

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL CASTILLEJOS Y RELANO, DEFENDANT, CONSOLACION INSURANCE & SURETY CO., INC., BONDSMAN-APPELLANT.

G.R. No. L-21961. April 22, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In Criminal Case No. 71174 of the Court of First Instance of Manila the bond put up by the Consolacion Insurance and Surety Co., Inc., for the provisional liberty of the accused was ordered confiscated, and from that order the bondsman ap-pealed directly to us.

The bond was in the amount of P6,000.00, posted for Manuel Castillejos y Relano, who had been charged with the crime of robbery, but was convicted only of the crime of slight physical injuries and given a 20-day sentence. The judgment, dated August 9, 1963, was scheduled for promulgation on the following August 16. The accused failed to appear, whereupon the court issued the following order:

"For failure of the accused to appear for the promulgation of the de-cision this morning, notwithstanding due notice, the Court hereby orders the confiscation of the bond filed for his provisional liberty and the Con-solacion Insurance & Surety Co., Inc. is hereby given thirty (30) days from no-tice hereof within which to show cause why judgment should not be rendered against said bond."

The above-quoted order was received by the bondsman on August 22, 1963. On September 4, 1963 and before the expira-tion of the 30-day period allowed, the bondsman moved to re-consider, erroneously alleging as ground that "the accused had already been previously sentenced on August 9, 1963..." The court a quo denied the motion in its order of September 5, 1963, which reads:

"Acting upon the motion for recon-sideration filed by the Consolacion In-surance & Surety Co., Inc., bondsmen for the accused Manuel Castillejos y Relano, and considering that the said bondsmen do not even know what transpired on August 16, 1963 when the Court ordered the con-fiscation of their bond, the Court finds the motion not to be well-founded and so hereby denies the same."

A second motion for reconsideration was filed on September 16, 1963, this time alleging: (1) that the failure of the principal to appear before the Court on August 16, 1963 was due to his confinement on that date in the Rizal Provincial Hospital, as shown by a certification by the Medical Records Librarian of the hospital, and (2) that subsequently, within the 30-day period given by the court, the accused per-sonally appeared before it, submitted himself to the judgment rendered against him and started to serve his sentence. On the same day the motion was filed the court issued the following order:

"For lack of merits, motion for reconsi-deration of Court order is hereby denied. Judgment is hereby rendered against the bondsmen for the whole amount of the bond."

The first issue raised by appellant involves the in-terpretation of Section 15 of Rule 114, which provides:

"Section 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 with-in 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 bonds-men."

Appellant submits that the lower court abused its discretion in rendering judgment on the bond before the expiration of the 30-day period granted in the above-quoted provision of the Rules as well as in the order of confiscation itself.

Appellant's contention is untenable. In *People vs. Del Carmen, et al.*, G. R. No. L-22082, October 30, 1967, we held:

"x x x All that is required before judgment upon the bond may be rendered is the performance by the bondsman of two (2) specific acts: (1) produce the body of the principal or give the reason for his non-production; and (2) explain satisfactorily why the principal did not appear before the court when first required to do so. For this purpose a period of thirty days is allowed. If upon the expiration thereof neither of the requisites is complied with, judgment against the bondsman shall be rendered as a matter of course. This however does not mean that if the principal is produced before the period expires and the explanation is submitted for his non-appearance when required the court will have to wait until the expiration of such period before it may render judgment on the bond. There is no point at all in deferring judgment since the matter is already submitted to the court on the only question of whether or not the explanation is satisfactory and whether or not the bondsman should be held liable." (underlining supplied)

The above ruling was reiterated in *People vs. Cabanero, et al.*, G. R. No. L-22081, January 17, 1968.

The next issue refers to the merit of the explanation given by appellant, embodied in its second motion for reconsideration, for the failure of its principal to appear on the date set for the promulgation of the sentence. This is an issue the resolution of which generally lies within the discretion of the trial court (*People vs. Alamada*, 89 Phil. 1; *People vs. Del Carmen, et al.*, supra). The lower court found that the explanation submitted by appellant was not entirely satisfactory, and we see no justifiable reason to reverse its finding, particularly because the explanation was a belated one, and should have been brought to the attention of the court on the very day the accused was required to appear. However, since it is undisputed that he was then actually confined in a hospital, and considering the fact that while he was charged with robbery, a grave offense, he was convicted only of slight physical injuries and given 20-day sentence, we are of the opinion that the liability of the bondsman should be reduced to a more or less nominal sum, which is hereby fixed at P200.00. The order appealed from is modified accordingly, without pronouncement as to costs.

Reyes, J.B.L., (Acting C.J.), Dizon, Bengzon, J.P., Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

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