

PHILIPPINE NATIONAL BANK, VS. LUZON SURETY CO., INC. AND THE HONORABLE COURT OF APPEALS, RESPONDENT.

G.R. No. L-29587. November 28, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petitioner Philippine National Bank seeks a review and reversal of the decision dated June 26, 1968, of the Court of Appeals in its case CA-G.R. No. 30282-R, absolving Luzon Surety Co., Inc. of its liability to said petitioner and thus reversing the decision of the Court of First Instance of Negros Occidental, the dispositive portion of which reads as follows:

"IN VIEW THEREOF, judgment is hereby rendered ordering defendant Augusto R. Villarosa to pay plaintiff PHILIPPINE NATIONAL BANK the sum of P81,200.00 plus accrued interest of 5% per annum on P63,222.78 from August 31, 1959; to pay 10% of said amount as attorney's fees and to pay the costs. Defendant Luzon Surety Co., Inc. is hereby ordered to pay jointly and severally with defendant Villarosa the sum of P10,000; defendant Central Surety and Insurance Company jointly and severally with defendant Villarosa the sum of P20,000 to the plaintiff, and Associated Surety And Insurance Co. jointly and severally with defendant Villarosa the sum of P15,000.00 to the plaintiff, with the understanding that should said bonding companies pay the aforementioned amounts of their respective bonds to the plaintiff, said amounts should be deducted from the total outstanding obligation of defendant Villarosa in favor of the plaintiff."

Above-quoted decision was modified in an order of the Court of First Instance dated June 5, 1961, granting petitioner Philippine National Bank (PNB) the right to recover accrued interest at the rate of 5% per annum from December 24, 1953, from the defendants bonding companies.

The facts as found by the Court of Appeals are as follows:

"x x x sometime prior to 27 November 1951, defendant Augusto R. Villarosa, a sugar planter adhered to the Lopez Sugar Central Milling Company, Inc. applied for a crop loan with the plaintiff, Philippine National Bank, Exhibit A; this application was approved on 6 March 1952 in the amount of P32,400, according to the complaint; but the document of approval has not been exhibited; at any rate, the planter Villarosa executed a Chattel Mortgage on standing crops to guarantee the crop loan, Exhibit B and as shown in Exhibits C to C-30 on various dates from 28 January, 1952 to 9 January, 1953, in consideration of periodical sums of money by him received from PNB, planter Villarosa executed these promissory notes from which will be seen that the credit line was at the original amount of P32,400 and was thus maintained up to the promissory note Exhibit C-9 dated 30 May, 1952 but afterwards it was increased and promissory notes Exhibits C-10 to C-30 were based on the increased credit line; and as of 27 September, 1953 as shown in the accounts, Exhibits D and D-1, there was a balance of P63,222.78 but as of the date when the complaint was filed on 8 June, 1960, because of the interest accrued, it had reached a much higher sum; that was why due to its non-payment, plaintiff filed this complaint, as has been said, on 8 June, 1960; now the complaint sought relief not only against the planter but also against the three (3) bondsmen, Luzon Surety, Central Surety and Associated Surety because Luzon Surety had filed the bond Exhibit E dated 18 February, 1952 in the sum of P10,000; Central Surety Exhibit F

dated 24 February, 1952 in the sum of P20,000 and Associated Surety the bond Exhibit G dated 11 September, 1952 in the sum of P15,000; in gist, the obligation of each of the bondsmen being to guarantee the faithful performance of the obligation of the planter with PNB; now each of the defendants in their answers raised various defenses but as far as principal defendant Augusto R. Villarosa and other defendants are concerned, their liability is no longer material because they have not appealed; and in the trial of the case, plaintiff submitted Exhibits A to J-1 and witness Romanito Brillantes; but the defense of Luzon Surety thru its witness Jose Arroyo and Exhibits 1 to 3 being 1st that the evidence of the plaintiff did not establish a cause of action to make Luzon Surety liable and 2ndly, in any case that there had been material alteration in the principal obligation, if any, guaranteed by it; x x x"

Unable to obtain reconsideration of the decision of the Appellate Court, PNB came to this Court and alleged the following errors.

1. The Court of Appeals erred in the application of the law involved by invoking Article 2055 of the New Civil Code, which properly should have been the law on suretyship which are covered by Section 4, Chapter 3, Title 1, Book IV of the New Civil Code;
2. Consequently, when the Court of Appeals released the surety from liability, it committed a grave or gross misappreciation of facts amounting to an error of law;
3. The Court of Appeals erred when it held that there must have been a principal crop loan contract, guaranteed by the surety bonds;
4. The Court of Appeals erred when it released the surety from liability.

