

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ISABEL DEL CARMEN Y PABALAN, ACCUSED, CONSOLACION INSURANCE & SURETY CO., INC., BONDSMEN-APPELLANT.

G.R. No. L-22082. October 30, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal from an order of the Court of First Instance of Manila dated September 18, 1963, denying the motion of the accused to lift the court's order confiscating her bail bond, and also from its order dated October 2, 1963, denying the motion for reconsideration filed by the Consolacion Insurance Surety Co., Inc., surety on the bond.

The Consolacion Insurance & Surety Co., Inc. (hereinafter referred to as bondsman) had posted a bail bond for the amount of P1,000.00 for the provisional liberty of accused Isabel del Carmen y Pabalan, who had earlier appealed her conviction for theft from the City Court of Manila to the Court of First Instance. When the accused failed to appear on September 6, 1963, the date of the trial, the court a quo issued the following order:

"For failure of the accused to appear when this case was called for trial notwithstanding due notice, the bond filed by her for her temporary liberty is hereby ordered confiscated. The bondsmen are hereby ordered to produce the said accused within thirty (30) days from notice hereof and show cause within said period why judgment should not be rendered against them for the full amount of the bond."

On the same day September 6, the accused, with the conformity of her bondsman, immediately filed a "Motion to Lift Order of Arrest and Confiscation of Bond", alleging that she failed to appear on time at the hearing because she was delayed by a fire which occurred that morning in Folgueras Street, Tondo, Manila. On September 7, 1963 her motion was denied by reason of movant's "lack of personality."

On September 18, 1963 the accused, also with the conformity of her bondsman, filed a motion for reconsideration, which was denied for lack of merit on the same day. The order of denial added that "in view of (the) surrender of (the) accused, forfeiture is reduced to 20% of the bond for which judgment is hereby rendered against the bondsman."

The bondsman moved for reconsideration of this last order, and when its motion was denied interposed the present appeal.

The first issue raised by appellant involves the interpretation of section 15 of Rule 114 of the New Rules of Court, which provides:

"Section 15. Forfeiture of bail. - 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 so to do. Failing in these two requisites, a judgment shall be rendered against the bondsmen."

It is appellant's position that inasmuch as under the above-quoted provision the bondsman is given thirty days to comply with its requirements the court had no authority to render the judgment appealed from on September 18, 1963, since the order to produce the body of the accused and to show cause why judgment on the bond should not be rendered was issued only on September 6, 1963.

Appellant's position is untenable. All that is required before judgment upon the bond may be rendered is the performance by the bondsman of two (2) specific acts: (1) produce the body of the principal or give the reason for his non-production; and (2) explain satisfactorily why the principal did not appear before the court when first required to do so. For this purpose a period of thirty days is allowed. If upon the expiration thereof neither of the requisites is complied with, judgment against the bondsman shall be rendered as a matter of course. This however does not mean that if the principal is produced before the period expires and the explanation is submitted for his non-appearance when required the court will have to wait until the expiration of such period before it may render judgment on the bond. There is no point at all in deferring judgment since the matter is already submitted to the court on the only question of whether or not the explanation is satisfactory and whether or not the bondsman should be held liable.

The second issue refers to the merit of the explanation submitted by appellant for the failure of its principal to appear at the hearing. This is an issue the resolution of which generally lies within the discretion of the trial court (*People vs. Alamada*, 89 Phil. 1). Since appellant was adjudged liable for only 20% of the actual amount of the bond, the trial court evidently being of the opinion that the explanation submitted to it was not entirely satisfactory, we find no reason to disturb the order appealed from. The same is therefore affirmed, with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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