

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CENTRAL SURETY & INSURANCE COMPANY, ET AL.,
DEFENDANTS-APPELLANTS. CENTRAL SURETY & INSURANCE
COMPANY, THIRD-PARTY PLAINTIFF...**

G.R. No. L-27802. October 26, 1968

Ponente: CASTRO, J.

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CASTRO, J.:

On October 23, 1959 the Republic of the Philippines (hereinafter referred to as the Republic) filed suit against the Central Surety & Insurance Company (hereinafter referred to as the Surety) and the latter's manager of the bond department, Casimiro Mangoba. The complaint recites (1) that the Surety executed in favor of the Deportation Board a bond in the amount of P5,000 for the temporary release of Po Kee Kam, a Chinese citizen and respondent in deportation proceeding no. 730, subject to certain conditions, principal among which are that the Surety undertakes to have Po Kee Kam available at all times to the Deportation Board within 24 hours from notice, that Po Kee Kam shall be personally present before the Deportation Board at all hearings in the case, and that upon his failure to comply with any of the above conditions, the bond shall be automatically confiscated and forfeited in favor of the Government; (2) that because Po Kee Kam failed to appear at the hearing scheduled for December 14, 1962 despite due notice to the Surety, the Deportation Board on the same date issued an order for his arrest, which same order declared the bond confiscated in favor of the Government; (3) that by letter of December 27, 1962, the Commissioner of Immigration informed the Surety of the forfeiture of the bond and demanded the remittance to the Bureau of Immigration of the amount of P5,000 on or before January 2, 1963; (4) that notwithstanding repeated demands the Surety has failed to remit the said amount without justifiable cause. Prayer is made that judgment be rendered sentencing the Surety and Mangoba to pay, jointly and severally, to the Republic the amount of P5,000, with interest at the legal rate from the filing of the complaint until full payment, and the sum of P1,000 as attorney's fees and litigation expenses, plus costs.

On July 5, 1963 the Surety filed its answer, interposing inter alia, the defenses (1) that its bond cannot be made liable beyond the amount of P5,000; (2) that it is not liable for attorney's fees in the absence of any stipulation to that effect; (3) that the court has no jurisdiction over the case as the amount involved is only P5,000; and (4) that the Republic has no cause of action.

Mangoba's answer, filed on July 11, 1963, makes substantially the same averments and interposes the same defenses as those contained in the Surety's answer. In addition, he dis-claims personal liability under the bond.

On July 30, 1963 the Surety filed a third-party complaint, with leave of court, against Po Kee Kam and Tony Go (hereinafter referred to as the third-party defendants), alleging that the Republic filed a complaint against it on the basis of a surety bond in the amount of P5,000 issued in behalf of Po Kee Kam in favor of the Deportation Board; that for and in consideration of the issuance of the said bond, the third-party defendants, jointly and severally, executed an indemnify agreement in favor of the Surety to indemnify it for damage, loss, costs, payments,

advances and expenses of whatever kind and nature which it might at any time incur as a consequence of having executed the said bond. Prayer is made that in the event judgment is rendered against it, the third-party defendants be ordered, jointly and severally, to reimburse it whatever amount it may be adjudged to pay plus interest of 12%, per annum, compounded quarterly, from the filing of the complaint until the whole obligation is fully paid, 15% of the total amount due as attorney's fees, and costs.

On September 7, 1963 the third-party defendants filed their answer, admitting some material allegations of the third-party complaint, denying others, and interposing the defense that the case is premature as the main case has not yet been terminated.

On December 2, 1963 upon verbal motion of the third-party defendants, the trial court dismissed the third-party complaint for lack of jurisdiction, in the following words:

"It appearing from the records that the third-party complaint was filed after the passage of the new law conferring original jurisdiction on the Municipal Court in civil cases involving not more than P10,000.00, and it likewise appearing that the third-party complaint refers total claim of only P6,000.00, the oral motion to dismiss filed by the counsel for the third-party defendants is in order. Therefore, the court hereby orders that the third-party complaint be, as it is hereby, dismissed, without prejudice to the right of the third-party plaintiff to file a separate case in the municipal court."

On the following day, December 3, 1963, the trial court rendered judgment, ordering the Surety to pay to the Republic the sum of P5,000, with interest thereon at the legal rate from the date of the filing of the complaint until the whole amount shall have been paid, plus costs, and absolving Mangoba from the complaint.

The Surety forthwith interposed its appeal to the Court of Appeals from the order of December 2, 1963 dismissing its third-party complaint, and from the decision of December 3, 1963 ordering it to pay the Republic the amount of P5,000, contending that the trial court erred in (1) holding the Surety liable on the bond despite the fact that it has not violated any condition thereof, (2) not declaring itself without jurisdiction over the subject-matter of the action, and (3) dismissing the third-party complaint. The Court of Appeals certified the case to this Court on May 10, 1967, pursuant to section 2, Article VIII of the Constitution, and section 17(3) of Republic Act 296, on the ground that the jurisdiction of the trial court is squarely in issue.