The above assigned errors boil down to the single question of whether or not the Court of Appeals was justified in absolving Luzon Surety Co., Inc. from liability to petitioner Philippine National Bank. We have examined the record thoroughly and found the appealed decision to be erroneous.

Excerpt of the Chattel Mortgage executed to guarantee the crop loan clearly provided as follows:

xxx xxx xxx

1. That the Mortgagor does by these presents grant, cede and convey unto the Mortgagee by way of First Mortgage free from any encumbrances, all the crops of the absolute property of the Mortgagor, corresponding to the 1952-53 and subsequent yearly sugar crops agricultural season at present growing in the Hda. known as San Antonio, Washington (P) Audit 24-124 and 24-16 1a and Hda. Aliwanay (non-quota land); milling with LSMC and CAD, Municipality of Sagay, and Escalante, Province of Negros Occidental covered by cadastral lots no. Various of the Cadastral Survey at the Municipality of Sagay, Escalante particularly bounded and described in Transfer Certificate of Title No. Various issued by the Register of Deeds of said province. The said mortgage crops consist of all the Mortgagor's first available entire net share of the 1952-53 and subsequent yearly sugar crops thereafter conservatively estimated at but not less than Three Thousand Four Hundred Twenty and 14/00 (3,420.14) piculs of export and domestic sugar, including whatever addition thereto, and such aids, subsidies, indemnity payments and other benefits as maybe awarded to the Mortgagor, coming from any source, governmental or otherwise.

xxx xxx xxx

"4. This Mortgage is executed to secure payment by the Mortgagor to the Mortgagee at the latter's office of a loan herein granted to the Mortgagor in the sum of Thirty Two Thousand Four Hundred (P32,400.00) Pesos, Philippine Currency, with interest at the rate of five per cent per annum, which loan shall be given to the Mortgagor either in lump sum or in installments as the mortgagee may determine. The Mortgagee may increase or decrease the amount of the loan as well as the installments as it may deem convenient, and the Mortgagor shall submit such periodical reports on the crops mortgaged as the Mortgagee may require. In the

event that the loan is increased such increase shall likewise be secured by Mortgage. This Mortgage shall also secure any other loans or advances that the Mortgagee may extend to the Mortgagor, including interest and expenses or any other obligation owing to the Mortgagee, whether direct or indirect, principal or secondary, as appears in the account books and records of the Mortgagee.

xxx xxx xxx"

Likewise an extract from the Surety Bond executed by and between the PNB on one hand and Augusto Villarosa and respondent Luzon Surety Company, Inc. on the other, is hereby reproduced, viz:

"That we Augusto Villarosa of Bacolod City, as principal and Luzon Surety Company, Inc. a corporation duly organized and existing under and by virtue of the laws of the Philippines, as surety, are held and firmly bound unto Philippine National Bank, Bacolod City, Philippines, in the sum of Ten Thousand Pesos (P10,000.00), Philippine Currency, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents:

The condition of the obligation are as follows:

"WHEREAS, the above bounden principal, on the — day of February, 1952, entered into a crop loan contract with obligee Philippine National Bank, Bacolod Branch of Bacolod City, Philippines to fully and faithfully —

"Comply with all the terms and conditions stipulated in said crop loan contract which are hereby incorporated as essential parts hereof, and principally to meet and pay from the proceeds of the sugar produced from his Hda. San Antonio and Hda. Aliwanay, Escalante, Occidental Negros credit advances made by the Philippine National Bank Bacolod Branch not to exceed P32,800 as stated in said contract. Provided further that the liability under this bond shall not exceed the amount of P10,000.00.

"WHEREAS, said Philippine National Bank Bacolod Branch requires said principal to give a good and sufficient bond in the above stated sum to secure the full and faithful performance on his part of said crop loan contract.

"NOW THEREFORE, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms and conditions and agreement stipulated in said crop loan contract then, this obligation shall be null and void, otherwise it shall remain in full force and effect.

xxx xxx xxx"

The foregoing evidences clearly the liability of Luzon Surety to petitioner Philippine National Bank not merely as a guarantor but as surety-liable as a regular party to the undertaking (*Castelvi de Higgins vs. Sellner* 41, Phil. 142). The Court of Appeals, however, in absolving the bonding company ratiocinates that the Surety Bond executed on February 18, 1952, made specific references to a crop loan contract executed by Augusto Villarosa sometime in February 1952. And, therefore, the Chattel Mortgage, Exhibit B dated March 6, 1952, could not have been the obligation guaranteed by the surety bond. Thus the Court of Appeals stated:

