

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARIQUITA J. CAPARAS, ACCUSED. MABINI INSURANCE &
FIDELITY CO., INC., BONDSMEN-APPELLANT.**

G.R. No. L-37707. March 09, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

May an explanation given by a bondsman within a reasonable period that the principal left the country surreptitiously and was detained in a foreign jurisdiction for the commission of a different offense in said jurisdiction be considered a substantial compliance of the duty imposed upon the bondsman under Section 13, Rule 114 sufficient to exonerate the bondsman from liability?

The facts of the case are not in dispute.

“Mariquita Caparas having been charged with the crime of estafa was out on a bail bond in the amount of P18,000.00 posted by the Mabini Insurance and Fidelity Co., Inc., hereinafter referred to as appellant. The trial of the case having been scheduled for January 19, 1968 at 9 o’clock a.m., the appellant on December 14, 1967, personally notified the accused of the hearing. On Jan. 12, 1968, the appellant filed a manifestation and motion for postponement of trial on the ground that ‘it lost effective control on the person of the accused’ inasmuch as ‘thru reliable information the person of Mariquita Caparas is presently confined at the City Jail of the Crown Colony of Hongkong serving sentence for three (3) years imprisonment after she was convicted of smuggling into Hongkong of nearly \$200,000 in forged US Travellers Check.’ (Record on Appeal, pp. 6-7). Without acting on the said motion for postponement, the court a quo, on Jan. 19, 1968, ordered the confiscation of the bond and gave the bondsman 30 days within which to show cause why judgment should not be rendered against them due to the non-appearance of the accused at the scheduled date of hearing. Accordingly, appellant filed a motion to lift the order of confiscation of said bond and the cancellation of the same. To this motion, it attached a statement from the secretary of Foreign Affairs certifying that Mariquita Caparas was indeed confined in jail in Hongkong. The said motion was however, denied on March 11, 1968 for lack of merit. On March 28, 1968, appellant filed a motion for reconsideration followed by an amended motion for reconsideration on the same date reiterating its appeal that the order dated March 11, 1968 be reconsidered and the bail bond for the provisional liberty of the accused be ordered cancelled, and the appellant discharged and exonerated on the ground that the non-production of the accused is ‘without the knowledge, consent and/or negligence of the bondsmen’ adding this time that the government made it impossible for the appellant to produce the accused since it authorized Mariquita Caparas to travel to Hongkong as in fact she had been issued a clearance certifying that she had no pending case in the Philippines. The court a quo, however, said—

‘If it be true that the accused was given the necessary clearance on the ground that she had no pending case, these clearances were obtained through deceit and misinterpretation by the accused Mariquita Caparas, and therefore it can not be said that the government had consented to the departure of the accused. Moreover, a certification that the accused had no pending case in the Philippines cannot be construed as a consent on the part of the State for the accused to leave the jurisdiction of the Philippines. Neither this Court nor any

government authority had given its consent to the departure of the accused from the jurisdiction of the Philippines. By virtue of the filing of the bail bond by the movant, technically and legally it assumed custody of the accused Mariquita Caparas and is under obligation to produce the body of the accused whenever the Court so requires. Failure to do so is a violation of a condition of the bond. That the accused is now confined in jail in Hongkong does not excuse the bondsmen from its obligation as the legal and technical custodian of the accused.

WHEREFORE, the motion is hereby denied for lack of merit.' (pp. 16-18, RA)."[1]

Dissatisfied with the lower court's decision petitioner appealed to the Court of Appeals raising the following assignment of errors:

"I

THE LOWER COURT ERRED IN ORDERING CONFISCATION OF THE BOND, HAVING ALREADY BEEN PREVIOUSLY NOTIFIED BY THE BONDSMEN-APPELLANT OF THE FACT THAT THE ACCUSED WAS ABLE TO LEAVE THE PHILIPPINES AND WAS DETAINED AT HONGKONG FOR SMUGGLING.

II

THE LOWER COURT ERRED IN NOT COMPLETELY EXONERATING THE BONDSMEN-APPELLANT FROM LIABILITY IN VIEW OF THE FACT THAT APPEARANCE OF THE ACCUSED AT THE TRIAL WAS PRECISELY RENDERED PHYSICALLY IMPOSSIBLE BY THE GOVERNMENT IN ISSUING CLEARANCES TO HER TO LEAVE THE COUNTRY NOTWITHSTANDING THE PENDENCY OF ABOVE-ENTITLED CRIMINAL CASE AGAINST THE ACCUSED."[2]

In the Decision of September 20, 1973,[3] the Court of Appeals certified the appeal to US on the ground that it involves pure questions of law.

Hence this case.

The petition is devoid of merit.

Upon the assumption of the obligation of bail, the sureties become in law the jailers of their principal.[4] Their custody of the prisoner is the continuance of the original imprisonment and though they cannot actually confine him they are subrogated to all the rights and means which the government possesses to make their control effective. In a long line of decisions it has been held that it is the bonding company's responsibility to produce the accused before the court whenever required. Failure to so produce is undisputably a complete breach of guaranty.[5]

In case of the surety's breach, the forfeiture of the bail follows. Section 15, Rule 114[6] lays down the rule for forfeiture of bail, 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 to do so. Failing in these two requisites, a judgment shall be rendered against the bondsmen."

Under this cited provision, it is very clear that if after the notice to produce the accused is served upon the surety,

the principal fails to appear at the time required by the court, the bail shall be declared forfeited. However, the bondsmen are given thirty (30) days within which to produce the defendant and show cause why a judgment should not be rendered against them to the extent of their liability under the bond.

Petitioner contends that their act of notifying the court a quo of the impossibility of the appearance of the accused before the date scheduled for trial in that the accused was able to leave the country surreptitiously without their knowledge and consent should be considered a substantial compliance of their duty as bondsmen and hence they should be exonerated from liability.

