

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ANTONIO TAN, ACCUSED, MANILA SURETY & FIDELITY CO., INC., DEFENDANT AND APPELLEE.

G. R. No. L-6239. April 30, 1957

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal by the People from an order of the Court of First Instance of Cotabato reducing the liability of the appellee as surety on the bond of the accused Antonio.Tan from P2,000 to P200.

When the case was called on August 21, 1951 for the arraignment and trial of the accused, the latter failed to appear and thereupon the court issued an order for the confiscation of his bond. Time was given the surety to produce the body of the accused and to explain why judgment should not be rendered against it, but the latter failed in both. So on November 6, 1951, judgment was rendered against the surety to pay the Government P2,000, including all expenses incident to the collection thereof.

On May 3, 1952 the surety moved to surrender the person of the accused and that it be allowed to withdraw the bond, but the court denied the motion in an order dated May 14, 1952. Again on June 2, 1952 the surety filed a motion to reconsider the order of May 14, 1952, alleging that it had spent big sums in securing the arrest of the accused. The accused pleaded guilty to the charge on July 9, 1952 and was then and there sentenced. On September 4, 1952 the court amended its judgment for the payment of P2,000 by the surety, reducing this amount to P200. It is against this order that the People has appealed.

It is urged by the Solicitor-General that as the judgment against the surety had become final and executory, the court had already lost control over its judgment, especially as a writ of execution had already been issued, as in this case. The discretion lodged in the courts to reduce judgments against sureties on bonds of the accused in criminal cases has always been recognized. (People vs. Eeyes, 48 Phil., 139; People vs. Calabon, 53 Phil., 945; People vs. Alamada, 89 Phil.,.1; People vs. Puyal, 98 Phil., 415, 52 Off. Gaz., [10] 6886.) Similar cases have come to Us in this session (Baguio, April and May, 1957; see People vs. Daisin, et al., supra p. 228, April 29, 1957). The principle underlying the above decisions does not seem to be well understood. Hence, the need that we explain the legal foundation for the discretionary power of courts to reduce judgments of confiscation of bonds of accused in criminal cases.

It will be noted that under section 2 of Rule 110 the obligation of the bondsman before conviction is "that the defendant shall answer the complaint or information in the court in which it is filed or to which it may be transferred for trial." If a bondsman or surety fails to produce the person of the accused at the time of the arraignment or trial, it does not necessarily follow therefrom that he (surety or bondsman) has committed a complete and irrevocable breach of his obligation; for he may at a later date be able to have the accused arrested and surrendered to the court to be dealt with according to law and thereby still comply with his obligation. The aim of the law is to have the accused brought to court at any cost and at any time, even after the confiscation of

his bond, in order that he may be made to answer for the offense with which, he is charged, and consistent therewith the policy of the courts has been to encourage bondsmen or sureties to help in bringing the accused to court even after a previous failure and bond confiscation. So that if at a subsequent date (after confiscation), the bondsman finally surrenders the person of the principal, he thereby ultimately complies with his obligation, even if he had failed to do so at an earlier time. In this case there has been a failure to produce at a previous time, it is true, but there has been an ultimate compliance with his obligation on the bond.

Therefore, upon failure of a bondsman to produce the principal at a date set by the court, it can not be stated that there is already a complete and irrevocable breach of the bond; neither does it follow that the judgment then rendered against the bondsman to pay the amount of the bond is a final irrevocable judgment. The judgment of confiscation rendered is merely provisional in character subject to the contingency that the bondsman may finally secure the arrest of the principal and the production of his person in court and thereby ultimately comply with his obligation. If after the provisional judgment, the bondsman succeeds in getting the accused to court, the happening of the contingency resolves his full liability under the confiscated bond, and the court is given the power to set aside or modify the previous judgment.

The above is the explanation for the rule that courts may modify judgments of confiscation of bonds even if the ordinary period for orders and judgments to become final had long passed. The happening of the fact of compliance with the obligation gives jurisdiction to the court to set aside the previous order of confiscation and the order of execution.

In the case at bar, as the surety succeeded in bringing about the arrest of the accused and in surrendering his person to court, it had thereby ultimately complied with its obligation under the bond, for which reason the court had the authority to set aside or modify the judgment rendered against it by reason of the previous breach. The order is affirmed with costs de oficio. So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Conception, Reyes, J.B.L., and Endencia JJ., concur.

Reyes and Felix, JJ., concur in the result. Order affirmed.

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