

**CITIZEN&#8217;S SURETY &#038; INSURANCE COMPANY, INC.,  
PLAINTIFF-APPELLANT VS. SOLOMON LORENZANA AND ANITA U.  
LORENZANA (SPOUSES) AND LEOPOLDO I. GONZALES AND AURORA  
U. GONZALES (SPOUSES) ...**

*G.R. No. L-20800. April 29, 1968*

Ponente: MAKALINTAL, J.

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**MAKALINTAL, J.:**

The facts are stated in the decision appealed from (Civ. Case No. 47093, CFI Manila):

"The material facts in this case are not disputed. It appears that on March 22, 1958, the plaintiff issued a surety bond for the sum of P28,000.00 in behalf of defendant Anita U. Lorenzana in favor of the Republic of the Philippines to secure the payment of P28,000.00 as the amount charged by the Bureau of Lands to be paid in installments representing said defendant's indebtedness for rentals on the premises leased to her in the old Bilibid Compound, Quezon Boulevard, Manila (Exh. B). On the same date, defendant Anita U. Lorenzana and defendant spouses Leopoldo Gonzales and Aurora U. Gonzales executed an indemnity agreement in favor of the plaintiff in connection with the aforesaid surety bond (Exh. A). The bond was to expire after one year or on March 22, 1959. The securing of the bond from the plaintiff surety company was effected through the good offices of defendant Leopoldo Gonzales who is known to Aristeo L. Lat, Vice-President and General Manager of the plaintiff.

On February 24, 1959, Gonzales wrote the plaintiff and requested a renewal of the surety bond for P28,000.00 issued by the plaintiff in behalf of Mrs. Lorenzana. The plaintiff accordingly issued an indorsement renewing the bond for another year starting from March 22, 1959 up to March 22, 1960 (Exh. B-1). On March 31, 1959, the plaintiff wrote Mrs. Lorenzana informing her of the renewal of the bond and demanding the payment of the amount of P781.58 as premiums and documentary stamp charges on the renewed bond (Exh. D). The said letter was received by Mrs. Lorenzana on April 30, 1959 (Exh. D-3).

In the meanwhile, some disagreement arose between Mrs. Lorenzana and the Bureau of Lands, as well as between the Lorenzanas and the Gonzales concerning the claim of the latter that they are partners in the enterprise involved. Mrs. Lorenzana and Mrs. Gonzales are sisters. For reasons not clearly appearing in the record, Mrs. Lorenzana never filed with the Bureau of Lands the renewed bond. On September 18, 1959, the Director of Lands Zoilo Castrillo wrote a letter to Mrs. Lorenzana, calling her attention to the expiration of her bond on March 22, 1959, and that the same according to the records of the Bureau of Lands had not yet been renewed (Exh. 3). Instead of filing the renewed bond issued by the plaintiff, Mrs. Lorenzana secured another bond from the Manila Surety & Fidelity Company dated October 5, 1959 and filed the same with the Bureau of Lands on the same date. On October 15, 1959, the plaintiff wrote the Director of Lands requesting the status of the bond issued by the plaintiff (Exh. F). In reply thereto, Assistant Director of Lands Vicente Tordesillas wrote the plaintiff informing the latter that the bond issued by the plaintiff expired on March 22, 1959, and that Mrs. Lorenzana submitted another bond posted by the Manila Surety & Fidelity Company as a replacement of the former bond (Exh. G). On

May 6, 1960, the plaintiff again wrote Mrs. Lorenzana demanding payment of the premium of P781.58 on the renewed bond (Exh. J). On May 11, 1960, Mrs. Lorenzana replied to the plaintiff informing the latter that she did not consider herself obligated to pay the amount demanded, because she never renewed the bond which expired on March 22, 1959, and that she had secured another bond covering the same obligation (Exh. K). On September 27, 1960, the plaintiff filed this action in the Municipal Court of Manila.”

Under the foregoing facts the Municipal Court of Manila held the defendants liable for the payment of the premium on the bond, but was reversed by the Court of First Instance on appeal. The latter court held that there was no perfected contract of suretyship since the bond was never approved by the Bureau of Lands, and that the plaintiff assumed no risk of liability thereunder.

