

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FELIPE BUSTAMANTE, ACCUSED, PLARIDEL SURETY AND INSURANCE CO., INC., BONDSMAN AND APPELLANT.

G.R. No. 13665. September 24, 1959

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal interposed by the Plaridel Surety & Insurance Company, Inc., bondsman for the accused Felipe Bustamante y Baltazar, from an order of the Court of First Instance of Manila declaring a bail bond in the amount of P1,000.00 forfeited, and from a judgment upon the bond for its full amount.

It appears that on the date set for the reading of his sentence, on October 24, 1956, the accused Felipe Bustamante y Baltazar failed to appear in the above-mentioned court. The court, therefore, issued an order for his arrest and the confiscation of his bond.

On November 26, 1956, the bondsman-appellant filed a petition for extension of time within which to produce the body of the accused, which petition was denied by the court in its order of November 27, 1956.

On December 11, 1956, the bondsman-appellant filed a motion for reconsideration of said order of November 27 and for additional extension of time for the production of the accused. The court in its order of December 15, 1956, granted the motion as follows:

"The motion for reconsideration dated December 11, 1956, filed by counsel for the Plaridel Surety & Insurance Company, being meritorious, the same is hereby granted. The order of this Court dated November 27, 1956 is hereby set aside and the said company is given an extension of thirty (30) days from today within which to produce the body of the accused in court for the execution of the judgment rendered in this case".

Before the expiration of the first extension granted, or on January 14, 1957, the bondsman-appellant filed a motion for another additional extension, stating that although the accused was somewhere in the province of Zambales, it had not as yet ascertained the definite place where he could be found; and that considering the geographical distance between said province and Manila, its agent sent to locate the accused were encountering a hard time locating him. Said motion was denied by the court for lack of merit, and on January 21, 1957, an order was issued entering a judgment against the bond of P1,000.00 posted by the bondsman-appellant.

On January 26, 1957, the bondsman-appellant filed a petition to hold in abeyance the said order of January 21, 1957, alleging that the accused was definitely known to be somewhere in the province of Pangasinan, but because of his elusiveness, its agents were still unable to arrest him. On January 31, 1957, the court denied the petition and ordered the immediate execution of the bond.

Three days later, or on February 3, 1957, the bondsman-appellant finally apprehended the accused and delivered him to the Manila Police Department. Later, the bondsman-appellant filed notice to the court advising it of the production of the accused and asking for reconsideration of the order of execution. The petition for

reconsideration was denied by the court. Hence, this appeal.

In assailing the correctness of the order for execution, the bondsman-appellant claims that the court a quo erred in refusing to grant to it relief from liability upon the bond, despite the fact that through its efforts, the accused was eventually apprehended and surrendered to the proper authorities to serve the penalty imposed upon him.

While it is true that the accused had been finally captured and surrendered to the court through its efforts, the bondsman-appellant can not claim complete discharge because the production of the accused was effected only after the order of confiscation and forfeiture of the bond had already become final. As a rule, the court has no power to discharge the sureties entirely after the 30-day period provided in Section 15, Rule 115 of the Rules of Court within which to produce the body of the accused has elapsed and the accused had not been brought before the court. It could only mitigate or lessen their liability (*People vs. Calabon*, 53 Phil., 945; *People vs. Alamada*, 89 Phil., 1).

This Court has consistently shown liberality in dealings with bondsmen in criminal cases and in mitigating, in appropriate cases, their liability on the bond already confiscated because of the delay in the presentation of the accused. (*People vs. Calabon*, supra; *People vs. Reyes*, 48 Phil. 139; *People vs. Alamada*, supra; *People vs. Puyal*, 98 Phil., 415; 52 Off. Gaz., [16] 6886; *People vs. Daisin*, 101 Phil., 228; 54 Off. Gaz., [6] 1824; *People vs. Arlantico*, 89 Phil., 220; *People vs. Tan*, 101 Phil., 324; *People vs. Tolentino*, et al., 103 Phil., 741; 55 Off. Gaz., [42] 8849 11036, and *People vs. Gonzales*, 105 Phil., 47.) The reason behind this liberal policy of this Court in cases where the facts justify the same, has been succinctly explained in *People vs. Puyal*, supra, in this language:

"The liberality which we have shown in dealing with bondsmen in criminal cases and in mitigating their liability on bonds already confiscated because of the delay in the presentation of defendants, finds explanation in the fact that the ultimate desire of the State is not the monetary reparation of the bondsman's default, but the enforcement or execution of the sentence, such as the imprisonment of the accused or the payment by him of the fine imposed. That interest of the State can not be measured in terms of pesos as in private contracts and obligations. The surrender of the person of the accused so that he can serve his sentence is its ultimate goal or object. The provision for the confiscation of the bond, upon failure within a reasonable time to produce the person of the accused for the execution of the sentence, is not based upon a desire to gain from such failure; it is to compel the bondsman to enhance its efforts to have the person of the accused produced for the execution of the sentence. Hence after the surety has presented the person of the accused to the court, or the accused already arrested, We have invariably exercised our discretion in favor of the partial remission of the bondsman's liability.

"A further reason for such liberality lies in the fact that if the courts were strict in enforcing the liability of bondsmen, the latter would demand higher rates for furnishing bail for accused persons, making it difficult for such accused to secure their freedom during the course of the proceedings. If courts were strict in the enforcement of the monetary responsibility of bondsmen, bail, which is considered a precious right, would be difficult to obtain. Bondsmen will reduce rates only if the courts are liberal in dealing with them in the performance of their obligations.

"Lastly, if the courts are averse to mitigating the monetary responsibility of bondsmen after confiscation of their bond, bondsmen would be indifferent towards the attempts of the State to secure the arrest of the defendants, instead of helping it therein. (*Italics supplied.*)

It appearing that the bondsman-appellant in this case is not entirely to be blamed, we are of the opinion that under the circumstances, the liability of the bondsman-appellant on the bail bond may properly be reduced, and we hereby reduce the same from P1,000.00 to P500.00. Thus modified, the order appealed from is affirmed, without costs.

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

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