

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF VS. MAGDALENA PADILLA, DEFENDANT, RIZAL SURETY & INSURANCE COMPANY, BONDSMAN AND APPELLANT.

G.R. No. L-20076. October 30, 1964

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Magdalena Padilla was accused of a violation of Article 183 of the Revised Penal Code before the Court of First Instance of Manila. For her failure to appear for trial on July 12, 1957 in spite of the notice given to her bondsman to do so, the court a quo, upon motion of the fiscal, issued on July 17, 1957 an order directing the immediate arrest of the accused and the confiscation of her bond. The Rizal Surety & Insurance Company, Inc., her bondsman, was given 30 days from the date of the order within which to explain why its bond should not be forfeited in favor of the government.

On October 17, 1957, the bondsman moved for an extension of time within which to produce the accused. It does not appear if this request was granted, but on March 24, 1958, the court a quo finding that more than eight months had elapsed since the confiscation of the bond without the accused having been surrendered, issued another order this time directing the bondsman to pay to the Republic of the Philippines the sum of P1,000.00 representing the amount of the bond posted for the provisional liberty of the accused.

An urgent motion to lift the order of confiscation was filed by the bondsman on April 10, 1958 stating therein that about one week after the issuance of the order of confiscation the accused was apprehended through the efforts made by the bondsman, or its agents, which warrants its release from pecuniary liability having in mind the liberal policy of this Court in considering a case of this nature even if the accused is not surrendered within the period originally fixed by the court for that purpose. But the court a quo denied the motion for lack of merit. When its motion for reconsideration was denied, the bondsman took the case to the Court of Appeals, but on May 31, 1962, the case was certified to this Court on the ground that the only question raised is one of law.

Under our rule, when the appearance of a defendant is required by the court, his surety 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 bondsman are given 30 days within which to produce the defendant and to show cause why judgment should not be rendered against them for the amount of their bond. Within the said period of 30 days, the bondsman (a) must produce the body of the defendant or give the reasons for his non-production; and (b) must explain satisfactorily why the defendant did not appear before the court when first required to do so. Failing in these two requisites, a judgment shall be rendered against the bondsman (Section 15, Rule 114).

Here the bondsman failed to comply with the two requisites abovementioned for it did not produce the body of the defendant within the period set by the court a quo in its order for it to do so, nor did it give satisfactory explanation of its failure to produce the accused when first required to do so. The record is bereft of any such explanation, which can only mean that it has been negligent in the performance of its duty as a virtual jailer of the

accused.

It is true that upon being informed of the confiscation of the bond the bondsman took some steps for the apprehension of the accused, but the explanation is far from satisfactory because the bondsman merely relied on an information furnished by its guarantor, Atty. Gregorio L. Aquitania, that the accused was in hiding and moving from one place to another which caused it to secure an alias warrant of arrest which it forwarded to the provincial constabulary for service, all of which goes to show that instead of sending its own agents to track down the accused as it was expected to do, it shifted the responsibility of locating and arresting the accused to said constabulary command. Moreover, while it is true that the bondsman surrendered the accused to the court about a week after the rendition of the judgment, it should not be forgotten that this occurred more than eight months from the date the appearance of the accused was required. In other words, the criminal case against the accused was unduly delayed for such a long time due to the unexplained failure of the bondsman to comply with its obligation. In the circumstances, the Court finds no justification for granting the relief prayed for by appellant.

Wherefore, the orders appealed from are affirmed, with costs against appellant.

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

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