

FAR EASTERN SURETY & INSURANCE CO., INC., PETITIONER, VS. THE COURT OF APPEALS AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G. R. No. L-12019. October 16, 1958

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e340cc466cdd/>

REYES, J.B.L., J.:

This is a petition for review, by way of certiorari, of the decision of the Court of Appeals, affirming the judgment of the Court of First Instance of Manila that ordered the confiscation of the bond executed by the petitioner Far Eastern Surety & Insurance Co., Inc., in behalf of temporary immigrant Co Too and in favor of the Commissioner of Immigration.

On December 24, 1947, petitioner posted a P3,000 surety bond in favor of the Commissioner of Immigration for the temporary stay in the Philippines of Co Too, a Chinese alien. The pertinent conditions of the bond are as follows :

"a) That the undersigned undertakes that Co Too shall not leave Manila or change his address which is 1102 Comercio, Manila, without the previous written consent of the Commissioner of Immigration ;

"b) That the undersigned undertakes to make Co Too all times available to and to present him within 24 hours after receipt of notice to produce before the Immigration Authorities for investigation of his right to further stay in the Philippines;

c) That in case Co Too after such inquiry is found to have violated any limitation or condition under which he was admitted as non-immigrant and is subject to deportation, the undersigned undertakes to produce him for deportation within 24 hours after receipt of demand to do so;

d) That the undersigned agrees to answer for all expenses for the arrest and apprehension of Co Too should the latter fail to appear before the Immigration Authorities at the time, date and place set for the investigation or on such other time, date and place set for the continuation of the investigation of his or should the undersigned after the lapse of time granted him to do so, fail to produce said Co Too for deportation: * * * * *

i) That the undersigned agrees that this bond with all its terms and conditions shall cover and apply to any and all extension of the temporary stay of said Co Too;

That breach of any of the conditions above-mentioned shall entitle the Commissioner of Immigration to declare this bond or part thereof forfeited * * *" (Petitioner's brief, pp. 2-3) On February 6, 1950, the Commissioner of Immigration wrote a letter to the petitioner Far Eastern Surety & Insurance Co., Inc., requiring Co Too to appear for an investigation of his right to further stay in the Philippines in excess of one year, with a warning that in case of failure to produce him, the surety bond will be forfeited, without releasing the petitioner from the obligation to produce Co Too.

On February 22, 1950, the Commissioner of Immigration sent another letter to petitioner Far Eastern Surety &

Insurance Co., Inc., requesting said surety company to pay the sum of P3,000 within five days from receipt of said letter, otherwise, the necessary legal steps will be taken for the confiscation of its bond. This letter was received by the petitioner on February 24, 1950.

Two extensions of time were granted to the petitioner to produce Co Too: the first extension of fifteen (15) days was given on March 8, 1950 and the second on March 15, 1950, which expired on April 14, 1950. After the last mention date, petitioner failed to comply with the demand to present Co Too for investigation. The Commissioner of Immigration then wrote a letter to the Solicitor General on April 17, 1950, requesting the latter to file a complaint for the recovery of P3,000 from the petitioner. The action was only instituted on July 11, 1951.

In the meantime, Co Too was apprehended by the immigration authorities on August 24, 1950, without the help of the petitioner. A deportation proceeding was conducted against him, after which he was ordered deported. However, due to lack of transportation facilities and of a definite place to deport him, he continued his J stay here by giving a cash bond of P3,000 and a surety bond in the amount of P7,000, this time posted by the Paramount Surety Company on January 24, 1951, while Far Eastern Surety & Insurance Company's bond No. 8569 was declared forfeited on April 17, 1950.

After the forfeiture of bond No. 8569, the Commissioner of Immigration sent a letter to the petitioner Far Eastern Surety & Insurance Co., Inc. with a list of its cancelled bonds, including therein the name of Co Too. Later on, respondent Commissioner of Immigration sent another letter to the petitioner, explaining that the inclusion of Co Too's name in the list of cancelled bonds was due to mistake or inadvertence. This explanation was contained in a letter dated July 26, 1951. It is urged in this appeal that respondent did not suffer damage because Co Too did not illegally overstay in the Philippines, claiming that his stay here up to the present was allowed by the Commissioner of Immigration. The records show that the one-year period allowed Co Too to stay in the Philippines temporarily has already expired and the termination of this period even prompted the Commissioner of Immigration to demand Co Too's appearance for investigation of his right to further stay in the Philippines. This demand was ignored not only by the petitioner Far Eastern Surety & Insurance Co., Inc. but also by Co Too himself and as a consequence, he was arrested and ordered deported. The significance of this arrest and the declaration to deport him clearly indicate that he overstayed here. If his deportation then was not carried out, it is because of the lack of transportation and the place to deport him (t. s. n. p. 4). We consider, therefore, as absurd on the part of petitioner to claim that Co Too did not overstay in the Philippines.