To say that the contract of suretyship had not been perfected is to oversimplify the problem and to overlook the fact that the contract itself, which had been in existence for one year, contained a special provision for its renewal, and that the question is not whether the plaintiff had assumed any risk of liability in favor of the Bureau of Lands but whether the defendants were obligated to pay the premium by reason of the renewal. Pertinent to this question are the following provisions of the indemnity agreement:

‘As the consideration for the suretyship herein applied for, and the responsibility undertaken by the Company for the original Bond and for any renewals, extensions, alterations and substitutions thereof, the undersigned, jointly and severally, bind themselves in favor of the said Company, in the following terms:

PREMIUM: - To pay the Company the sum of SEVEN HUNDRED SEVENTY ONLY (P7.70.00) in advance and as premium therefor for each period of ONE (1) year or fractional part thereof, to be computed from this date, said amount to be payable on or before the 5th day of every such period or fractional part thereof, until said Bond, or any renewal, extension, alteration or substitution thereof, be cancelled in full by the person or entity in whose favor it was made (or) by a court of competent jurisdiction.”

“RENEWALS, ALTERATIONS and SUBSTITUTIONS: - The undersigned hereby empower and authorize the Company to charge the principal or principals, to execute or consent to the execution of any extensions, continuation, increase, modification, change, alteration and/or renewal of the original bond herein referred to and to execute or consent to the execution of any substitution for said bond with the same or different conditions and parties, it being understood that said change, extension, continuation, increase, modification, alteration or renewal may be effected even without the consent of the undersigned who shall be understood as having given, by these presents, their consent in advance, individually and collectively, to the same; it being understood further that the undersigned hereby hold themselves jointly and severally liable to the Company for the original bond herein above-mentioned or for any extension, continuation, increase, modification, change, alteration renewal or substitution thereof, until the full amount including principal, interests, premiums, costs, attorney's fees and other expenses due to the Company thereunder, is fully paid up.”

The renewal of the bond was requested by defendant Leopoldo Gonzales in behalf of Mrs. Anita U. Lorenzana. His authority to make such request is not disputed; indeed they were solidary obligors vis-a-vis the plaintiff under the indemnity agreement. And when the plaintiff renewed the bond by means of a renewal indorsement, pursuant to its standard practice, it sent the same to Mrs. Lorenzana together with a letter dated March 31, 1959, demanding payment of the premium on the bond for the ensuing one-year period of renewal. Mrs. Lorenzana simply kept silent, and instead of delivering the notice of renewal to the Bureau of Lands retained it in her possession and, what was worse, secured another bond from a different bonding company in October, 1959. It was only on May 11, 1960, some thirteen months after the renewal indorsement was received by her, that she deigned to communicate with the plaintiff, in reply to another demand for payment, only to say that she did not

consider herself under any obligation to pay.

Such obligation was implicit in her consent to and acceptance of the renewal of the bond. In fact the renewal was requested in her behalf by her solidary co-indemnitor. Upon receipt of the renewal indorsement it was her duty to file it with the creditor, the Bureau of Lands. To allow her to refrain from doing so and on the basis of her own desistance disclaim responsibility for the payment of the premium would be practically to leave compliance with the contract to the will of one of the parties. This is not to say that she could not refuse or cancel the renewal of the bond. But a refusal or cancellation presupposes an overt act brought to the knowledge of the other party, so that the latter could take steps to protect its interests in the premises. As the situation was, the plaintiff must have considered all along that the bond was in force and must have carried the same in its books as a contingent liability, thereby reducing pro tanto its capacity to do business with other parties. Justice dictates that the defendants should not go free at the expense Of the plaintiff.

WHEREFORE, the judgment appealed from is reversed, and the defendants are ordered to pay jointly and severally to the plaintiff the sum of P781.58, plus interest thereon at the legal rate from April 30, 1959 (date of the extrajudicial demand), plus P200.00 by way of attorney's fees, and costs.

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

Judgment reversed.

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