

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
AMRBOSIA VALLE, DEFENDANT, ALTO SURETY & INSURANCE
CO., INC., BONDSMAN AND APPELLANT.**

G. R. No. L-18044. April 30, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by the Alto Surety & Insurance Co., Inc., from an order of the Court of First Instance of Manila directing the confiscation of a bond.

Accused of estafa in Criminal Case No. D-091007 of the Municipal Court of Manila, Ambrosia Valle secured her provisional release by filing a bail bond subscribed by herein appellant, the Alto Surety & Insurance Company, in the sum of P800.00. Subsequently convicted by said court and sentenced accordingly, Ambrosia Valle appealed to the Court of First Instance of Manila and filed an appeal bond in the sum of P500.00 posted by appellant herein. In this bond, appellant undertook that Ambrosia Valle would "appear and answer the charge above-mentioned in whatever court it may be tried," and would "at all times hold herself amenable to the orders and processes of the court," as well as "pay such fine as the appellate court may direct," or "surrender her in the execution of such judgment as the appellate court may render," or "in case the cause is remanded for a new trial," she would appear in the court to which it may be so remanded and submit her to the orders and processes thereof, or, if she fails to perform any of these conditions, that appellant "would pay to the Republic of the Philippines the sum of five hundred pesos (P500.00) Philippine Currency."

After due trial, later on, in the Court of First Instance, the same ordered appellant to produce the person of the accused for the promulgation of the decision on September 14, 1959. On that date, Ambrosia Valle appeared before the court, which promulgated its decision, convicting her as charged and sentencing her to 3 months and 11 days of arresto mayor, to indemnify the offended party in the sum of P180.00, with subsidiary imprisonment in case of insolvency, and to pay costs. The court, likewise ordered her to appear on September 29, the last day to appeal from said decision, in order to perfect her appeal, if she wanted to do so, and file her appeal bond, and appellant was notified accordingly, on September 15, 1959. Although somewhat late, the accused appeared before the court in the morning of September 29 and asked that she be given up to the afternoon thereof to file her notice of appeal and appeal bond. The court granted this request and warned her to come back in the afternoon, but she did not do so. Hence, on October 1, 1959, the court issued the following order:

"Accused not having filed notice of appeal nor appeal bond' and not having surrendered for execution of judgment, bail bond confiscated; let warrant of arrest issue; execution postponed until she is arrested."

On the same date, the court ordered defendant's arrest, copy of which was received by appellant on October 3, 1959. On October 14, appellant surrendered the accused to the trial court, which forthwith committed her to prison. The next day appellant filed a motion to lift the order of confiscation of its bond and for the cancellation thereof, but this motion was denied in an order dated October 17, 1959. On October 22, 1959, appellant filed

notice of appeal from said orders dated October 1 and 17, 1959 to the Court of Appeals. Subsequently, the latter forwarded the records of the case to the Supreme Court, upon the ground that only questions of law are involved in the appeal. Indeed, appellant maintains that the lower court erred:

- " * * * in postponing of in not immediately executing its judgment of conviction after the promulgation or reading thereof on September 14, 1959.
- " * * * in releasing the accused after the promulgation of its judgment of conviction without the appellant's knowledge or consent.
- " * * * in confiscating the appellant's bail bond after having produced the accused on the date of promulgation and/or execution of its judgment (September 14, 1959) and on another subsequent date (September 29, 1959).
- " * * * in denying the appellant's motion to lift the order confiscating its bail, bond and to cancel the same."

The first assignment of error has nothing to do with the propriety or validity of the order of confiscation of the bond. Moreover, since the defendant was entitled to appeal, the lower court had the discretion to postpone, until the last day for the perfection of such appeal, the determination of the question whether it should or should not order defendant's detention or the execution of the decision of conviction.

With respect to the other alleged errors assigned by appellant, it should be noted that its liability, under the bond, continued until after the accused had been surrendered and the court had ordered the cancellation of said bond. Thus, in *People vs. Lorredo* (50 Phil., 218), it was held:

"Moreover, one of the conditions of the bond subscribed by the appellants is that if the accused is convicted, he will render himself amenable to the judgment as well as to the execution thereof. After notification of the judgment, the accused had fifteen days within which to perfect his appeal, and it is, only after the expiration of the said fifteen days, without the accused having made use of his right, that the said judgment becomes final. (Sec. 47, General Orders No. 58), Neither the fact, then, that the court granted the accused ten days within which to comply with the judgment, nor the fact that Ills attorney guaranteed said compliance, relieves his sureties from their liability in case of non-compliance with said judgment, because, as we have already seen, in order to be relieved from the obligation contracted by them by virtue of their bond, a judicial order relieving them of their liability is necessary."

Inasmuch, however, as the person of the accused was surrendered to the lower court shortly after the appellant's bond had been ordered confiscated and the arrest of the accused had been decreed, the question arises as to whether appellant's liability under said bond should be reduced or not. We do not think it should be, for this is a matter left to the sound discretion of the lower court, and its action thereon should not be disturbed because appellant had misrepresented thereto, in its motion to lift the confiscation of the appeal bond, that the court had, on September 29, 1959, granted the accused two days within which to file his notice of appeal and appeal bond, which is not true.

Wherefore, the orders appealed from are hereby affirmed, with costs against appellant Alto Surety & Insurance Co., Inc. It is so ordered.

Bengzon, C.J., Bautista Angelo, Labrador, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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