Again, petitioner argues that it was error for the lower court to hold that the cancellation of bond No. 8569 is null and void and still hold it liable in spite of the cancellation. In treating the cancellation as a nullity, the Court of Appeals reasoned that (1) the ground for which the bond was cancelled is not one of those provided for in section 40 (c) of Commonwealth Act No. 613; (2), prior to the arrest of Co Too, the bond had already been forfeited and (3) cancellation was made through mistake or ignorance of the truth.

In connection with the statutory grounds, for cancelling immigration bonds, sec. 40 (c) of Commonwealth Act No. 613 provides:

"Section. 40.

(c) When the conditions of the bond or cash deposit are fulfilled, or, in the case of a bond or deposit given to insure against an alien becoming a public charge, when the Commissioner of Immigration, shall decide that the likelihood no longer exists, or in the event of the naturalization as a Philippine citizen or the death of the alien in whose behalf the bond or deposit is given, the bond shall be cancelled or the sum deposited shall be returned to the depositor, or his legal representative. In case of forfeiture, the proceeds of the bond or the cash deposit, as the case may be, shall be deposited in the Philippine Treasury by the Collector of Customs."

It is next contended that while the ground for which bond No. 8569 was cancelled is not among those included in the above-quoted provision, petitioner nevertheless insists that an immigration bond may also be legally cancelled by the Commissioner of Immigration for other reasons not mentioned in said section of Commonwealth Act No. 613, as in this case, when the reason for cancelling the petitioner's bond is to the effect that a new bond was posted.

In the instant case, we do not believe that the posting of the new bonds (cash bond for P3,000 and a Paramount Surety Bond for P7,000) is a justifiable ground for cancelling petitioner's bond No. 8569. The new bonds were filed after Co Too was ordered deported and after the original bond was forfeited. It can not be said, therefore, that the new bonds were posted for the purpose of cancelling the bond of petitioner Far Eastern Surety Insurance Co., Inc. which after all was already forfeited.

In assailing further the decision of the lower court, petitioner asserts that there was no forfeiture of the bond, because Exhibit B (letter of Commissioner of Immigration, dated February 6, 1950) only states a warning to forfeit the bond in case petitioner fails to produce Co Too for investigation, and Exhibit C (letter of February 22, 1950) is but a request to pay the sum of P3,000 with a warning that judicial proceeding shall be taken against the petitioner for the confiscation of its bond. As far as these two letters are concerned, there was really no forfeiture; but the actual forfeiture was made on April 17, 1950 (t.s.n. p. 5, Exhibit G), after petitioner failed to produce Co Too for investigation in spite of the two extensions granted to it, the last of which terminated on April 14, 1950. In the recent case of *Republic of the Philippines vs. Court of Appeals*, 54 Off. Gaz. (27) 6734, it was held:

"By the failure of the alien to appear before the Commissioner of Immigration and to report to him once a week as stipulated in the surety bond, the terms thereof, were breached not only by the principal but also by the surety, which justified the forfeiture of the bond."

As regards the inadvertent cancellation of the bond in question, we believe it was really cancelled through mistake. The letter of the Commissioner of Immigration, dated July 26, 1951 explained the unintentional cancellation as follows:

"In connection with the bond forfeiture case involving Bond No. 8569 of the Far Eastern Surety & Insurant Co., subject of our 1st Indorsement dated 17 April 1950, addressed to that office we beg to inform you of our decision to declare the forfeiture of the bond in question was based upon the failure of the bondsmen, despite repeated demands, to produce the person of the bonded alien. Bond No. 600 of the Paramount Surety and was accepted by this Office in connection with the temporary release of the alien, which release could not have permitted otherwise because the original bond (FESI Bond No. 8569) had already been declared forfeited. Our letter, therefore, dated 21 February 1951, notifying the Far Eastern Surety and Insurance Co. of the cancellation of the original bond, in view of the posting of a new bond, was due to inadvertence and should be disregarded in so far as Bond No. 8569 is concerned. It was clearly not within our authority to order the cancellation of said bond after we had already declared it forfeited, and reference of the case to that office was a matter of official courting" (Respondents' brief, pp. 4-5)

In emphasizing on the unauthorized cancellation, the Commissioner of Immigration stated in the letter that "it was not clearly within our authority to order the cancellation of said bond after we had already declared it forfeited, and reference of the case to that office was a matter of official courting" (Exhibit G, p. 13). This explanation is satisfactory to us and we can not consider the cancellation of the bond in question as valid, because "a bond surrendered and cancelled through mistake or fraud may be treated as valid and subsisting instrument" (*US vs. Williams*, D. C. Me., 28 F. Cas. No. 16,724, 1 Ware 178; *Chapman vs. Lathrop*, 39 Me., 431 [9 C. J. sec. 75 p. 47]).

With respect to the contention of the petitioner that the principle of estoppel must apply in the instant case for

having led it to believe that its bond was cancelled, we consider this assertion untenable in view of the previous ruling of this Court that "ignorance of the truth or mistake can not stop an actor." (Montinola vs. Hofileña, 13 Phil. 339; De Torres vs. De Torres, 28 Phil. 49; Oquieñena & Co. vs. Muertaegui, 37 Phil. 261; Phil. National Bank vs. Welch. Fairchild & Co., 44 Phil. 780).

The next point is whether the trial court erred in holding that the amount stated in the bond is the measure of damage, inspite of the failure of the respondent Commissioner of Immigration to prove actual damage in the trial court. A cursory examination of the peculiar circumstances obtaining in the present case, compelled us to conclude that the action of the court below should be sustained. In demanding the payment of P3,000 as the amount of the undertaking stated in the bond, the respondent Commissioner of Immigration based his action on the failure of the petitioner to comply with its obligation to produce Co Too before the Commissioner of Immigration. Such failure on the part of the petitioner to produce Co Too constitutes a breach of one of the principal conditions, especially paragraph (b) of the bond, entitling the Government to forfeit the same to the full amount, without proving actual damage suffered by it. In the United States, the rule is that in bonds running to the sovereign, recovery of the full amount is allowed in case of default on the part of the obligor, altho no actual pecuniary damage is shown. The reason for this rule is expressed in the case of Clark vs. Banard, 108 U.S. 436, 2 Sup. Ct. 878, 27 L. Ed. 780 (1883) as follows:

"The bond was declared forfeited in the full amount by reason of the obligor's default, although no pecuniary damage were shown to have been sustained by the State. In the opinion, Mr. Justice Mathews pointed out the distinction between private obligations and bonds given to the sovereign for the purpose of promoting a public interest or policy, and he stated that in the latter class of cases there can be no intention of indemnification, for the reason that the State can gain nothing in its political or sovereign character by the performance of the conditions nor lose anything by a default." (Emphasis supplied)

It is last contended that it was error for the lower court not to hold that the respondent is merely entitled, if at all, for expenses incurred in causing the arrest of Co Too. We do not agree with this claim for partial liability. As was pointed out in the early part of this opinion, Co Too was apprehended by the immigration authorities on August 24, 1950 through no effort of the petitioner. It is settled that "the granting or refusal in full or in part of the liability of sureties under the bond, is wholly within the sound discretion of the court, according to the merits of the particular case" (People vs. Reyes, 48 Phil. p. 139). And while we are committed to a policy of liberality towards bondsmen, the circumstances of each case must determine the degree in which said liberality should be exercised. Diligence on the part of the bondsmen in the performance of their obligations must be the gauge for such liberality (People vs. Puyal, et al. 98 Phil., 415; 52 Off. Gaz., p. 6886). In the case at bar, this diligence was entirely absent and the patent inaction of the petitioner to show cause enough zeal in the compliance of its duty under the bond makes it difficult for us to extend any degree of liberality in reducing its liability.

Wherefore, the decision appealed from is hereby affirmed, with costs against petitioner. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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.