We do not agree.

The question whether the explanation is satisfactory lies within the discretion of the court.[7] In the forfeiture of bail bonds, courts are liberal in accepting the explanation of the bondsmen provided the body of the accused is produced.[8] Production of the body of the accused should be made within the period of 30 days required by the court. If so produced, forfeiture may be discharged if a satisfactory explanation is given why he neglected or failed to appear when first required to do so.[9] To justify exemption from liability on a bail bond or a reduction thereof, the accused must be surrendered to the court and his non-appearance when first required by the court must be satisfactorily explained.[10]

Petitioner was of the erroneous impression that as long as an explanation was given and provided it was made timely a bondsman could be readily relieved of liability. Thus, in an attempt to support this theory, petitioner cited the case of *People vs. Peczon*.^[11] The case is not in point. In *Peczon*, the non-production of the accused was satisfactorily explained by the surety within the 30-day period alleging that it was due to the erroneous advise of counsel that the accused need not appear in court for it was only a preliminary investigation and that the body of the principals cannot be produced as they have already been arrested and are lodged in jail. Hence the sureties were exonerated.^[12]

However, the case before Us is governed by an entirely different set of facts. The principal here was not prevented from appearing before the court a quo on like grounds. She willfully, knowingly and intentionally jumped bail. For such, petitioner was evidently remiss in its duty as jailer of the accused.

The petitioner stresses that with the clearance issued by the government agency concerned in favor of the accused enabling the latter to leave the Philippines, the government has consented to her departure, hence petitioner should not be held liable. Or, otherwise, it was the principal, Mariquita Caparas who defrauded the government without petitioner's knowledge and participation thus, their, exoneration from liability is proper, citing the maxim of *Res inter alios acta alteri nocere non debet*[*] as embodied in Section 25, Rule 130 of the Revised Rules of Court.

We agree with the court a quo, as it ruled against petitioner. Petitioner itself noted that the act of the accused Mariquita Caparas, was done surreptitiously. Petitioner's allegation that the performance of its obligation was rendered impossible by the act of the obligee is untenable. It could have taken steps to prevent the departure of Caparas. The error of the government agency concerned in allowing Caparas to leave must be because of her misrepresentation that there was no pending case against her. Petitioner cannot be relieved of liability on the ground that it had not participated nor consented to the escape of the principal. As the jailer or custodian of the accused its obligation is to produce the body of the accused whenever so required. Failure to do so is a violation of the condition of the bond. Failing in this respect, forfeiture of the bail bond is proper.

The case of *Reese vs. U.S. Wall*^[13] cited by petitioner which was decided by the Federal Supreme Court of the United States is inapplicable. In the said case the U.S. government directly consented that the accused leave the United States which is not the situation in the case before Us.

The case of U.S. vs. Bonoan[14] also invoked by petitioner is likewise not in point. In said case the principal was allowed bail while his case was on appeal from a sentence for homicide. While at liberty, he committed the crime of bandolerismo in another province, for which he was arrested and detained. His appeal in the homicide case having been declared abandoned by this Court the sentence was remanded for execution of the judgment. At the precise time the lower court called upon his bondsmen for his appearance, however, said principal was under arrest in another province and the authorities therein refused to surrender him. Thus, under that set of facts, We ruled that the government which is at the same time the obligee having caused the arrest and confinement of the principal in another province on a charge of bandolerismo and having refused to deliver the principal to the surety, must rightfully exonerate the surety. The performance of the condition having been rendered impossible by the act of the obligee. Thus, this Court ruled "It would be against all principle and justice to allow the government to recover against the sureties for not producing their principal when it had itself placed the principal beyond their reach and control. There was an implied covenant on the part of the Government when the bond was accepted that it would not in any way interfere with the due compliance of the conditions in the bond or take any proceeding against the principal which would affect the rights of the sureties".[15]

It is clear from the foregoing that the surety had not shown sufficient cause to justify its exoneration. The principal having escaped and is now beyond the jurisdiction of the court, petitioner breached its obligation to the government. Hence, it is liable under the bond.

WHEREFORE, in view of the foregoing the petition is DISMISSED for lack of merit. The Order of March 11, 1968 and April 1, 1968 denying petitioner's motion to lift order of confiscation of bond are hereby affirmed in toto.

This Decision is immediately executory and no extension of time to file a motion for its reconsideration shall be entertained.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Griño-Aquino, JJ., concur.

[1] Pages 1-3, Decision, CA-G.R. No. 08730-CR.

[2] Page 7, Appellant's Brief.

[3] Penned by Mr. Justice Ramon G. Gaviola, Jr. and concurred in by Messrs. Justices Edilberto Soriano and Manuel P. Barcelona.

[4] U.S. vs. Addison & Gomez, 27 Phil. 563, 1914.

[5] People vs. Vergel, et al., 104 Phil. 425, 1958: People vs. CA, 102 Phil. 953, 19.

[6] Revised Rules of Court.

[7] People vs. Alamada, 89 Phil. 1, 1951.

[8] People vs. Panis & Alliance Insurance & Surety Co., Inc., 100 Phil. 44, 1956.

[9] U.S. vs. Sunico, 40 Phil. 826, 830, 1920.

[10] Summit Guaranty & Insurance Co., Inc. vs. Republic, 74 SCRA 326, 1976.

[11] 3 SCRA 280, 1961.

[12] Id. page 283.

[*] A transaction between two (2) parties ought not to operate to the prejudice of a third person.

[13] 76 U.S. 13.

[14] 22 Phil. 1, 1912.

[15] Page 5, Id. citing Reese vs. U.S. 76 U.S., 13.

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