

HEIRS OF BONDSMAN BASILIO NEPOMUCENO, NAMELY: DELSA N. TRASMONTA, MARILOU N. DECENA, AND FE VALENZUELA; AND HEIRS OF BONDSMAN REMEDIOS CATA-AG, NAMELY AMELIA CATA-AG TUMAKIN, PE...

G.R. No. 205099. September 02, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

An order of forfeiture is different from a judgment on the bond. It is interlocutory and merely compels the bondsperson to show cause why judgment should not be issued against them for the amount of bond. On the other hand, a judgment on the bond ultimately ascertains their liability under the bond that when it becomes final, execution may promptly issue.[1]

This Court resolves the Petition for Review on Certiorari[2] assailing the Decision[3] and Resolution[4] of the Court of Appeals, which dismissed[5] the Petition for Certiorari filed by the heirs of the late bondspersons Basilio Nepomuceno (Basilio) and Remedios Cata-ag (Cata-ag). It held that the Regional Trial Court did not gravely abuse its discretion in denying their motion to pay cash bond to replace the property bond .[6]

This controversy arose when Basilio and Cata-ag posted bail comprised of real properties[7] in favor of a certain Daniel Nepomuceno (Daniel), who was adjudged guilty of homicide in Criminal Case No. 3435-0 by Branch 12 of the Ormoc City Regional Trial Court on June 27, 1990.[8] As the records reveal, the bondspersons were "immediate members of [Daniel's] family[.]"[9]

On July 23, 1990, the bondspersons moved for the extension to file justification, which the trial court granted on July 24, 1990.[10]

Meanwhile, accused Daniel filed his appeal.[11] On June 28, 1993, however, the Court of Appeals affirmed his conviction with modification on the award of civil indemnity. His conviction attained finality and an entry of judgment followed.[12]

On June 27, 1994, in view of the transfer of records to the trial court, the bondspersons were ordered to bring Daniel to court within five days from notice.[13]

On July 13, 1994, the bondspersons asked for extension of time to comply with the order. The trial court granted their request by giving them another 10 days from receipt of the order.[14]

An alias warrant of arrest against Daniel followed. Meanwhile, the private complainant opposed the motion for the replacement of the property posted as bail with a cash bond.[15]

On August 19, 1994, the trial court granted another extension of 30 days in favor of Basilio and Cata-ag.[16]

On November 14, 1994, the bondspersons submitted their written justification on why they failed to bring Daniel

in court. At the same time, they attached an alternative motion seeking to replace the property bond with a cash bond equivalent to the amount of bail.[17]

On November 25, 1994, the Regional Trial Court issued an Order[18] forfeiting the property bond. It reads:

ORDER

The explanation of bondsmen is noted. Considering, however, that [the bondspersons] could not produce the body of the accused within the period given, judgment is hereby rendered in favor of the Republic of the Philippines forfeiting the property bond filed in the present case.

SO ORDERED.[19]

The bondspersons moved for reconsideration and for leave to substitute the existing bond with cash bail. On December 23, 1994, the trial court denied the motions.[20]

On January 24, 1995, the bondspersons moved for reconsideration of the November 25, 1994 and December 23, 1994 Orders.[21]

On January 27, 1995, the trial court likewise denied this second motion for reconsideration. Its Order[22] reads:

ORDER

Submitted is a Second Motion for Reconsideration reiterating movant's desire to substitute their property bond with cash bond. This Court wishes to emphasize that what the government is interested in is not the P50,000.00 bond but in the production of the body of the convicted accused for him to serve sentence. The Court has received reliable information that convicted accused is just in Isabel, Leyte, and notwithstanding the issuance of a warrant of arrest issued by this Court and explicit directive to the Station Commander of PNP Isabel, Leyte, for the arrest of the convicted accused, convicted accused has remained at large.

Considering, therefore, that the [bondspersons] are immediate members of the family of the accused and considering further that no actual efforts had been exerted to produce the body of the convicted accused before this Court, should the property bond be substituted with cash bond[,], it will amount to the [bondspersons] just buying the freedom of the convicted accused for P50,000.00, this does not enhance the faith of our people in the administration of justice.

Foregoing considered, the Motion for Reconsideration is DENIED. [The bondspersons], however, are given sixty (60) days from receipt within which to produce the body of the convicted accused and upon the expiration of which this Court will render judgment against the same bond in favor of the Republic of the Philippines.

