ANITA ESTEBAN, PETITIONER, VS. HON. REYNALDO A. ALHAMBRA, IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 39, SAN JOSE CITY, AND GERARDO ESTEBAN, RESPONDENTS.

G.R. No. 135012. September 07, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In this present petition for certiorari,[1] Anita Esteban seeks to annul the Orders dated July 9, 1998 and August 20, 1998 issued by Judge Reynaldo A. Alhambra, presiding judge of the Regional Trial Court, Branch 39, San Jose City, in Criminal Cases Nos. SJC-88(95), SJC-27(97), SJC-30(97) and SJC-31(97). The Orders denied petitioner's application for cancellation of the cash bail posted in each case.

Gerardo Esteban is the accused in these criminal cases. His sister-in-law, Anita Esteban, petitioner herein, posted cash bail of P20,000.00 in each case for his temporary liberty.

While out on bail and during the pendency of the four criminal cases, Gerardo was again charged with another crime for which he was arrested and detained.

"Fed up with Gerardo's actuation," petitioner refused to post another bail.[2] Instead, on June 18, 1998, she filed with the trial court an application for the cancellation of the cash bonds she posted in the four criminal cases.[3] She alleged therein that she is "terminating the cash bail by surrendering the accused who is now in jail as certified to by the City Jail Warden."[4]

In an Order dated July 9, 1998,[5] respondent judge denied petitioner's application, thus:

> x x x
>
> "In these cases, accused was allowed enjoyment of his provisional liberty after money was deposited with the Clerk of Court as cash bail. Applicant-movant (now petitioner) did not voluntarily surrender the accused. Instead, the accused was subsequently charged with another crime for which he was arrested and detained. His arrest and detention for another criminal case does not affect the character of the cash bail posted by applicant-movant in Criminal Cases Nos. SJC-88(95), SLC-27(97), SJC-30(97) and SJC-31(97) as deposited pending the trial of these cases. Money deposited as bail even though made by a third person is considered as the accused's deposit where there is no relationship of principal and surety (State vs. Wilson, 65 Ohio L-Abs, 422, 115 NE 2d 193). Hence, the money so deposited takes the nature of property in custodia legis and is to be applied for payment of fine and costs. And such application will be made regardless of the fact that the money was deposited by a third person.
>
> "WHEREFORE, in view of the foregoing, the application for cancellation of bail bonds is hereby DENIED.
>
> "SO ORDERED."

Petitioner filed a motion for reconsideration[6] but was denied in an Order dated August 20, 1998.[7]

Hence, the instant petition assailing the twin Orders as having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

Petitioner states that she is constrained to bring this matter directly to this Court as the issue is one of first impression.[8]

Petitioner submits that by surrendering the accused who is now in jail, her application for cancellation of bail in the four criminal cases is allowed under Section 19, now Section 22, Rule 114 of the Revised Rules of Criminal Procedure, as amended, which provides:

> "Sec. 22. Cancellation of bail. – Upon application of the bondsmen, with due notice to the prosecutor, the bail may be cancelled upon surrender of the accused or proof of his death.
>
> The bail shall be deemed automatically cancelled upon acquittal of the accused, dismissal of the case, or execution of the judgment of conviction.
>
> In all instances, the cancellation shall be without prejudice to any liability on the bail." (Underscoring supplied)

Petitioner's submission is misplaced.

The first paragraph of Section 22 contemplates of a situation where, among others, the surety or bondsman surrenders the accused to the court that ordered the latter's arrest. Thereafter, the court, upon application by the surety or bondsman, cancels the bail bond.

We hold that the cash bail cannot be cancelled. Petitioner did not surrender the accused, charged in the four criminal cases, to the trial court. The accused was arrested and detained because he was charged in a subsequent criminal case.

Moreover, the bail bond posted for the accused was in the form of cash deposit which, as mandated by Section 14 (formerly Section 11) of the same Rule 114, shall be applied to the payment of fine and costs, and the excess, if any, shall be returned to the accused or to any person who made the deposit. Section 14 provides:

> "Section 14. Deposit of cash as bail. – The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue or provincial, city or municipal treasurer the amount of bail fixed by the court, or recommended by the prosecutor who investigated or filed the case. Upon submission of a proper certificate of deposit and a written undertaking showing compliance with the requirements of Section 2 of this Rule, the accused shall be discharged from custody. The money deposited shall be considered as bail and applied to the payment of fine and costs, while the excess, if any, shall be returned to the accused or to whoever made the deposit." (Underscoring supplied)

The Rule thus treats a cash bail differently from other bail bonds. A cash bond may be posted either by the accused or by any person in his behalf. However, as far as the State is concerned, the money deposited is regarded as the money of the accused. Consequently, it can be applied in payment of any fine and costs that may be imposed by the court. This was the ruling of this Court as early as 1928 in Esler vs. Ledesma.[9] Therein we declared that "when a cash bail is allowed, the two parties to the transaction are the State and the defendant. Unlike other bail bonds, the money may then be used in the payment of that in which the State is concerned – the fine and costs. The right of the government is in the nature of a lien on the money deposited." We further held in the same case that:

> "x x x. Similar cases have frequently gained the attention of the courts in the United States in jurisdictions

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> where statutes permit a deposit of money to be made in lieu of bail in criminal cases. The decisions are unanimous in holding that a fine imposed on the accused may be satisfied from the cash deposit; and this is true although the money has been furnished by a third person. This is so because the law contemplates that the deposit shall be made by the defendant. The money, x x x, must accordingly be treated as the property of the accused. As a result, the money could be applied in payment of any fine imposed and of the costs (People vs. Laidlaw [1886], Ct. of App. Of New York, 7 N. E., 910, a case frequently cited approvingly in other jurisdictions; State of Iowa vs. Owens [1900], 112 Iowa, 403; Mundell vs. Wells, supra.). But while as between the State and the accused the money deposited by a third person for the release of the accused is regarded as the money of the accused, it is not so regarded for any other purpose. As between the accused and a third person, the residue of the cash bail is not subject to the claim of a creditor of property obtain (Wright & Taylor vs. Dougherty [1908], 138 Iowa, 195; People vs. Gould [1902], 78 N. Y. Sup., 279; Mundell vs. Wells, supra.).”[10]

In fine, we fail to discern any taint of grave abuse of discretion on the part of respondent judge in denying petitioner’s application for cancellation of the accused’s cash bail.

WHEREFORE, the present petition is DISMISSED.

SO ORDERED.

Panganiban, (Chairman), and Corona, JJ., concur.
Carpio Morales, J., on official leave.

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[1] Filed under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

[2] Petition, Rollo at 5.

[3] Annex “C” of Petition, Rollo at 16-21.

[4] Id. at 19.

[5] Annex “A” of Petition, Rollo at 13-14.

[6] Annex “D” of Petition, Rollo at 22-24.

[7] Id. at 15.

[8] Petition, Rollo at 3.

[9] 52 Phil. 114 (1928).

[10] Id. at 119.

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