

THE LAWYERS COOPERATIVE PUBLISHING COMPANY, PLAINTIFF AND APPELLEE, VS. FERNANDO PERIQUET AND THE LUZON SURETY CO., INC., DEFENDANTS AND APPELLANTS.

G.R. No. 47340, December 21, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

The defendants-appellants herein, Fernando Periquet and the Luzon Surety Co., Inc., jointly and severally subscribed to and filed a bond in the amount of five hundred pesos (F500) in civil case No. 115406 of the municipal court of Manila to guarantee the return of various law books, which were then the subject matter of a litigation between the plaintiff-appellee, the Lawyers Cooperative Publishing Co., and the Estate of Attorney Eriberto de Silva, if such return be adjudged by said court. It appears that in the civil case aforementioned, the Municipal Court rendered judgment ordering the devolution of the books to the plaintiff-appellee, and that on appeal to the Court of First Instance of Manila, the said appeal was dismissed. The decision having become final, a writ of execution was issued. The execution remained unsatisfied and for this reason action was instituted against the bondsmen in the municipal court of Mianila where judgment was rendered in favor of the plaintiff-appellee. On appeal, the Court of First Instance of Manila affirmed the judgment, the dispositive part of which is as follows:

"Por todas estas consideraciones, el Juzgado condena a los demandados Fernando Periquet y Luzon Surety Company, Inc., a que paguen a la demandante la suma de quinientos pesos (1N500) mancomunada y solidariamente, con intereses legales desde la interposition de la demanda, mas las costas del juicio."

The only question to be determined in this case is whether or not the defendants-appellants are liable upon the bond subscribed to and filed by them as aforesaid. As was stated, the purpose of filing the said bond was to guarantee the return of the law books under litigation in the event that the municipal court of Manila should adjudge such return in civil case No. 115406. The said court having rendered judgment ordering the return of the books and said judgment having become final, the bondsmen could be released from their liability only upon satisfaction of the judgment in question. The said judgment having remained unsatisfied, and the defendants-appellants not having shown any cause or causes which will extinguish the guarantee according to law (arts. 1847-1852, Civil Code), the defendants-appellants are bound to fulfill their undertaking under the bond.

In view of the foregoing, the judgment appealed from is affirmed in all its parts, with costs against the appellants. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Judgment affirmed.

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