

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. JUDGE HERMENEGILDO A. PRIETO, SR., CFI BRANCH IV, ROXAS, ISABELA, AND DARIO GAMAYON, RESPONDENTS.

G.R. No. L-46542. July 21, 1978

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/92223c58379a/>

FERNANDO, J.:

Judge Hermenegildo A. Prieto, Sr., of the Court of First Instance of Isabela, would not have been named respondent by the People of the Philippines in a certiorari proceeding had he taken greater care in his appraisal of what the last sentence of Section 19 of the Constitution means. It allows the continuation of a trial after arraignment, notwithstanding the absence of an accused, provided that he has been duly notified and his failure to appear is unjustified.[1] What is quite regrettable is that he had a previous order which was legally impeccable. It was set aside on a motion for reconsideration. Respondent Judge ought to have stood firm. Correctly, he had, in such order, "issued a warrant of arrest * * * for the apprehension of accused Dario Gamayon for his continuous failure to appear in Court everytime the case is called for trial." [2] It continued: "His bail bond is declared forfeited." [3] It likewise gave the bondsmen thirty days "from notice [thereof] within which to produce the body of accused Dario Gamayon and show cause why judgment should not be rendered against them for the amount of their undertaking." [4] Assistant Solicitor General Vicente V. Mendoza correctly pointed out that in the bond posted by the accused, there was the usual undertaking that the accused would appear and answer the charge, hold himself amenable to the orders of the court, and, if convicted, would appear for judgment. [5]

After the issuance of such order by respondent Judge, there was a motion for reconsideration. Apparently, he was misled by his misreading of the above constitutional provision, now added to the present fundamental law. He failed to take into account that the constitutional right to bail [6] would be rendered nugatory if, by the mere fact that the trial could proceed in the absence of the accused, the undertaking in a bail bond and the Rules of Court provision could be ignored. Bail "is the security required and given for the release of a person who is in the custody of the law, that he will appear before any court in which his appearance may be required as stipulated in the bail bond or recognizance." [7] Clearly, the innovation introduced by the present Constitution goes no further than to enable a judge to continue with the trial even if the accused is not present under the conditions therein specified. It does not give him the right to jump bail. Where, as in this case, it is undisputed that he had gone abroad, the usual procedure provided by the Rules of Court to determine the liability of his bondsmen should be followed.

The gravity of the error of respondent Judge is thus quite obvious. His previous order, strictly in compliance with the Rules of Court, ought to have remained undisturbed. It should not have been set aside. The provision, a novel feature of the present Constitution, as to when a trial could proceed in the absence of an accused, does not lend itself to a latitudinarian construction. It means what it says and is limited to what is explicitly ordained. It is too plain to be misinterpreted. Certiorari lies.

Certainly, there was grave abuse of discretion when respondent Judge set aside the order in question which was issued by him on February 7, 1977. It bears repeating that after declaring the bond forfeited for the continuous failure of the accused to appear in Court everytime the case is called for trial, it gave the bondsmen thirty (30) days from notice to produce the body of the accused Gamayon and show cause why judgment should not be rendered against them for the amount of their undertaking. Thus, he followed to the letter the applicable Rules of Court. It reads thus: "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." [8]

There is no justification in law, therefore, for such valid and correct order being reconsidered, just because of the innovation in the Constitution as to the trial being held in the absence of an accused. [9] Respondent Judge unfortunately assumed that thereby a defendant was thus conferred a fundamental right to ignore the terms of the bond posted by him in accordance with his constitutional right to bail. The present Constitution certainly has not made a dent on the traditional and correct concept of a bail as given to allow the release of a person in the custody of the law on condition that he would appear before any court whenever so required. Upon failure to do so, the warrant of arrest previously issued can be a sufficient justification for his confinement. All that is assured on accused who posts bail, therefore, is that prior to his conviction, he need not be deprived of his liberty. The mere fact that the trial could not continue in his absence certainly affords no justification for his jumping bail nor for his bondsmen to escape from the legal effects of their undertaking.

Notwithstanding an opposition to such motion for reconsideration, [10] the lower court in the challenged order referring especially to the present Constitution held "that if the trial could be conducted after the accused has been arraigned and identified, the conclusion is inescapable that issuing an order of the forfeiture of the bailbond is premature, indeed until the time when a judgment of conviction shall have been meted out to the accused at which time his attendance is of utmost urgency. Until that time, therefore, confiscation of the bailbond of the accused is premature. If and when the trial of this case shall have been fully terminated and the Court shall finally enter judgment of conviction, if the said accused will not be available during the promulgation of the said judgment, then and only then [can] judgment of forfeiture and confiscation of the bailbond be legally issued." [11]

The grave abuse of discretion, to repeat, is quite apparent. There was a deliberate failure of respondent Judge to respect what is so clearly provided in the Rules of Court. It is quite categorical. As set forth above: "If the defendant fails to appear as required, the bond is declared forfeited * * *." [12] The very caption of such section reads: "Forfeiture of bail." Respondent Judge did precisely that, with the bondsmen, again in accordance with the Rules of Court, being given thirty days from notice "to produce the body of the accused Dario Gamayon and show cause why judgment should not be rendered against them for the amount of their undertaking." [13] That order was in accordance with law. Respondents Judge should have stood firm. He ought not to have acceded to the plea of the accused to set it aside.