SO ORDERED.[23]

Years passed without Daniel being detained.[24]

On May 8, 2008, the bondspersons moved for the trial court to allow them "to pay the amount of bond in lieu of the property bond, pursuant to Supreme Court A.M. No. 05-3-06-SC[.]"[25] The prosecutor commented that he would leave the matter to the trial court's discretion.[26]

On June 24, 2008, the trial court, through Acting Presiding Judge Lauro A.P. Castillo (Castillo), denied the motion. It explained that the January 27, 1995 Order had since become final, "but due to the appointment of the former presiding judge vice the presiding judge who rendered judgment, and for reasons alien to [him], the said Order was not executed." [27] With the purported finality of the judgment on the bond, Judge Castillo directed its execution:

ORDER

For consideration is the Motion to Allow The [Bondspersons] to pay the amount of bond in lieu of the property bond, pursuant to Supreme Court A.M. No. 05-3-06-SC, filed by [bondspersons] Basilio Nepomuceno and Remedios Cata[-]ag on May 8, 2008.

....

In resolving the instant motion, which poses a novel query, this Court is guided by the pertinent provisions of the Rules of Court and relevant circulars of the Supreme Court, notably Administrative Circular No. 05-3-06-SC. Relevant excerpt thereof reads:

"IV. (B.) When Property Bond Forfeited:

1. Forfeiture of Property Bond. — . . .

....

Failing in these two requisites, a judgment shall be rendered against the [bondspersons], jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the [bondspersons], unless the accused has been surrendered or is acquitted. (Sec. 21, supra, with amendments.) The [bondspersons] shall have sixty (60) days from their receipt of the judgment within which to pay the amount he/[she]/they justified.

....

As can be readily gleaned from the afore-quoted Supreme Court Administrative Circular No. 05-3-06-SC, the [bondspersons] are given sixty (60) days from their receipt of the judgment within which to pay the amount he/[she]/they justified. A copy of the Order of the Court dated January 27, 1995, in which it denied the second motion for reconsideration, was furnished to the [bondspersons] as well as to their counsel and to the other counsels, per registry receipts attached to the back of said order. From the time of their receipt of the said order up to the time they filed their latest motion[,] which is [the] subject of this Resolution, a period of more than [t]en (10) years has lapsed. There is no question therefore that the said order has attained finality. Accordingly, such order may no longer be disturbed, no matter how correct or erroneous it may be.

But they are not entirely without any remedy, for the relief available to them is clearly provided under the quoted provision of Adm. Circular No. 05-3-06-SC. All they need to do is avail of the same in due time.

WHEREFORE, premises considered, and for the reason that the said Order forfeiting the bond posted by the [bondspersons] Basilio Nepomuceno and Remedios Nepomuceno [sic] has attained finality and may no longer be disturbed, their motion is DENIED.

The Judgment on the Bond having become final, let the same be executed in accordance with [Adm.] No. 05-3-06-SC. Accordingly, the Branch Clerk of Court is hereby directed to ensure that compliance with the pertinent provisions of the said circular is observed.

SO ORDERED.[28] (Emphasis supplied)

Insisting that there was still no judgment on the bond, the bondspersons moved to reconsider.[29]

On August 5, 2008, the trial court denied the motion. It underscored that it had already issued a judgment forfeiting the property bond in favor of the Republic on November 25, 1994, as reinforced in its June 24, 2008 Order.[30]

Thus, the heirs of bonds persons Basilio and Cata-ag filed a Petition for Certiorari^[31] before the Court of Appeals, claiming that the trial court gravely abused its discretion in issuing the June 24, 2008 and August 5, 2008 Orders.^[32]

They claimed that in denying their motion to pay the amount justified as bail, the trial court failed to consider the pertinent provisions of A.M. No. 05-3-06-SC and this Court's ruling in *Mendoza v. Alarma*.^[33] They added that without a judgment on the bond, the trial court's implied order of execution in its June 24, 2008 Order was an absolute nullity for failure to afford due process.^[34]

After the parties had exchanged pleadings,^[35] the Court of Appeals on November 23, 2011 dismissed^[36] the Petition for lack of merit.^[37] It explained that under Rule 114, Section 21 of the Revised Rules of Criminal Procedure, the bond was already forfeited when the bondspersons failed to bring Daniel to court when first directed to do so:

