

SUMMIT GUARANTY & INSURANCE CO., INC., APPELLANT, VS. REPUBLIC OF THE PHILIPPINES, APPELLEE.

G.R. No. L-44694. December 29, 1976

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

The only issue in this appeal is whether or not appellant, Summit Guaranty & Insurance Co., Inc., is entitled to a reduction of its liability on the surety bond filed in Criminal Case No. 3857 entitled "People of the Philippines vs. Oscar Eclevia" of the Court of First Instance of Rizal (Pasig).[1]

The following incidents are undisputed:

On September 8, 1972, appellant surety filed in the above-mentioned case a bail bond for P2,000.00 to secure the provisional release of the accused Oscar Eclevia who was charged with "direct assault". For failure of said accused to appear at the hearing on October 16, 1972, notwithstanding due notice, the Presiding Judge Ramon V. Jabson of Branch XXVI ordered the arrest of the accused, the confiscation of the bond and at the same time granted the surety company thirty days from notice to produce said accused and show cause why judgment should not be rendered against its bond. In spite of the two 30-day extensions granted by the trial court, appellant herein failed to produce the accused. As a result, judgment was rendered on February 15, 1973 against the full amount of the bail bond. On February 23, 1973, the accused was surrendered to the court. Motions for reconsideration of the order of February 15, 1973 were filed by the bondsmen but the same were denied.[2]

On June 5, 1973, appellant filed a "Motion to Reduce Liability" praying that the judgment against it be reduced in an amount equivalent to 10% of the face value of its bond, alleging the following attendant circumstances: (a) the order of February 15, 1973 rendering judgment on its bond was received by it on February 22, 1973 and accused was surrendered to the court on the following 23; (b) from January 20, 1973 which was the last day of the extension granted by the trial court for the bondsmen to produce the accused up to the date accused was actually surrendered, only 31 days had elapsed; (c) the delay in surrendering the accused was made in good faith as explained in the bondsmen's motions for reconsideration; and (d) the criminal case against the accused had been dismissed. This motion of appellant was denied by Judge Jabson in his order dated June 11, 1973.[3] Forth-with, Summit Guaranty & Insurance Co., Inc. interposed the instant appeal.

We find this appeal to be without merit.

As held by this Court in *People vs. Ignacio Sanchez, Luzon Surety Company, Inc.*, bondsmen-appellant, L-34222, January 24, 1974, it is a long-settled rule in this jurisdiction that the matter of reducing the liability of the bondsmen under a forfeited bond is wholly within the discretion of the trial court, to be refused or granted according to the merits of the particular case before it, and that the exercise of such discretion will not be disturbed by Us on appeal unless grave abuse of discretion was committed or that there are circumstances which the trial court failed to consider.[4]

To justify exemption from liability on a bail bond or a reduction thereof, two requisites must be present under the provisions of Sec. 15, Rule 114, Rules of Court, to wit: (a) production or surrender of the person of the accused within 30 days from notice of the order of the court to produce the body of the accused or giving the reason for its non-production and (b) satisfactory explanation for the non-appearance of the accused when first required by the trial court to appear.[5] Compliance with requisite (a) without meeting requisite (b) will not justify non-forfeiture of a bail bond or reduction of liability thereon.

In *People vs. Sy Beng Guat, Manila Surety & Fidelity Co., Inc.*, appellant, 105 Phil. 574, this Court thru Justice Bautista Angelo, categorically stated:

"It thus clearly appears that the mere pro-duction or appearance of the accused within the period set by the court after his failure to appear when first required for trial would not suffice to exonerate the bondsman from liability, nor entitle him to release as a matter of right, but it is still necessary that he give satisfactory reasons why he failed to appear when first required to do so." (pp. 576-577)

The Court cited its Decision in *People vs. Felix, L- 10094*, May 14, 1957, 101 Phil. 1209, where it was held that in matters of confiscation of bail bonds, the personal appearance of the defendant is not sufficient but that it must be accompanied by a satisfactory explanation of the defendant's failure to appear; that mere explanation is not enough, for it is of prime importance that it be satisfactory in order that the surety may be discharged from liability or be entitled to a mitigation thereof.