By formulation of the Surety, the issues tendered for resolution in this appeal are: (1) Is the Surety liable on its bond? (2) Did the trial court have jurisdiction over the subject-matter of the main action? (3) Did the trial court have jurisdiction over the third-party complaint?

1. Upon the first issue, it is argued that the Surety is not liable on its bond because the two conditions thereof - that there must be notice to it by the Republic to produce the person bonded, and that the latter fails to appear as required in the notice - did not come to pass. Hence, the forfeiture of the bond is unwarranted.

This pretense of the Surety is palpably without merit. Exhibit B[1] unequivocally shows that the Surety received notice to produce the person of Po Kee Kam; in point of fact the Surety even orally moved "for the postponement of the production of respondent Po Kee Kam," which motion was denied in the order of December 14, 1962 of the Deportation Board. It would have been pointless to ask for postponement to produce the person of Po Kee Kam, if the Surety did not receive notice to that effect. At all events, the trial court found that the Surety and Mangoba "were duly notified to produce the said Po Kee Kam before the Deportation Board on December 14, 1962, but the said Po Kee Kam failed to appear." This finding of the trial court is entitled to respect, being fully supported by the evidence of record.[2]

The trial court therefore did not err in ordering the Surety to pay to the Republic the sum of P5,000, with interest

thereon at the legal rate from the date of the filing of the complaint until full payment thereof, plus costs.

2. Upon the second issue, it is insisted that the trial court had no jurisdiction over the subject-matter of the action because the total amount involved is only P6,000 (P5,000 under the bond and P1,000 as attorney's fees), a court of first instance being vested with jurisdiction only over cases in which the demand, exclusive of interest, or the value of the property in controversy, exceeds P10,000, pursuant to section 44 of Republic Act 296, as amended by Republic Act 3828 which took effect on June 22, 1963. Although the present action was filed on June 20, 1963, two days before the effectivity of Republic Act 3828 which broadened the jurisdiction of municipal and city courts to include cases in which the demand, exclusive of interest, or the value of the property in controversy, does not exceed P10,000,[3] it is nonetheless argued that the court's jurisdiction over the case was lost on June 22, 1963, when Republic Act 3828 took effect, and therefore the case should have been remanded to the municipal court.[4]

We disagree. It is not disputed that the trial court acquired jurisdiction over the subject-matter on June 20, 1963 when the complaint was filed with it. It is of no moment that summons was served and that the case was heard and decided after the effectivity of Republic Act 3828, because the rule is firmly entrenched in our law that jurisdiction once acquired continues until the case is finally terminated.[5]

3. Upon the third issue, the Surety takes the position that if the trial court acquired jurisdiction over the main case, "it follows that it could also take cognizance of the third-party complaint which derives its life from the complaint."

The Surety has a point here. It is true that the third-party complaint was filed after the effectivity date of Republic Act 3828. It is likewise true that the demand therein made does not exceed P10,000, and, therefore, is not within the jurisdiction of the Court of First Instance if it were an independent action. But the third-party complaint is an ancillary suit which depends on the jurisdiction of the court over the main action. Since the trial court had acquired jurisdiction over the complaint, it necessarily follows that it likewise had jurisdiction over the third-party complaint which is but an incident thereof. This must be so because jurisdiction over the main case embraces all incidental matters arising therefrom and connected therewith.[6] A contrary rule would result in "split jurisdiction" which is not favored,[7] and in multiplicity of suits, a situation obnoxious to the orderly administration of justice.[8] The court acquired jurisdiction over the third-party complaint, provided it had jurisdiction over the main case, for the reason that the third-party complaint is but a continuation thereof, its purpose being to seek "contribution, indemnity, subrogation or any other relief, in respect to his opponent's claim.[9] "Thus, in *Talisay-Silay Milling Co., et al. vs. CIR, et al.*,[10] this Court elaborated with incisiveness:

"The third-party complaint is but a continuation of the main action, its purpose being merely to seek 'contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim.' (Rule 6, Sec. 12.) The aim is to avoid the actions which should be tried together to save the time and cost of a re-duplication of evidence, to obtain consistent results from identical or similar evidence, and to do away with the serious handicap to a defendant of a time difference between a judgment against him and a judgment in his favor against the third-party defendant.

"Thus it has been held that 'where a court has jurisdiction of a claim and the parties in the principal action, it generally has jurisdiction also of a suit or proceeding which is a continuation of or incidental and ancillary to the principal action, even though it might not have jurisdiction of the ancillary proceeding if it were an independent and original action or proceeding. The jurisdiction of the ancillary suit or proceeding is referable to or dependent upon the jurisdiction of the court over the principal suit or proceeding.'

"Petitioners urge that a rule similar to the rule on counterclaims be adopted. But a third-party complaint cannot be likened to a counterclaim which must be within the jurisdiction of the court trying the main case, because

unlike a third-party complaint, a counterclaim 'need not diminish or defeat the re-recovery sought by the opposing party, but may claim itself exceeding in amount or different in kind from that sought in the opposing party's claim. (Rule 6, Sec. 6). A third-party complaint may likewise be likened to a cross claim under Rule 9, section 5. x x x The principle is at once apparent, namely, that where an action is ancillary to a main action over which a court has jurisdiction, no independent jurisdiction is needed to enable the court to take cognizance of the ancillary action."

