

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
VICENTE S. UMALI AND STATE BONDING & INSURANCE CO.,
INC., DEFENDANTS-APPELLEES.**

G.R. No. L-23066. March 01, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The Republic seeks the reversal of the order of the court below dated January 20, 1962 dismissing its complaint.

The present suit[1] was commenced by the Solicitor General against Vicente S. Umali and the State Bonding & Insurance Company, Inc. The complaint therein seeks to recover P12,078.02 representing the purses of five contestants in a boxing contest held on February 1, 1961, upon a bond of P32,500 posted by Vicente S. Umali, as principal, and the State Bonding & Insurance Company, Inc., as surety, in favor of the Games and Amusements Board. This bond provides:

"THE CONDITIONS OF THIS OBLIGATION ARE AS FOLLOWS:

WHEREAS, the above-bounden Principal is the promoter of the Oriental Featherweight Championship boxing contest featuring, as main event, SISAO KOBAYASHI AND ARMY WONDER BOY, to be held on February 1, 1961 in the Rizal Memorial Coliseum;

WHEREAS, under Art. 3, Paragraphs (b) and (d) of the Rules and Regulations governing pro-fessional boxing, the Principal (promoter) is required to file a surety bond in the above-stated sum before the license is granted to him, which amount shall be payable within fifteen (15) days after his default to insure reimbursement to the purchasers of tickets for said contest.

NOW, THEREFORE, if the Principal (pro-moter) shall hold the main contest on February 1, 1961, or on any postponed date with the consent of the Games and Amusements Board or its representative, or any subsequent date fixed by said Board, then this obligation shall be null and void; otherwise, it shall remain in full force and effect. x x x."

Paragraphs (b) and (d), Article 3 of the Rules and Regulations mentioned in the bond, read as follows:

"(b) A surety bond payable upon demand to cover the aggregate purses of the contestants (less the advances which shall not exceed Thirty-Three and One Third Percent (33-1/3%) of the purse).

(d) A surety bond payable upon demand in an amount equivalent to Twenty-Five Percent (25%) of the estimated gross receipts based on the full seating capacity of the building, stadium or structure wherein the contest is to be held, pro-vided that all incomes from radio, television, and motion picture rights shall be included in the estimate of gross receipts."

Defendants traversed the complaint. The bonding company filed a cross-claim against defendant Umali, and a third-party com-plaint against Carlos Ysmael upon an indemnity agreement the latter subscribed in favor of the said company.

The case came up before the court below for ruling on defendants' and third party defendant's motion to dismiss predicated upon legal grounds: (1) that the complaint does not state a cause of action; and (2) that the Republic is not the real party in interest, given the averments of the complaint and the obligations under the bond. The issue then is whether defendants, as a matter of law, may be held liable upon the bond. To this question, the bond itself furnishes the answer.

1. That document, with clarity, expresses the condition of the bond - "to insure reimbursement to the purchasers of tickets for said contest." No less plain is the time limitation of the obligation of the bond found in the concluding paragraph thereof, thus: "x x x if the Principal (promoter) shall hold the main contest on February 1, 1961, or on any postponed date with the consent of the Games and Amusements Board or its representative, or any sub-sequent date fixed by said Board, then the obligation shall be null and void; otherwise, it shall remain in full force and effect." There is no quarrel as to the fact that the boxing contest did actually take place as scheduled - February 1, 1961. Therefore, by the very recitals of the bond stipulations in the complaint, said bond should be discharged.

2. The State's hope to gain a toehold was made to rest on Article 3, paragraphs (b) and (d) of the Rules and Regulations of the Games and Amusements Board heretofore quoted. But its claim will not thereunder be any stronger. The best that one can make out of these two provisions is that defendant Umali, the promoter, should post two different bonds: one to cover the aggregate purses of the contestants; and another, equivalent to 25% of the estimated gross receipts. Reference to these two clauses, we perceive, was an obvious mistake. For, along with and immediately following them in the same paragraph and sentence in the surety bond, we read the exact obligation of the promoter "to file a surety bond in the above-stated sum before the license is granted to him, which amount shall be payable within fifteen (15) days after his default to insure reimbursement to the purchasers of tickets for said contest." Which simply takes us back to what has been heretofore adverted to: the bond, by its specific terms, was given as security for the "reimbursement to the purchasers of tickets for said contest," in case the same could not be held on the date set forth or on the postponed date or on any sub-sequent date set thereafter.

