

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
JOAQUIN DOCTOR Y DIZON, ACCUSED; CAPITAL INSURANCE & SURETY CO., INC., BONDSMEN AND APPELLANT.**

G.R. No. 20150. September 30, 1964

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order of the Court of First Instance of Manila in Criminal Case No. 64358 of said court, which in turn, involved an appeal from an order of the Municipal Court of Manila in Criminal Case No. E-100968-64358 thereof, entitled "People of the Philippines vs. Joaquin Doctor", for serious physical injuries through reckless negligence.

The record shows that when the latter case was called for arraignment on April 30, 1962, the accused failed to appear despite the notice duly served upon his bondsmen, herein appellant, Capital Insurance & Surety Co., Inc. Accordingly, on May 10, 1962, the municipal court issued an order directing the forfeiture of the P1,000 bond posted by said appellant for the provisional liberty of the accused, as well as his immediate arrest and giving appellant thirty (30) days within which to produce the accused and show cause why judgment should not be rendered for the amount of said bond. Soon thereafter, or on May 21, 1962, appellant surrendered the accused to the municipal court. At the same time, appellant moved to cancel the warrant of arrest and lift the order of confiscation of the bond and continue the latter in force, upon the ground that the failure of the accused to appear before said Court on April 30, 1962 was due to the fact that appellant had not had sufficient time to notify the accused before said date, the corresponding notice having been served upon appellant only three (3) days prior thereto, or on April 27, 1962. This motion was denied on May 22, 1962, whereupon appellant moved for a reconsideration, which was denied on May 23, 1962. Forthwith, appellant appealed to the Court of First Instance of Manila, which, on July 3, 1962, dismissed the appeal, upon the ground that it was premature, no judgment having as yet been rendered on the aforementioned bond. A reconsideration of this order of dismissal having been denied on July 20, 1962, appellant interposed the present appeal, alleging that said orders of the Municipal Court of Manila of May 22 and 23, 1962 are tantamount to a judgment against appellant for the amount of said bond.

This pretense is clearly untenable. It is obvious from the record and from the orders appealed from that there is as yet no official determination or declaration of appellant's liability under the bond above mentioned. On the contrary, the order of the municipal court of May 10, 1962, requires appellant "to show cause why judgment should not be rendered against it for the amount of the bond." There is no such judgment against appellant herein. Neither has the amount for which appellant shall be held liable been fixed. Said orders of May 20 and 23, 1962, are thus obviously interlocutory, and cannot be appealed before the rendition of said judgment.

WHEREFORE, the appealed orders of the Court of First Instance of Manila are hereby affirmed, with costs against appellant, Capital Insurance & Surety Co., Inc.

IT IS SO ORDERED.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, JJ., concur.

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