In the instant case, the bond had been forfeited when the bondspersons failed to produce the body of the accused when first required to do so. The bondspersons were repeatedly given extensions of time within which to fulfill their obligation. Failing to do so, they submitted a written explanation and moved to substitute the property bond with cash. After a lapse of more than thirty (30) days, with the bondspersons still failing to produce the accused, the court issued the November 25, 1994 Order rendering judgment on the bond. From the said Order, the bondspersons filed a motion for reconsideration, and incorporated therein a motion to change the property bond to cash so that the former may be cancelled, which motions were both denied by the court. The bondspersons filed a second motion for reconsideration, which was still denied by the court on January 24, 1995.^[38] (Emphasis supplied)

The Court of Appeals ruled that despite the wording of the January 24, 1995 Order, the trial court nevertheless maintained that its November 25, 1994 Order was a judgment on the bond, as reinforced in its June 24, 2008 Order. Thus, it declared, the bondspersons may not argue having been denied due process as they had been given the chance to explain why they failed to comply with the trial court's directive.^[39]

As to the bondspersons' move to pay the amount of bond as substitute for the property bond, the Court of Appeals cited *People v. Cawaling*^[40] and held that the trial court did not err in denying the motion.^[41]

On November 26, 2012, the Court of Appeals denied^[42] the motion for reconsideration^[43] filed by the bondspersons' heirs. Hence, they filed this Petition for Review.^[44]

Contrary to the Court of Appeals' ruling, petitioners assert that the November 25, 1994 Order is not a judgment on the bond but merely an order of forfeiture^[45] Pointing out that the trial court's January 27, 1995 Order gave them 60 days to bring Daniel to court, they assert that a judgment on the bond will only be issued afterward.^[46] However, they argue that no judgment on the bond followed, which would supposedly determine the extent and amount of their liability.^[47]

Citing *Mendoza*,^[48] petitioners add that to deem the November 25, 1994 Order as a judgment on the bond would violate their right to procedural due process. They insist that the Order was an order of forfeiture, which was interlocutory and cannot attain finality. They thus claim that the June 24, 2008 Order directing an execution was an absolute nullity.^[49]

As to the payment of bail amount in lieu of the property bond, petitioners claim that the Court of Appeals erred in relying on *Cawaling* instead of the pertinent provisions of A.M. No. 05-3-06-SC.^[50]

Petitioners note that based on the rules and *Mendoza*, there should first be a judgment determining the amount of bail against the bondspersons before execution and public auction. As there was no judgment on the bond

rendered against them and they are more than willing to pay the amount of bail ever since, they assert that a public auction is but superfluous.[51] Hence, among others, they ask this Court to issue an order permitting them to pay the amount they justified as bail, in exchange for the release of the property bond.[52]

In its Comment,[53] respondent People of the Philippines, through the Office of the Solicitor General, counters that the trial court correctly forfeited the property bond and rendered judgment against the bondspersons when they failed to surrender Daniel within the time prescribed by the Rules.[54]

Despite the tenor of the January 27, 1995 Order, respondent maintains that the trial court had already rendered a judgment on the bond as early as November 25, 1994. Moreover, when the bondspersons were given 60 days to fulfill their undertaking, more than 10 years had passed but they still failed to bring Daniel in court without plausible explanation. Respondent adds that the amount of the bond had long been established and the trial court has nothing more to do but to execute it.[55]

Disagreeing with petitioners' claim that they were denied due process, respondent maintains that the bondspersons were given all the chances to explain and even filed a number of pleadings, including motions for reconsideration. Respondent argues that petitioners were merely negligent in bringing Daniel to court.[56]

As to petitioners' move to substitute the property bond, respondent asserts that the trial court did not err in denying the motion. It underscores that up to now, the bondspersons could neither present Daniel in court nor explain such failure.[57] Allegedly, petitioners are aware that the property bond they posted should be confiscated in favor of the State, yet "they insist on not giving up their property." [58]

In their Reply,[59] petitioners reiterate their earlier arguments. They emphasize that the trial court should have entertained their motion for the cash payment of P50,000.00, as they would be merely paying the equivalent amount imposed upon the property bond. Allegedly, not only is such motion sanctioned by pertinent rules, but it "would eradicate further usage of the State's effort, time, money, and other resources which would also result in the accumulation of the same amount of the bond." [60]

For this Court's resolution is whether or not the Court of Appeals erred in ruling that the trial court did not gravely abuse its discretion in issuing the assailed Orders. Subsumed under this issue are the following:

First, whether or not the November 25, 1994 Order is a judgment on the bond; and

Second, whether or not bondspersons Basilio Nepomuceno and Remedios Cata-ag may, in lieu of the property bond, pay the amount of bail in cash.