3. Of course, where a bond is executed pursuant to a statute or regulation, the one or the other normally forms part of a bond. But such statute or regulation will not be construed "to enlarge the surety's liability beyond the terms of his contract." [2]

Santos vs. Mejia, 94 Phil. 211, 214-215, is illustrative of this point. We there said:

"x x x The bond was executed and filed to forestall the issuance of a mandatory injunction against Liberato Avecilla and it was a sort of a counter bond filed by him conditioned that he would pay all damages which the adverse parties might suffer by reason of the continuance during the action of the acts complained of. The bond executed and filed in these cases is not as that described and provided for in the rule referred to but merely one for the sum of P4,000 and for a limited time. The surety was not bound to execute a bond if it did not wish to. If the bond executed and filed was defective, the parties in whose favor it was executed should have objected to it. This the obligees failed to do. There is no rule of court which requires a surety to execute a bond which would answer for the principal's liability that might be adjudged by the court in the case where it was filed, if the surety did not wish to execute such bond. It is a settled rule in this jurisdiction that a surety or a guarantor is not responsible beyond the terms of his undertaking. And it appearing that the bond filed in this case expired on 4 July 1952, the surety cannot be held liable under the bond beyond 4 July 1952, and it could cancel the bond ten days thereafter if the obligees failed to notify it of the principal's obligation under the bond." [3]

The State did not move to correct the bond in dispute. Defective as it is, defendant surety may not be held liable except as to the under-taking therein stipulated.

4. We do not pass unnoticed the established jurisprudential rule [4] that a compensated surety, as defendant

company is in this case, does not enjoy the benefit of strictissimi juris construction placed upon an obligation pour autrui contracted by an accommodation surety.[5] It is quite obvious though that the fact that defendant surety is a compensated surety is unimportant. For, the terms of the bond herein are clear, the language plain; the provisions thereof do not admit of construction or interpretation; the bond is incapable of extension by implication. So it is, that suit upon the disputed bond will not prosper because here "the extent of the liability of a surety is determined only by the clause of the contract of suretyship." [6]

For the reasons given, the trial court's order of January 20, 1962 under review is hereby affirmed.

No costs.

SO ORDERED.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., on leave.

[1] Civil Case No. 47885, Court of First Instance of Manila, entitled "Republic of the Philippines, Plaintiff, versus Vicente S. Umali and State Bonding & Insurance Company, Inc., Defendants."

[2] 72 C.J.S., p. 579, citing State of Arkansas vs. Pufahl, C.C.A. Ark., 52 F 2d 116, 119.

[3] Emphasis supplied.

[4] Pacific Tobacco Corp. vs. Lorenzana and Visayan Surety & Insurance Corp., 102 Phil. 234, 241-242; Philippine Surety & Insurance Co., Inc. vs. Royal Oil Products, 102 Phil. 326, 334-335; Atkins, Kroll & Co., Inc. vs. Celia Reyes, 56 O.G. No. 21, pp. 3758, 3760, April 30, 1959; Policarpio vs. The Phil. Veterans Board and Associated Insurance & Surety Co., Inc., G.R. No. L-12779, August 28, 1959; Pastoral vs. Mutual Security Ins. Corp. and Court of Appeals, G.R. No. L-20469, August 31, 1965; Laurente vs. Rizal Surety & Insurance Co., G.R. No. L-21250, March 31, 1966.

[5] Laurente vs. Rizal Surety & Insurance Co., supra.

[6] Visayan Surety & Insurance Corp. vs. Central Bank, 104 Phil. 562, 568, citing Government vs. Herrera, 38 Phil. 410.

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