In the case now before Us, the accused Eclevia was surrendered to the trial court after the lapse of 125 days from October 20, 1972, the date when the herein appellant received copy of the order dated October 16, 1972, for the arrest of the accused and confiscation of his bond. While it is true that appellant was given extensions by the trial court to produce the person of the accused, the fact remains that notwithstanding said extensions it failed to comply with its obligation within the extended period, and it was only after judgment was rendered against the bail bond (order of February 15, 1973) that the accused was finally brought to court.

We do not agree with appellant that the fact that it presented the accused in court one day after it received the order of February 15, 1973, is to be taken in its favor; on the contrary, that circumstance militates against it for it eloquently shows that the surety was aware all the time of the whereabouts of the accused and that it simply connived with the latter to delay as long as possible his appearance in court and the disposition of the criminal case. It was only the sudden realization that it stood to lose P2,000.00 by reason of the judgment against its bond that roused herein appellant into action.

The explanation given by appellant-surety in its motions for reconsideration filed with the trial court - that the accused was a chemical engineering student at the FEATI University who left the parental home when martial law was declared due to rumors that the Philippine Constabulary would take under its custody all those persons who have committed offenses against persons in authority, and that when the accused returned to his home, the father was prepared to surrender his son but for one reason or another such surrender was delayed presumably "because the father was debating with his conscience whether to surrender the accused or not" - all these reveal the laxity with which the herein appellant took into consideration its obligation as bondsmen of the accused in Criminal Case No. 3857.

In the early case of *U.S. vs. Addison, et al.*, 27 Phil. 563, (1914) the Court in the words of Justice Sherman Moreland declared:

"When the obligation of bail is assumed, the sureties become in law the jailers of their principal. Their custody of him is the continuance of the original imprisonment, and though they cannot actually confine him, they are subrogated to all the other rights and means which the government possesses to make their control of him

effective." (pp. 569-570)

The above was cited and reiterated in *People vs. Gonzales*, 105 Phil. 47, and *People vs. Sanchez*, supra, so as to stress the nature of the obligations assumed by the bondsmen in a criminal case. And in *People vs. Puyal*, 98 Phil. 415, the Court through Justice Alejo Labrador emphasized that the diligence on the part of the bondsmen in the performance of their obligation must be the gauge in assessing their liability on the bond.

Applying all these principles of law to appellant herein, We hold that it had not shown any satisfactory explanation for the non--appearance of its principal when the latter was first required by the trial court to appear at the hearing of the case; consequently, the trial court did not abuse its discretion in denying the motion to reduce the surety's liability on the bond, notwithstanding the alleged dismissal of the criminal case against the accused Eclevia.

PREMISES CONSIDERED , the Order of the Court a quo on appeal is affirmed with treble costs against the appellant.[6]

SO ORDERED.

Teehankee, (Chairman), Makasiar, Antonio, and Martin, JJ., concur.

[1] This appeal was filed and docketed with the Court of Appeals as CA-G.R. No. 53660-R on August 14, 1973. In a resolution dated September 1, 1976 of the Sixth Division composed of Justices L.B. Reyes, De Castro and Ericta, the appeal was certified to this Court as there are no questions of facts involved. In Our Resolution of October 1, 1976, the case was accepted and properly docketed.

[2] pp. 7-17, Record on Appeal

[3] pp. 17-24, *ibid*.

[4] 55 SCRA 276, 279-281, per Muñoz Palma, J. citing *U.S. vs. Sunico*, et al. 40 Phil. 826; *People vs. Reyes*, 48 Phil. 139; *People vs. Calabon*, 53 Phil. 945; *People vs. Alamada*, 89 Phil. 1; *People vs. Gonzales*, 105 Phil. 47; *People vs. Bustamante*, 106 Phil. 228.

[5] "Sec. 15. Forfeiture of bail.- When the appearance of the defendant is required by the court, his sureties shall be notified to produce him before the court on a given date. If the defendant fails to appear as required, the bond is declared forfeited and the bondsmen are given thirty (30) days within which to produce their principal and to show cause why a judgment should not be rendered against them for the amount of their bond. Within the said period of thirty (30) days, the bondsmen (a) must produce the body of their principal or give the reason for its non-production; and (b) must explain satisfactorily why the defendant did not appear before the court when first required so to do. Failing in these two requisites, a judgment shall be rendered against the bondsmen."

[6] In *People vs. Sanchez*, supra, the Court adjudged treble costs against the appellant Luzon Surety Company, Inc. for pursuing an appeal totally devoid of merit.

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