There can therefore be no doubt that in dismissing the Surety's third-party complaint the trial court committed a reversible error.

4. The Surety prays for the remand of the third-party complaint to the trial court for further proceedings. It is our view that under the environmental circumstances, there is no need to do so. The third-party defendants did not specifically deny the execution of the indemnity agreement. They merely expressed insufficient knowledge and information to form a belief as to the veracity thereof, without setting forth "the substance of the matters" upon which they rely to support their denial as required by the Rules.[11] To obviate further litigation between the Surety and the third-party defendants, this Court now decides the third-party complaint on the merits, and orders the third-party defendants to reimburse the Surety the amount of the judgment against it. The pleadings on record fully support this adjudication.[12]

ACCORDINGLY, the order dated December 2, 1963 dismissing the third-party complaint is set aside; the decision dated December 3, 1963 is modified in the sense that the third-party defendants are hereby ordered to pay to the Surety whatever sums the latter will pay to the Republic by virtue of the judgment appealed from. Costs are assessed against the Surety in favor of the Republic, and against the third-party defendants in favor of the Surety.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on leave.

[1] p. 2, folder of exhibits.

[2] The rule is that the findings made by the trial court must be accepted, unless it is shown that they are unfounded or were arbitrarily arrived at, or that said court had failed to consider important evidence to the contrary. (*Lapina vs. Court of Agrarian Relations and Calinisan*, L-20706, Sept. 25, 1967, 1967C PHILD 745, 21 SCRA 194).

[3] Sec. 88, Rep. Act 296, as amended by Republic Act 3828, effective June 22, 1963.

[4] The Surety's syllogism runs as follows: "x x x The total demand of plaintiff-appellee is only P6,000.00, and therefore, within the jurisdiction of the Municipal Court in accordance with Rep. Act No. 3828. The complaint was filed on June 20, 1963, summons was served to defendant-appellant on June 25, 1963, the case was tried on December 2, 1963 and decision was rendered on December 3, 1963. By virtue of Republic Act 3828, the court lost jurisdiction over the case on June 22, 1963 when the said act took effect. At the time therefore, when the defendant-appellant was served with summons and when the case was tried and decided, the court has no more jurisdiction over the subject-matter. The case should have been remanded to the Municipal Court. The trial court therefore, erred in taking cognizance of the case even after it has lost jurisdiction over it."

[5] *Pamintuan vs. Tigalo*, 53 Phil. 1; *Philippine Land-Air-Sea Labor Union (PLASLU), Inc. vs. CIR*, 93 Phil. 747; *Tuvera vs. de Guzman*, L-20547, April 30, 1965; *Rizal Surety, Inc. vs. Manila Railroad Company*, L-20875, April 30, 1966; *Insurance Co. of North America vs. U.S. Lines, Co., et al.*, L-21021, May 27, 1966; and *People vs.*

Paderna, L-28518, Jan. 29, 1968, 1968A PHILD 261, 22 SCRA 273.

[6] Philippine Products Co., et al. vs. Court of Appeals, et al., L-20308, Nov. 15, 1967, 1967D PHILD 368, 21 SCRA 870.

[7] Bay View Hotel, Inc. vs. Manila Hotel Workers' Union-PTGWO, L-21803, Dec. 17, 1966.

[8] Association of Labor Unions vs. Gomez, et al., L-25999, Feb. 9, 1967, 1967A PHILD 240, 19 SCRA 304.

[9] Section 12, Rule 6 of the Revised Rules of Court specifically provides: "Third-party complaint. - A third-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third-party defendant, for contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim."

[10] L-21582, November 29, 1966.

[11] Sec. 10, Rule 8, Revised Rules of Court.

[12] The Supreme Court has on several occasions resolved actions on the merits, instead of remanding them to the trial court for further proceedings, as where the ends of justice would not be subserved by the remand of the case (Francisco and Francisco vs. The City of Davao, et al., L-20654, Dec. 24, 1964), or where public interest demands an early disposition of the case (Republic vs. Security Credit and Acceptance Corporation, et al., L-20583, Jan. 23, 1967, 19 SCRA 58, 1967A PHILD 59). And in Samal vs. Court of Appeals (L-8579, May 25, 1956, 99 Phil. 230), where the order of dismissal was reversed on appeal, this Court, instead of remanding the case for further proceedings, decided it on the merits on the basis of the evidence on record. It was there pointedly declared that: "Ordinarily when an order of dismissal issued by the trial court is reversed on appeal the case is remanded to said trial court for further proceedings, particularly for the reception of evidence. But when the trial court had already received all the evidence presented by both parties, consequently, the Court x x x is in a position to pass upon said evidence and decide the case on its merits and there is no necessity for remanding the case to the trial court for further proceedings."

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