The Petition is partly granted.

I

"Bail [is] the security given by an accused who is in the custody of the law for [their] release to guarantee [their] appearance before any court as may be required[.]" [61] It is furnished by either the person in custody of the law or the bondspersons, which may be in the "form of corporate surety, property bond, cash deposit, or recognizance." [62]

To be released on bail means that the accused is delivered "in contemplation of law, yet not commonly in real fact, to others who become entitled to [their] custody and responsible for [their] appearance when and where agreed." [63] Upon accepting a bail obligation, the bondspersons "become in law the jailers of their principal." [64] They must then ensure that the accused is under their close monitoring—a duty that would remain until the bond is canceled or the surety is discharged.[65]

Rule 114, Section 2 of the then[66] prevailing 1985 Rules of Criminal Procedure provides the following conditions of the bail:

SECTION 2. Conditions of the Bail; Requirements.—All kinds of bail are subject to the following conditions:

a.

The undertaking shall be effective upon approval and remain in force at all stages of the case until its final determination, unless the proper court directs otherwise;

b.

The accused shall appear before the proper court whenever so required by the court or these Rules.

c.

The failure of the accused to appear at the trial without justification despite due notice shall be deemed an express waiver of his right to be present on the date specified in the notice. In such case, the trial may proceed in absentia; and

d.

The accused shall surrender himself for execution of the final judgment.

The original papers shall state the full name and address of the accused, the amount of the undertaking and the conditions herein required. Photographs (passport size) taken recently showing the face, left and right profiles of the accused must be attached thereto. (Emphasis supplied)

As the "jailer or custodian" of an accused, the bondspersons or sureties must procure the accused's presence whenever needed. Failure to do so constitutes a breach in the conditions of the bond, warranting its forfeiture.[67]

Corollary to this, Rule 114, Section 18[68] of the same Rules provides:

SECTION 18. Forfeiture of Bail Bond. — When the presence of the accused is specifically required by the court, or these Rules, his bondsmen shall be notified to produce him before the court on a given date. If the accused fails to appear in person as required, the bond shall be declared forfeited and the bondsmen are given thirty (30) days within which to produce their principal and to show cause why a judgment should not be rendered against them for the amount of their bond. Within the said period, the bondsmen:

(a)

must produce the body of their principal or give the reason for his non-production; and

(b)

must explain satisfactorily why the accused did not appear before the court when first required to do so.

Falling in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bond, and the court shall not reduce or otherwise mitigate the liability of the bondsmen, except when the accused has been surrendered or is acquitted. (Emphasis supplied)

Here, when the records were remanded to the trial court upon the finality of Daniel's conviction,[69] the

bondspersons were directed on June 27, 1994 to present him in court within five days from notice. Upon asking for extension, the bondspersons were given additional 10 days, followed by another 30 days. When they still failed to comply with the trial court's directive, they submitted their justification on November 14, 1994, and similarly sought to replace the properly bond with cash bail.[70]

On November 25, 1994, the trial court issued the assailed Order,[71] which both the trial[72] and appellate courts[73] posited to be a judgment on the bond. Petitioners counter, however, that it is but an order of forfeiture based on the trial court's subsequent orders.[74] Allegedly, it is incomplete and does not specifically determine their liabilities under the bond.[75]

Petitioners' argument is meritorious.

When the accused fails to appear in court, the Rules provide for two situations where the trial court judge may decide against the bondspersons:

First, the non-appearance by the accused is cause for the judge to summarily declare the bond as forfeited. Second, the bondsmen, after the summary forfeiture of the bond, are given thirty (30) days within which to produce the principal and to show cause why a judgment should not be rendered against them for the amount of the bond. It is only after this thirty (30)-day period, during which the bondsmen are afforded the opportunity to be heard by the trial court, that the trial court may render a judgment on the bond against the bondsmen. Judgment against the bondsmen cannot be entered unless such judgment is preceded by the order of forfeiture and an opportunity given to the bondsmen to produce the accused or to adduce satisfactory reason for their inability to do so. [76] (Emphasis supplied)

Here, it is undisputed that bondspersons Basilio and Cata-ag failed to present Daniel in court for his service of sentence. Despite several extensions, the bondspersons repeatedly failed to comply with the trial court's order. As such, the trial court issued the assailed November 25, 1994 Order, which explicitly declared the property forfeited in favor of the Republic:

The explanation of bondsmen is noted. Considering, however, that [bondspersons] could not produce the body of the accused within the period given, judgment is hereby rendered in favor of the Republic of the Philippines forfeiting the property bond filed in the present case.[77] (Emphasis supplied)

To determine whether this is an order of forfeiture or a judgment on the bond, *Mendoza v. Alarma*[78] is instructive:

An order of forfeiture of the bail bond is conditional and interlocutory, there being something more to be done such as the production of the accused within 30 days. This process is also called confiscation of bond. In *People v. Dizon*, we held that an order of forfeiture is interlocutory and merely requires appellant "to show cause why judgment should not be rendered against it for the amount of the bond." Such order is different from a judgment on the bond which is issued if the accused was not produced within the 30-day period. The judgment on the bond is the one that ultimately determines the liability of the surety, and when it becomes final, execution may issue at once.[79] (Emphasis supplied, citations omitted)

An order of forfeiture is preliminary to a judgment on the bond. Being interlocutory, it does not conclusively resolve the case.[80] A judgment on the bond, on the other hand, is a final order "which disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined." [81]

Contrary to the lower court's ruling, the November 25, 1994 Order is not the judgment on the bond for which an execution may rightfully issue. It neither determined the bondspersons' liability under the bond nor fixed the amount for which they are accountable.[82] Moreover, it is evident from the trial court's subsequent January 27,

1995 Order that a judgment on the bond is yet to issue:

Foregoing considered, the Motion for Reconsideration is DENIED. [The bondspersons], however, are given sixty (60) days from receipt within which to produce the body of the convicted accused and upon expiration of which this Court will render judgment against the same bond in favour of the Republic of the Philippines.

SO ORDERED.[83] (Emphasis supplied)

Regrettably, no judgment on the bond was rendered thereafter. Worse, years passed without the convicted Daniel serving his sentence.

II

Believing that there was still no judgment on the bond,[84] the bondspersons moved on May 7, 2008 that they be allowed to pay the amount of bail in cash, as replacement to the property bond posted.[85] The trial court denied their motion on June 24, 2008 and explained that with the finality of the January 27, 1995 Order, execution must ensue:

WHEREFORE, premises considered, and for the reason that the said Order forfeiting the bond posted by the [bondspersons] Basilio Nepomuceno and Remedios Nepomuceno [sic] has already attained finality and may no longer be disturbed, their motion is DENIED.

The Judgment on the Bond having become final, let the same be executed in accordance with [Adm.] No. 05-3-06-SC. Accordingly, the Branch Clerk of Court is hereby directed to ensure that compliance with the pertinent provisions of the said circular is observed.

SO ORDERED.[86] (Emphasis supplied)

On August 5, 2008, the trial court denied the bondspersons' motion for reconsideration and explained that it had already rendered a judgment forfeiting the property bond in favor of the State in its November 25, 1994 Order.[87]

On the same bases, the Court of Appeals declared that the trial court did not gravely abuse its discretion in issuing the assailed Orders:

In the instant case, the bond had been forfeited when the bondspersons failed to produce the body of the accused when first required to do so. The bondspersons were repeatedly given extensions of time within which to fulfill their obligation. Failing to do so, they submitted a written explanation and moved to substitute the property bond with cash. After the lapse of more than thirty (30) days, with the bondspersons still failing to produce the accused, the Court issued the November 25, 1994 Order rendering judgment on the bond. . .

. . . .

Notwithstanding the language of the [January 24, 1995] Order, this Court holds that the trial court had already previously rendered judgment on the bond when it issued the November 25, 1994 Order. The petitioners cannot legally claim that they were deprived of due process as they were duly given the opportunity to explain their failure to produce the body of the accused before the court. Thus, when the court issued the herein assailed June 24, 2008 Order, it merely upheld the November 25, 1994 Order, holding that there already was a judgment on the bond. [88] (Emphasis supplied)

As petitioners correctly pointed out, the lower courts seemingly interchanged an order of forfeiture with a judgment on the bond,[89] mistakenly treating these two to be one and the same.

As it is from a judgment on the bond that a writ of execution may promptly issue,[90] the trial court was mistaken

in directing an execution based on an order of forfeiture.

III

While it erred in directing to execute an order of forfeiture and not a judgment on the bond, the trial court correctly dismissed the bondspersons' motion to pay the amount of bail in exchange for the property bond.[91]

Petitioners cite[92] the following provisions of A.M. No. 05-3-06-SC, or the Guidelines for the Forfeiture of Real Property Bonds and Disposal of the Forfeited Real Property, to support their motion:

B.

