

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
IGNACIO SANCHEZ, (ACCUSED). LUZON SURETY COMPANY, INC.,
(BONDSMEN-APPELLANT).**

G.R. No. L-34222. January 24, 1974

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This appeal is grossly without merit. Not satisfied with an Order of the Court of First Instance of Manila in Criminal Case No. 66475 entitled People of the Philippines vs. Ignacio Sanchez, whereby its forfeited surety bond was reduced from P6,000.00 to P1,500.00, the Luzon Surety Company, Inc. filed the instant appeal.[1]

On November 2, 1963, the Luzon Surety Company, Inc., to which we refer hereafter as the appellant, filed in the above-mentioned criminal case an appeal bond for P6,000.00 to secure the provisional release of accused Ignacio Sanchez.[2]

On March 17, 1965, the Court of First Instance of Manila, presided at the time by the Hon. Manuel P. Barcelona, ordered the arrest of accused Ignacio Sanchez and the confiscation of his appeal bond for his failure to appear for execution of the final judgment rendered against him and on October 25, 1965, the trial court rendered judgment on said appeal bond.[3]

On April 18, 1966, appellant apprehended the accused Ignacio Sanchez and surrendered the latter to the Manila Police Department and by reason thereof, appellant filed a motion with the trial court praying that the judgment on its bond be reduced from P6,000.00 to P300.00 on the ground that it had substantially complied with its undertaking under the bond.[4]

Acting on the foregoing motion, the trial court issued an order dated May 28, 1966, to the following effect:

"Acting upon the 'Motion for Partial Confiscation of Bond' filed by the Luzon Surety Co., Inc., bondsman of the above-named accused, and considering that the person of the accused was surrendered to the police authorities, although belatedly, the Court, pursuant to the practice it has adopted in cases of this nature and under established jurisprudence on the matter, hereby reduces the liability of the aforesaid bondsmen on its executed appeal bond to an amount equivalent to twenty-five per cent (25%) of its original undertaking, or in the sum of P1,500.00.

"IN VIEW THEREOF, let a writ of execution be issued anew against the aforesaid surety company for the amount of P1,500.00." (p. 7, Record on Appeal)

Appellant sought a reconsideration of the above-quoted order and prayed that the judgment be further reduced to 10% of the bond; however, the motion was denied on June 25, 1966.[5]

The conditions under which a bond in a criminal case may be declared forfeited and judgment rendered thereon are provided for in Sec. 15, Rule 114, Rules of Court which reads:

"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 the implementation of the above-quoted rule, courts generally adopt a liberal attitude towards the bondsmen and accept, if satisfactory, the explanation for the non-production of the person of the accused, because "the ultimate desire of the State is not the monetary reparation of the bondsman's default, but the enforcement and execution of the sentence, such as the imprisonment of the accused or the payment by him of the fine imposed The surrender of the person of the accused so that he can serve his sentence is its ultimate goal or object. The provision for the confiscation of the bond, upon failure within a reasonable time to produce the person of the accused for the execution of the sentence, is not based upon a desire to gain from such failure; it is to compel the bondsman to enhance its efforts to have the person of the accused produced for the execution of the sentence"[7]

Under this mode of judicial thinking, if a bail bond is declared forfeited for failure of the accused to appear when required, the forfeiture may, in the discretion of the Court, either be discharged if within thirty days the accused or his counsel appears and satisfactorily explains the non-appearance,[8] or, where the confiscation of the bond and forfeiture thereof had already become final, be mitigated or lessened.[9]

