

THE PEOPLE OF THE PHILIPPINES, APPELLANT, VS. MAKADATO ALAMADA, ACCUSED, WALIA USONG AND LATIP KUSA, BONDSMEN AND APPELLEES.

G. R. No. L-2155. May 23, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

When on December 15, 1947 the case of People vs. Makadato Alamada, for theft, was called for trial in the Court of First Instance of Cotabato the accused, who was on bail, failed to appear, although proper notice had been given to him and his bondsmen. Upon motion of the fiscal, the Hon. Juan A. Sarenas, Judge, confiscated the bond of P2,000 and gave the bondsmen Walia Usong and Latip Kusa thirty days within which to produce the body of their principal and to explain why judgment should not be rendered against them for the amount of their undertaking. After the expiration of the thirty-day period, the Fiscal moved for judgment against the bondsmen because they had failed to offer any explanation. Whereupon the same judge on January 31, 1948 issued a decree requiring the bondsmen to satisfy the amount of the bond, plus interest and all legal expenses to be incurred in the execution. Of this last directive the latter were notified on February 4, 1948. However on February 10, 1948 they appeared and asked for relief, explaining their failure and surrendering the person of the accused. The judge regarded the explanation satisfactory, and on February 14, 1948 lifted the order of confiscation, overruling the opposition of the provincial fiscal, who consequently brought the matter up by way of appeal.

In the forfeiture of bail bonds, courts are liberal in accepting the explanation of bondsmen, provided the body of the defendant is produced.[1] And the question whether the explanation is satisfactory generally lies within the discretion of the court.[2]

In an attempt to justify their inaction within the thirty-day period, the bail Walia Usong and Latip Kusa alleged under oath that after having been duly notified of the order,

"thru the intervention of Datu Macabangan Alamada, the offended party, Mrs. Beltran represented to the bondsmen and to the accused that both Datu Macabangan Alamada and the offended party will assume the responsibility of dismissing the case with the further assurance that the accused and the bondsmen should leave the matter to the offended party and to Datu Macabangan Alamada for final dismissal of the case.

"That by virtue of said representation by the offended party and Datu Macabangan Alamada, the accused as well as the bondsmen believe in good faith that the case was already finally quashed until they received on February 2, 1948, said Order of this Honorable Court,

"That it has never been the intention of the accused to disobey any order of the Court and that their failure to make immediate compliance of said Order was due to a representation by no less than the offended party who has assured the accused and the bondsmen that she assumes the responsibility of the finally quashing the complaint".

The Solicitor General contends that this excuse is unsatisfactory, because the bondsmen ought to have known that

it was the fiscal who had the right to discontinue the prosecution, and, consequently they should not have relied on the assurances of Datu Macabangan Alamada and Mrs. Beltran.

Technically the Government is right. Considering however that cases are possible wherein the alleged theft is merely a matter of civil liability which could be compromised, and considering the tendency of the courts in the exercise of their discretion, we can not say His Honor mistakenly accepted the explanation. However he had no power to discharge the sureties entirely, because the thirty-day period had elapsed. He could only mitigate or lessen their liability.[3]

In *People vs. Calabon*, 53 Phil., 945, after the Supreme Court had affirmed the judgment of conviction against C, and notice given to the sureties, the bond was declared forfeited for failure of the accused to appear. When the sureties failed to produce the body of their principal within the extended period granted them by the lower court, final judgment was rendered on the bond. Thereafter a motion was presented by the sureties praying for relief upon the ground that after considerable efforts they had finally succeeded in arresting the accused, whom they delivered to the authorities. Upon these facts it was held that after the thirty-day period a complete discharge may not be granted, but the court is not deprived of its inherent discretionary power to relieve the bondsmen from a part of their liability according to the circumstances of the particular case, where the accused had already been apprehended. Instead of requiring the sureties to disgorge the whole amount of the bond (P12,000), this Court, on appeal, lowered their liability to P3,000.

Following the above precedent and others in similar vein,[4] we hereby reduce the sureties' monetary obligation to P200. The appealed order is thus modified. No costs.

Paras, C. J., Feria, Pablo, Tuason, Montemayor and Jugo, JJ., concur.

[1] Moran, Comments Vol. 2, p. 682.

[2] Moran, Op. cit. p. 682.

[3] *People vs. Calabon*, 53 Phil., 945.

[4] *People vs. Reyes*, 48 Phil., 139; *People vs. Lorredo*, 50 Phil., 209; *Luzon Surety vs. Montemayor*, 63 Phil., 138.

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