When Property Bond Forfeited

1.

Forfeiture of Property Bond. — When the presence of the accused is required by the Court or the Revised Rules on Criminal Procedure, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their accused and to show cause why no judgment should be rendered against them for the amount of their undertaking. The period of thirty (30) days shall start to run from the time the bondsman/men received the Order of the judge requiring him/them to produce the accused. Within the said period, the bondsmen must:

a.

Produce the body of the accused or give the reason for his non-production; and

b.

Explain why the accused did not appear before the court when first required to do so.

Failing in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted. (Sec. 21, *supra*, with amendments.) The bondsmen shall have sixty (60) days from their receipt of the judgment within which to pay the amount he/they justified. . . .

. . . .

C.

Procedure to be Followed in the Disposal of Forfeited Property Bond

1.

Disposal of real property hand if the value of the property is not more than Fifty Thousand Pesos (P50,000.00). — If the bondsmen fail to pay the amount of the bail within sixty (60) days as provided above, the real property bond the value of which is not more than P50,000.00, shall be sold at public auction in accordance with the following procedure[.] (Emphasis supplied)

Petitioners assert that a public auction only ensues in case of failure to pay the amount of bond within 60 days from receiving the judgment. Since there was allegedly no judgment on the bond, their motion should have been allowed as it was the "speediest and inexpensive affirmative relief not only to [them] but to the State as well." [93] Allegedly, a public auction is only superfluous since they and their predecessors-in-interest are willing to pay the bail amount ever since.[94]

Petitioners' argument is misplaced.

In implementing the provision on forfeiture of bail, "courts generally adopt a liberal attitude towards the [bondspersons.]"[95] After all, the State seeks "not the monetary reparation of the [bondsperson's] default, but the enforcement and execution of the sentence[.]"[96] The provision on the confiscation of the bond upon failure to surrender the accused for service of the sentence "is not based upon a desire to gain from such failure; it is to compel the [bondspersons] to enhance [their] efforts to have the person of the accused produced for the execution of the sentence[.]"[97]

Records reveal that convict Daniel seems to be at large up to now. Bondspersons Basilio and Cata-ag, who also happen to be members of Daniel's immediate family,[98] committed an utter "breach of guaranty"[99] when they repeatedly failed to present him in court.

From the start, the bondspersons were remiss in their duty and were more interested in taking back the property. Instead of heightening their efforts to fulfill their undertaking, they were persistent in asking that they be allowed to instead pay the amount they justified as bail. This, as the trial court correctly observed, amounts to "just buying the freedom of the convicted accused for P50,000.00." [100]

Obviously, petitioners' move cannot be allowed. In assuming the undertaking, they are expected to know of the attendant risks which, as in this case, include the forfeiture of the property bond. To allow their motion is to reward their heedless disregard of their obligation as bondspersons to bring Daniel to court whenever required.

More than 25 years have passed since the trial court ordered the bondspersons to secure Daniel's appearance on June 27, 1994. The unwarranted delay in executing Daniel's conviction could have been averted had the bondspersons faithfully complied with their guaranty. This Court is all the more inclined to deny petitioners' motion.

Finally, contrary to petitioners' stance,[101] this Court's ruling in *People v. Cawaling*[102] applies.

Cawaling involves a review of the Court of Appeals' conviction of Wilfredo Cawaling (*Cawaling*) for murder, reversing the trial court's decision finding him guilty as mere accomplice to homicide.[103]

This Court affirmed *Cawaling's* conviction.[104] Incidentally, it also ruled on the "Manifestation with Motion to withdraw property bond and post cash bond in lieu thereof" filed by bondsperson Margarita Cruz.[105]

In denying the *Manifestation with Motion*, this Court explained:

Lastly, we dispose of a corollary incident — the *Manifestation with Motion to withdraw property bond and post cash bond in lieu thereof* — filed by bondsperson Margarita Cruz. In this connection, Section 22 of Rule 114 of the Rules of Court is explicit:

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.

With the conviction of *Cawaling* for murder, and the Court's consequent failure to execute the judgment of conviction because of *Cawaling's* flight, the motion must be denied. The posted property bond cannot be cancelled, much less withdrawn and replaced with a cash bond by movant Cruz, unless *Cawaling* is surrendered to the Court, or adequate proof of his death is presented.