It is settled that the matter of reducing the liability under a forfeited bond is wholly within the discretion of the court, to be refused or granted according to the merits of a particular case.[10] Thus, in *People vs. Reyes*, supra, this Court reduced by one-half the liability of the surety under its bond because the accused was presented to the trial court for execution of his sentence after several extensions were prayed for and even before a judgment was rendered on the bond. In *People vs. Calabon*, the liability of the surety was reduced from P12,000.00 to P3,000.00, taking into consideration the efforts of one of the sureties to apprehend the accused. In *People vs. Puyal*, the surety's liability was lowered from P10,000.00 to P3,000.00, even if the accused was presented after a delay of ten months because it was found that the confiscated bond of P10,000.00 was not proportional to the sentence imposed upon the accused. In *People vs. Gonzales*, the forfeited bond was reduced to 20% of the original bond of P2,000.00 because the accused was surrendered within the 30-day period set by the trial court for his production and his non--appearance was due to the illness of his mother who had to be brought to the San Lazaro Hospital. In *People vs. Bustamante*,[11] the liability was reduced from P1,000.00 to P500.00 because the accused was surrendered about three days after the issuance of the writ of execution of the judgment of the bond. In *People vs. Alamada*, the monetary obligation of the sureties was lowered by the Court from P3,000.00 to P200.00 because the accused was surrendered a few days after receipt of the trial Court's order to satisfy the amount of the bond. In *People vs. Daisin*,[12] the reduction was to an amount equivalent to 10% of the bond for the reason that the accused was produced barely a month after an Order was issued sentencing the surety company to pay on its bond of P5,000.00.

From these cases We mentioned above and several others of similar nature, it is seen that there is no definite yardstick which can be used to measure the extent to which the liability of a surety may be reduced simply because the circumstances of each case vary; what is certain, however, is that the exercise of discretion by the trial court on this matter will as a rule not be disturbed by Us on appeal unless there is a showing that there is grave abuse of such discretion or that there are certain circumstances peculiar to the case which the trial court failed to

consider.

We fail to see in the situation now before Us, any abuse of discretion committed by the trial court in denying the reduction of appellant's liability to 10% of its bond, much less the presence of some circumstance which warrants such a reduction.

Appellant's brief as well as its record on appeal are significantly bereft of a satisfactory explanation for the non-appearance of the accused Ignacio Sanchez on March 17, 1965, for the execution of the final judgment rendered against him, the only reason given being that "the accused failed to appear on March 17, 1965" "due to his deliberate attempt to jump his bail and avoid sentence." [13] To that we say that a surety becomes in law the jailer of his principal [14] and he is duty bound to exercise effective control over him short of confinement in order that he may at all times be in a position to produce him in court when required. The record of the case likewise does not show that motions for extension of time to produce the body of the accused were ever filed by appellant so as to impress the trial court of its efforts to locate the accused. In the cases cited above, a common denominator in the reduction of the bond was the diligence displayed by the surety in apprehending the accused resulting in the early production of the latter. What We see from the records in this case is that appellant allowed over a year to lapse from the time the appeal bond was ordered confiscated before it finally surrendered the accused for the execution of the judgment. Lastly, there is no attempt of appellant to show that the required appeal bond of P6,000.00 is not proportional to the penalty imposed upon the accused which will justify the reduction to 10% thereof. Under these circumstances We believe that the trial court was more than liberal when it lessened or decreased appellant's liability to 25% of its bond.

PREMISES CONSIDERED, we find this appeal to be utterly devoid of merit and we dismiss the same with treble costs against appellant.

Makalintal, C.J., Ruiz Castro, Teehankee, Makasiar, and Esguerra, JJ., concur.

[1] The appeal was elevated to the Court of Appeals where it was docketed as CA-G.R. No. 06904-CR, July 25, 1967; however, in a Resolution dated July 31, 1971, the Court of Appeals forwarded the case to this Court for lack of jurisdiction. (p. 24, Rollo)

[2] Record on Appeal, page 3.

[3] *id.*; *Id.*

[4] *Id.*; page 4.

[5] Record on Appeal, pp. 7-11.

[6] Formerly found in Sec. 15 of former Rule 110 and Sec. 76, General Orders No. 58.

[7] *People vs. Puyal*, 98 Phil. 415, 418.

[8] *U.S. vs. Sunico, et al.*, 40 Phil. 826, 830.

[9] *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.

[10] *People vs. Reyes*, *supra*, page 143, citing 6 C.J. 1053.

[11] 106 Phil. 228.

[12] 101 Phil. 228.

[13] Record on Appeal, p. 4.

[14] U.S. vs. Addison, et al., 22 Phil. 562.

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