

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ISAIAS CELESTINO ALIAS ISAIAS FELISTINO, ET AL., ACCUSED. FIRST QUEZON CITY INSURANCE CO., INC., MOVANT AND APPELLANT.

G.R. No. L-19924. December 23, 1964

Ponente: BENGZON, J. P., J.

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BENGZON, J. P., J.:

The First Quezon City Insurance Co., Inc., became the bondsman of Isaias Celestino, alias Isaias Felistino, in the Court of First Instance of Manila's criminal case No. 42219, for estafa. On October 25, 1961 the accused failed to appear for trial so the court ordered his arrest and confiscated his bail bond.

About five months later, specifically on March 17, 1962, agents of the bonding company and some Philippine Constabulary soldiers arrested the accused in Santiago, Isabela.

On March 20, 1962 the bondsman moved for the lifting of the order confiscating the bond. The next day, it asked the P.C. authorities in Santiago, Isabela to bring the accused to Manila, offering to pay for the expenses.

The P. C. authorities, however, released the accused on March 23, 1962. This was upon order on said date by the Court of First Instance of Isabela, which accepted a new bond for P4,000.00 posted by the Fortune Insurance & Surety Co., Inc., Isabela Agency. Said court stated that it was acting "as authorized by the order of the Court of First Instance of Manila, Branch XVII, dated March 20, 1962, in Criminal Case No. 42219".

So, on April 17, 1962, the First Quezon City Insurant Co., Inc. petitioned the Court of First Instance of Manila to lift the confiscation order and cancel its bond. The court denied this in its order of April 28, 1962, a portion of which states:

"x x x The basis of the motion is that it appears that said accused on March 23, 1962, posted another bond of P4,000.00 which was approved by the Judge of the Court of First Instance of Isabela (Cauayan Branch), as shown by the certification issued by the Clerk of said Court, which is attached as Annex "A" to the motion for reconsideration and made an integral part hereof. It appears from said certification by the Clerk of Court, Court of First Instance of Isabela, (Cauayan Branch), that said bailbond in the sum of P4,000.00 was duly approved by the Order of this Court dated March 20, 1962. The record, however, shows that no such order has ever been issued by this Court. Bather, on the contrary, it appears that this Court denied the *argente ex-parte* motion filed by the accused, Isaias Celestino, praying that he be allowed to file a new bond and that the order for his arrest be lifted and set aside, and that the Judge of the 2nd Branch of the Court of First Instance of Isabela be authorized to accept and approve his release after posting the said bond. It further appears that the accused was duly arrested by Agents Salvador Guevara and Alejandro Valiente, both of First Quezon City Insurance Co., Inc., but the Court cannot understand why they turned the accused over to the Philippine Constabulary instead of this Court which was their duty to do under the circumstances."

The bonding company has appealed to us from the abovestated order. Its assignment of error reads: "The trial court erred in holding that the bonding company did not comply with its obligation under the bond by

surrendering the accused Isaias Celestino to the Constabulary authorities at Santiago, Isabela, instead of surrendering him directly to the court."

Appellant has two related arguments: the non-surrender of the accused was due to circumstances beyond its control; and, the Government is responsible for rendering the surrender of the accused impossible.

The arguments of appellant are solely on acts and events after the accused had failed to appear on October 25, 1961. The non-appearance is thus left totally unexplained. For this alone, appellant's petition to set aside the order confiscating its bond cannot be granted. Section 15, Rule 110 (now Rule 114) of the Rules of Court requires the bondsman not only to produce the accused (or give reason for his non-production) after he fails to appear, but also to "explain satisfactorily why the defendant did not appear before the court when first required to do so".

Yet, even appellant's failure to produce the accused after it had arrested him has not been satisfactorily explained. Appellant would reason that it was prevented from doing so by the release order issued by the Court of First Instance of Isabela. But this order was issued only on March 23, 1962 whereas appellant had arrested the accused on March 17, 1962 or about a week earlier.

The record will show that appellant, instead of bringing the accused, after his arrest, to the court in Manila, as was its duty as bondsman, left him in the custody of the P.C. authorities in Santiago, Isabela. The reason why appellant again failed to produce the accused, is because it ignored its express undertaking as bondsman and left the fulfillment of its duty to the P.C. authorities. We cannot sustain the view that the safekeeping of the accused was the P.C.'s responsibility. The rule is well-settled that in bail the sureties are the jailers of their principal with no less than the Government's authority to hold him under preventive imprisonment (*People vs. Tuising*, 61 Phil., 404; *People vs. Otiak Omal*, L-14457, June 30, 1961; *People vs. Segarino*, L-20138, Nov. 27, 1964). Appellant's subsequent request that the P.C. bring Isaias Celestino to Manila offering to pay for all the expenses, did not cure its failure to comply with its duty under the terms of its bond.

Thus, appellant cannot properly invoke the doctrine that the bail will be exonerated if performance of the obligation by the surety is rendered impossible by an act of the obligee (*U.S. m. Bonoan*, 22 Phil. 1; *McConn vs. Haragan*, L-16580, Jan. 31, 1962). Assuming that the act of the Court of First Instance of Isabela may be deemed that of the Government as obligee under the bond, the same, as stated, does not account for appellant's non-production of the accused from the time he was arrested on March 17, 1962 up to the time he was released on March 23, 1962.

We may add, parenthetically, that the release of the accused was never authorized by the Court of First Instance of Manila, which had jurisdiction over him. And, for this reason, the new bond posted before the Court of First Instance of Isabela was returned thereto unaccepted.

WHEREFORE, the order appealed from is hereby affirmed, with costs.

SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

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