We are not unmindful that Cruz posted the property bond simply to accommodate Cawaling, a relative, obtain provisional liberty. However, under Section 1 of Rule 114, Cruz, as a bondsman, guarantees the appearance of the accused before any court as required under specified conditions.

It is beyond cavil that, with the property bond posted by Cruz, Cawaling was allowed temporary liberty, which made it possible, quite easily, to flee and evade punishment. As it stands now, Cawaling, a convicted felon, is beyond reach of the law, and the property bond cannot be released.

IN LIGHT OF ALL THE FOREGOING, the decision of the Court of Appeals is **AFFIRMED**. Accused-appellant Wilfredo Cawaling is found **GUILTY** of Murder and ordered to pay P50,000.00 as indemnity and another P50,000.00 as moral damages, to the heirs of the victim. The Manifestation with Motion of Movant Cruz is **DENIED**.

SO ORDERED.[106] (Emphasis in the original)

As in Cawaling, there is nothing left to do here but to similarly deny petitioners' prayer. This Court cannot allow them to pay the amount justified as bail in exchange for the property bond.

WHEREFORE, the Petition is **PARTLY GRANTED**. The November 23, 2011 Decision and November 26, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 03811, insofar as it ruled that the November 25, 1995 Order is a judgment on the bond, is **REVERSED** and **SET ASIDE**. Petitioners' prayer that an order be issued allowing them to pay the amount justified as bail in exchange for the release of the property bond is **DENIED**.

This case is remanded to the Regional Trial Court of Ormoc City, Branch 12 to proceed with due and deliberate dispatch in accordance with this Decision.

SO ORDERED.

Gesmundo, Carandang, Zalameda, and Gaerlan, JJ., concur.

[1] *Mendoza v. Alarma*, 576 Phil. 753, 760 (2008) [Per J. Carpio, First Division].

[2] *Rollo*, pp. 4-29.

[3] *Id.* at 32-39. The November 23, 2011 Decision in CA-G.R. SP No. 03811 was penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Victoria Isabel A. Paredes of the Twentieth Division, Court of Appeals, Cebu City.

[4] *Id.* at 30-31. The November 26, 2012 Resolution in CA-G.R. SP No. 03811 was penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Pampio A. Abarintos and Pedro B. Corales of the Eighteenth Division, Court of Appeals, Cebu City.

[5] *Id.* at 38.

[6] *Id.* at 37.

[7] *Id.* at 6. Based on the Petition for Review, the properties offered by Basilio and Cata-ag as property bond are covered by Tax Declaration No. 3235 with an assessed value of P23,720.00 and Torrens Transfer Certificate of Title No. T-3791, respectively.

[8] *Id.* at 33.

[9] *Id.* at 94.

[10] Id. at 88.

[11] Id. at 33.

[12] Id. at 88.

[13] Id. at 33.

[14] Id.

[15] Id. at 88.

[16] Id. at 33.

[17] Id. at 89.

[18] Id. at 93. Penned by Judge Francisco H. Escaño, Jr. of Branch 12, Regional Trial Court, Ormoc City.

[19] Id.

[20] Id. at 34.

[21] Id. at 89.

[22] Id. at 92.

[23] Id. at 92.

[24] Id. at 34.

[25] Id. at 88.

[26] Id. at 89.

[27] Id.

[28] Id. at 88-90.

[29] Id. at 35.

[30] Id. at 91.

[31] Id. at 67-87.

[32] Id. at 33.

[33] Id. at 72 citing *Mendoza v. Alarma*, 576 Phil. 753 (2008) [Per J. Carpio, First Division].

[34] Id. at 82.

[35] Id. at 102-114, respondent's Comment; rollo, pp. 115-122, petitioners' Reply; rollo, pp. 124-142, petitioners' Memorandum; rollo, pp. 143-153, respondent's Memorandum.

[36] Id. at 32-39.

[37] Id. at 38.

[38] Id. at 36-37.

[39] Id. at 37.

[40] 603 Phil. 749 (2009) [Per J. Nachura, Third Division].

[41] Rollo, pp. 37-38.

[42] Id. at 30-31.

[43] Id. at 40-58.

[44] Id. at 4-29. Petitioners also ask, among others, "[t]hat the Orders of the lower court dated June 24, 2018 and August 5, 2008, respectively, be annulled and set-aside."

[45] Id. at 11-12.

[46] Id. at 15-16.

[47] Id. at 16-18.

