appeal bond. At the same time, the bondsmen were ordered to bring him to court within 30 days, otherwise, the bond will be executed. Notwithstanding the two extensions of the period within which to produce the accused, granted by the court at the request of the surety, the latter failed to comply with its undertaking. Thus, on January 18, 1960, judgment was rendered against the bond and the same was ordered executed.

On March 18, 1960, the accused Ricardo Ornales was apprehended by the surety company and turned over to the police authorities. The surety then filed with the court a motion to lift the order of execution and for cancellation of the bond, alleging that its failure to present the accused in court for the execution of the judgment in the criminal case was due to the fact that after the said accused was notified by the surety of the date of such execution of judgment, the former left his residence without informing the surety of his whereabouts; that notwithstanding difficulties, the surety company pressed on the search for the accused until he was finally apprehended and turned over to the custody of the police. Then, citing the ruling enunciated by this Court in the case of *People vs. Puyal*, [1] that a liberal policy shall be adopted when dealing with bondsmen in criminal cases, the surety prayed for the lifting of the execution order against the bond. This motion was denied by order of March 24, 1960. Another motion, filed by the surety for the reduction of its liability, having been denied, the surety instituted the present appeal. The sole question to be determined herein is, whether under the circumstances of this case, the surety company is entitled to a release from or at least a mitigation or reduction of its liability

under the bond.

The reduction of the liability of the bondsmen, after judgment has already been rendered on the bond, depends upon the discretion of the court. And the liberal attitude of the court in dealing with bondsmen, where the accused is apprehended by them and his presence already made available to the court even after a judgment has already been rendered on the bond, is founded on the theory that the ultimate desire of the State is not the monetary reparation of the bondsmen's default, but the enforcement and execution of the sentence in a criminal case. However, while the court is committed to this policy of liberality towards bondsmen, the circumstances of each case shall determine the degree in which said liberality is to be exercised. Thus, this Court, variably has allowed from complete cancellation of the bond [2] to reduction thereof to some degrees,[3] depending on the circumstances of each case.

In the case under consideration, the accused was made available to court orders on March 18, 1960 or more than 6 months from the date originally scheduled for the execution of the judgment in the criminal case against him. It is observed, however, that the surety failed to show or even state, the efforts it exerted leading to the arrest of the accused. The mere allegation of "long and continuous efforts \* \* \* to locate the whereabouts of the accused" does not satisfy entirely the degree of diligence expected of a surety, in law the jailer of the principal. Nonetheless, in the circumstances obtaining herein, the appellant's liability is reduced to P2,500.00.

WHEREFORE, the order appealed from is accordingly modified, without costs. SO ORDERED.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L. Paredes, Dizon, Regala, Bengzon, J. P. and Zaldivar, JJ., concu

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[1] 98 Phil. 415.

[2] In *People vs. Calderon*, G.R. No. L-9497, July 31, 1956, the surety was completely enumerated, when the accused was produced in court the day after the bond was ordered confiscated.

[3] Surety's liability for P10,000.00 was reduced to P2,000.00 although accused was apprehended 10 months from confiscation of bond, where the surety has established the difficulties it encountered and the efforts exerted to locate said accused (*People vs. Puyal*, G.R. No. L-8091, February 17, 1956.)

Accused was surrendered within the 30-day period granted to the surety, liability for P2,000.00 reduced to P1,000.00. (*People vs. Felix*, G.R. No. L-10094, May 14, 1957.)

Liability for P2,000.00 reduced to P200.00, where accused surrendered after six months. (*People vs. Tan*, 101 Phil. 324)

Liability for P8,000.00 reduced to P4,000.00 where accused surrendered three months after judgment of foreclosure against the bond. (*People vs. Vergel*, 104 Phil. 425)

Accused presented himself in court 3 days after judgment against the bond, but no satisfactory explanation was given by the surety for failure of the accused to appear during the hearing, the surety's liability for P7,000.00 was reduced to P2,000.00 (*People vs. Cruz*, 109 Phil., 842.)

Liability for P20,000.00 was reduced to P10,000.00, accused was arrested 9 months after bond was confiscated. (*People vs. Ignacio*, G.R. No. L-18572, July 31, 1963.)

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