There is another aspect which strongly militates against the actuation of respondent Judge. As emphatically put by Assistant Solicitor General Vicente V. Mendoza: "There was no justification for accused Dario Gamayon's failure to appear during the scheduled hearings. He simply jumped bail and Judge Prieto knew it. As early as February 4, 1976, Judge Prieto was informed that accused Dario Gamayon was poised to leave the country and he was asked to order the proper authorities to prevent the departure of said accused. (Annex A) Judge Prieto refused to act on

the information and motion. (Annex B) He also denied a motion for reconsideration of his action. (Annexes C and D) In setting aside his order of February 7, 1977 * * * Judge Prieto gravely abused his discretion. There was the stark fact that accused Dario Gamayon had left the country. He was already beyond the reach of the lower court. Yet Judge Prieto would compound his previous inaction which made possible the departure of accused Dario Gamayon from the country by refusing to take action against the bondsmen." [14] Respondent Judge may not have been aware of it, but in so comporting himself, he had set at naught the teaching of a host of cases that uniformly set forth the procedure to be followed in the event of a violation of the conditions of a bail bond. [15]

One last point. This petition on behalf of the People of the Philippines was filed by Assistant Provincial Fiscal Wilfredo Tumaliuan of Isabela. It was reinforced by the comment of Assistant Solicitor General Vicente V. Mendoza. While he joined the Assistant Provincial Fiscal in having the challenged order nullified, thus leaving the original order declaring the bond forfeited in full force and effect, he did suggest that the bondsmen be included as respondents. That is in accordance with sound procedural rules. At this stage, however, there is no necessity for strict compliance with such requirement. Their counsel, Attorney Hilario B. Sagun, Jr., relied on the same argument on the innovation of the Constitution as to the trial of an accused in his absence in a supplemental argument to motion for reconsideration filed with respondent Judge. What is more, in the reply to the opposition to the motion for reconsideration, the aforesaid counsel was again heard on behalf of his clients. Again, in the Comment which private respondent, the accused Gamayon, submitted to this Court, the same counsel argued on behalf of the bondsmen, relying, as could be expected, in the implausible and far-fetched interpretation of the significance to be attached to the constitutional provision allowing trial to proceed in the absence of the accused. It cannot be truly said, therefore, that they had not been accorded a hearing. At any rate, the original order which ought not to have been set aside, conformably to the Rules of Court, did grant the bondsmen a period of thirty days from notice within which to produce the body of the accused and also to show cause why judgment should not be rendered against them for the amount of their undertaking. Thus, they would be accorded full opportunity to present whatever defenses may be availed of by them. To all intents and purposes, therefore, there is no juridical objection to considering the petition amended in the sense that the bondsmen are deemed included. To require an amendment to the petition would, under the circumstances, be sheer superfluity. To repeat, certiorari lies.

WHEREFORE, the petition for certiorari is granted and the order of respondent Judge of April 5, 1977, lifting and setting aside his previous order of the forfeiture of the bond dated February 7, 1977, is nullified and declared to be without any force or effect for having been issued with grave abuse of discretion. The order of February 7, 1977 is restored and declared to be fully operative and subsisting. Its terms are to be strictly complied with, a new notice to be furnished the bondsmen to show cause why judgment should not be rendered against them for the amount of their undertaking. Respondent Judge Hermenegildo A. Prieto, Sr. is given a period of thirty days from receipt of a copy of this decision to show cause why no disciplinary action should be taken against him for allowing the accused, Dario Gamayon, to leave the country.

Barredo, Antonio, Concepcion, Jr., and Santos, JJ., concur.

Aquino, J., concurs. The constitutional provision allowing trial in absentia did not abrogate Section 15, Rule 114 of the Rules of Court regarding forfeiture of the bail bond in case the accused fails to appear at the trial. All means should be availed of to compel the accused to appear at the trial so that he may be identified and fingered by the prosecution witnesses and so that the decision may be properly promulgated. The forfeiture of the bail bond is one means of enforcing the attendance of the accused at the trial. If the accused went abroad, passport may be cancelled (*Suntay vs. People*, 101 Phil. 833).

[1] Article IV, Section 19 of the Constitution reads as follows: "In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustified."

[2] Petition, Annex A, Order of February 7, 1977. The accused Dario Gamayon is named as private respondent in this petition.

[3] Ibid.

[4] Ibid.

[5] Comment of Solicitor General, 2.

[6] According to Article IV, Section 18 of the Constitution: "All persons, except those charged with capital offenses when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties. Excessive bail shall not be required."

[7] Rule 114, Section 1, Rules of Court.

[8] Rule 114, Section 15, Rules of Court.

[9] Petition, Annex B.

[10] Petition, Annex D dated March 23, 1977 and the Reply to Opposition dated March 31, 1977, Petition, Annex E.

[11] Order dated April 5, 1977 granting Motion for Reconsideration, Petition, Annex F.

[12] Rule 114, Section 15.

[13] Petition, Annex A, Order of February 7, 1977.

[14] Comment of the Solicitor General, 6-7.

[15] Cf. Vallangca v. Ariola, L-29226, Sept. 28, 1973, 53 SCRA 139 cited twenty-four cases starting from United States v. Carmen, 13 Phil. 455 decided in 1909, to People v. Franklin, L-21507, promulgated on June 7, 1971, and reported in 39 SCRA 363. These are the subsequent decisions: People v. Sanchez, L-34222, Jan. 24, 1974, 55 SCRA 276; Almeda v. Villaluz, L-31665, Aug. 6, 1975, 66 SCRA 38; Summit Guaranty and Insurance Co. v. Republic, L-44964, Dec. 29, 1976, 74 SCRA 362; People v. Soliman, L-25224, April 29, 1977, 76 SCRA 582.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.