[48] 576 Phil. 753 (2008) [Per J. Carpio, First Division].

[49] Rollo, pp. 17-25.

[50] Id. at 21-23.

[51] Id. at 23-26.

[52] Id. at 26.

[53] Id. at 162-178.

[54] Id. at 168-170.

[55] Id. at 172-173.

[56] Id. at 174-175.

[57] Id. at 175.

[58] Id. at 176.

[59] Id. at 189-196. The counsel for petitioners had been required to show cause why they should not be disciplinary dealt with for their failure to file a Reply within the period prescribed: see also rollo, pp. 185-188, Explanation and Compliance.

[60] Id. at 194.

[61] *Leviste v. Court of Appeals*, 629 Phil. 587, 593 (2010) [Per J. Corona, Third Division].

[62] RULES OF COURT, Rule 114, sec. 1.

[63] *Philippine Phoenix Surety v. Sandiganbayan*, 233 Phil. 327, 331-332 (1987) [Per J. Fernan, Second Division]. The 1964 Rules of Court is a predecessor of the then prevailing 1985 Rules of Criminal Procedure.

[64] Id. at 332.

[65] Id. at 334.

[66] Considering that the property bond posted by bondspersons Basilio and Cata-ag was approved before the Court of Appeals affirmed Daniel's conviction on June 28, 1993, we apply the pertinent provisions of the 1985 Rules of Criminal Procedure.

- [67] *People v. Mabini Insurance & Fidelity Co., Inc.*, 242 Phil. 234, 241 (1988) [Per J. Gancayco, First Division].
- [68] In Supreme Court Administrative Circular No. 12-94, this provision was replicated and renumbered as Section 21. In the 2000 Revised Rules of Criminal Procedure (as also observed in *Reliance Surety & Insurance Co., Inc. v. Amante, Jr.*, 508 Phil. 86 (2005) [Per J. Tinga, Second Division]), the provision was merely reiterated but with the only notable change that the notice to the bondspersons shall not only provide for a specific date, but also a given time. Thus: Section 21. Forfeiture of Bail. — When the presence of the accused is required by the court or these Rules, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their principal and to show cause why no judgment should be rendered against them for the amount of their bail. (Emphasis supplied)
- [69] Rollo, p. 88.
- [70] *Id.* at 33-34.
- [71] *Id.* at 34.
- [72] *Id.* at 89.
- [73] *Id.* at 34.
- [74] *Id.* at 12-13.
- [75] *Id.* at 17-18.
- [76] *Reliance Surety & Insurance Co., Inc. v. Amante, Jr.*, 501 Phil. 86, 96 (2005) [Per J. Tinga, Second Division].
- [77] Rollo, p. 93.
- [78] 576 Phil. 753 (2008) [Per J. Carpio, First Division].
- [79] *Id.* at 760.
- [80] See *Crispino v. Tansay*, 801 Phil. 711 (2016) [Per J. Leonen, Second Division].
- [81] *Reliance Surety & Insurance Co., Inc. v. Amante, Jr.*, 501 Phil. 86, 96 (2005) [Per J. Tinga, Second Division].
- [82] See *People v. Doctor*, 120 Phil. 953, 954 (1964) [Per J. Concepcion, First Division].
- [83] Rollo, p. 94.
- [84] *Id.* at 18.
- [85] *Id.* at 34.
- [86] *Id.* at 90.
- [87] *Id.* at 91.
- [88] *Id.* at 37.
- [89] *Id.* at 19-21, Petition for Review.
- [90] See *Reliance Surety & Insurance Co., Inc. v. Amante, Jr.*, 501 Phil. 86, 96-97 (2005) [Per J. Tinga, Second

Division].

[91] Rollo, pp. 90-91.

[92] Id. at 24-25.

[93] Id. at 193.

[94] Id. at 194.

[95] *People v. Sanchez*, 154 Phil. 262, 266 (1974) [Per J. Muñoz Palma, First Division].

[96] Id.

[97] Id. at 266-267.

[98] Rollo, p. 92.

[99] *People v. Mabini Insurance & Fidelity Co., Inc.*, 242 Phil. 234, 239 (1988) [Per J. Gancayco, First Division].

[100] Rollo, p. 92.

[101] Id. at 23.

[102] 603 Phil. 749 (2009) [Per J. Nachura, Third Division].

[103] Id. at 753-754.

[104] Id. at 778.

[105] Id. at 777.

[106] Id. at 777-778.

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