"x x x one is really at a loss to impose any liability upon Luzon Surety in the absence of the principal obligation which was crop loan contract executed in February, 1952, and to which there was made an express reference in the surety bond, Exhibit E; let it not be overlooked further that one can secure a crop loan without executing a Chattel Mortgage on his crops because the crop loan is the principal obligation while the Chattel Mortgage is only an ancillary and secondary contract to guarantee fulfillment of a crop loan; stated otherwise and as Luzon Surety never intervened in the execution of the Chattel Mortgage, Exhibit B, there is no way under the evidence from which it can be made to answer for liability to Augusto Villarosa under Exhibit E; x x x"

The Court of Appeals, to Our mind did not give credence to an otherwise significant and unrebutted testimony of

petitioner's witness, Romanito Brillantes, that Exhibit B was the only chattel mortgage executed by Augusto Villarosa evidencing the crop loan contract and upon which Luzon Surety agreed to assume liability up to the amount of P10,000 by posting the said surety bond. Moreover Article 1354 of our New Civil Code which provides:

"Art. 1354. — Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary."

bolsters petitioner's stand. Considering too that Luzon Surety Company is engaged in the business of furnishing guarantees, for a consideration, there is no reason that it should be entitled to a rule of strictissimi juris or a strained and over-strict interpretation of its undertaking. The presumption indulged in by the law in favor of guarantors was premised on the fact that guarantees were originally gratuitous obligations, which is not true at present, at least in the great majority of cases. (Aurelio Montinola vs. Alejo Gatila, et al, G.R. No. L-7558, October 31, 1955)

We have likewise gone over the answer of Luzon Surety Company dated June 17, 1960 (p. 73 Record on Appeal) and noted the following:

"xxx xxx xxx

"3. Defendant LUZON admits the portion of paragraph 3 referring to the grant of P32,400 secured by a Chattel Mortgage dated March 6, 1952, copy of which is attached as Annex "A" of the complaint.

xxx xxx xxx

As special defenses:

"8. The terms and conditions of the surety bond as well as the contract it guaranteed was materially altered and or novated without the knowledge and consent of the surety, thereby releasing the latter from liability.

"11. The maximum liability, if any, of defendant LUZON is P10,000.00.

The principal obligation, therefore, has never been put in issue by then defendant now respondent Luzon Surety Co., Inc. On the other hand it raised as its defense the alleged material alteration of the terms and conditions of the contract as the basis of its prayer for release. Even this defense of respondent Luzon Surety Co., Inc. is untenable under the facts obtaining. As a surety, said bonding company is charged as an original promissor and is an insurer of the debt. While it is an accepted rule in our jurisdiction that an alteration of the contract is a ground for release, this alteration, We stress, must be material. A cursory examination of the record shows that the alterations in the form of increases were made with the full consent of Luzon Surety Co., Inc. Paragraph 4 of the Chattel Mortgage explicitly provided for this increase(s), viz:

"x x x the Mortgagee may increase or decrease the amount of the loan as well as the installment as it may deem convenient x x x"

and this contract, Exhibit "B", was precisely referred to and mentioned in the Surety Bond itself. In the case of Lim Julian vs. Tiburcio Lutero, et al., No. 25235, 49 Phil. 703, 717, 718, this Court held:

"It has been decided in many cases that the consideration named in a mortgage for future advancements does not limit the amount for which such contract may stand as security, if from the four corners of the document, the intent to secure future indebtedness is apparent. Where, by the plain terms of the contract, such an intent is evident, it will control. x x x"

The next question to take up is the liability of Luzon Surety Co. for interest which, it contends, would increase its

liability to more than P10,000 which is the maximum of its bond. We cannot agree to this reasoning. In the cases of *Tagawa vs. Aldanese*, 43 Phil. 852, 859; *Plaridel Surety and Insurance Co. vs. P. L. Galang Machinery Co.* 100 Phil. 679, 682, cited in *Paras Civil Code of the Philippines*, Vol. V, 7th Ed. 1972, p. 772, it was held:

"If a surety upon demand fails to pay, he can be held liable for interest, even if in thus paying, the liability becomes more than that in the principal obligation. The increased liability is not because of the contract but because of the default and the necessity of judicial collection. It should be noted, however, that the interest runs from the time the complaint is filed, not from the time the debt becomes due and demandable."

PREMISES CONSIDERED, the judgment appealed from is reversed and set aside. In lieu thereof another is rendered reinstating the judgment of the Court of First Instance of Negros Occidental, 12th Judicial District, dated March 29, 1961, holding Luzon Surety liable for the amount of P10,000.00 with the modification that interest thereon shall be computed at the legal rate from June 8, 1960 when the complaint was filed.

SO ORDERED.

Teehankee, Makasiar, Muñoz Palma, and Martin, JJ., concur.

Castro, (Chairman), J., did not take part.

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