

ZENITH INSURANCE CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, HON. RICARDO J. FRANCISCO, AS PRESIDING JUDGE OF BRANCH VI, COURT OF FIRST INSTANCE OF RIZAL, PROVINCIAL SHE...

G.R. No. 57957. December 29, 1982

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-57957/>

MELENCIO-HERRERA, J.:

The issue for resolution is the correctness of the Order for the issuance of the Alias Writ of Execution by the Court of First Instance of Rizal, Branch VI, in Civil Case No. 9490, which was affirmed by the Court of Appeals in CA-G.R. No. SP-12295, making petitioner Zenith Insurance Corporation liable for more than the amount of the bond it had issued in favor of its principal, William B. Murphy.

The controversy stemmed from the following facts:

On September 5, 1966, William B. Murphy filed a case for collection of a sum of money, accounting and damages, in the Court of First Instance of Rizal, Branch VI, Pasig, against private respondent Pedro Mejorada (Civil Case No. 9490). Murphy likewise prayed for a Writ of Preliminary Attachment, which the Trial Court granted upon a bond of P250,000.00 issued by petitioner Zenith Insurance Corporation in favor of Murphy.

After hearing on the merits, the Trial Court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

1. Dismissing the plaintiff's Complaint dated September 3, 1966 and filed on September 5, 1966;
2. Declaring the Agreement dated July 20, 1966 (Exhs. B and 30) null and void and without any legal effect whatsoever;
3. Ordering the plaintiff to pay the defendant P25,000.00 for cash advances and P146,092.48 for spare parts and materials;
4. Ordering plaintiff to pay the defendant P330,000.00 representing unrealized profits;
5. Ordering plaintiff to pay defendant P20,000.00 by way of attorney's fees; and
6. On the action of defendant against the attachment bond, order-ing the plaintiff and the respond-ent Zenith Insurance Corporation to pay the defendant, jointly and severally against the attachment bond but not exceeding the amount secured thereby in the sum of P250,000.00, the following amounts:
 - a. P67,822.65 as actual damages plus interest of 6% per annum on the yearly premiums paid by the defendant on the two counterbonds posted, from their dates of payment until satisfied by the plaintiff and/or his surety;
 - b. Actual damages repre-senting the simple legal interest of 6% per annum on P93,336.85, posted by the

defendant in securing his initial counterbond for the same amount, from September 12, 1966 when the writ of preliminary attachment was served on the defendant's bank until January 8, 1970 when said writ was dissolved;

- c. P30,000.00 as compensatory damages for injury to the business and goodwill of the defendant;
- d. P66,526.00 as compensatory damages for the un-realized value(s) of the properties of the defendant which were sold in haste, or auctioned in public bidding(s) therefor;
- e. P30,000.00 as moral damages;
- f. P30,000.00 as exemplary or corrective damages; and
- g. P20,000.00 as attorney's fees.

Plaintiff shall pay costs."

From the said Decision, Murphy and petitioner, as surety, appealed to the Court of Appeals (CA-G.R. No. 53497-R). Pending appeal, and upon motion of respondent, judgment was partially executed in the amount of P115,680.55.

On May 22, 1979, the Court of Appeals rendered judgment affirming in toto the Decision of the Trial Court, thus:

"WHEREFORE, the decision appealed from being in accordance with law and evidence, the same is AFFIRMED in toto subject to the partial execution in the sum of P115,680.55 earlier enforced. No costs."

Murphy moved for reconsideration. This was denied by the Court of Appeals. Murphy then appealed by way of Certiorari to this Court (G.R. No. 53536). The petition was denied for late filing in this Court's Resolution of June 13, 1980.

Thereafter, private respondent proceeded against the balance of petitioner's attachment bond coverage, and collected P80,000.00 on July 24, 1980 and P54,319.45 on August 15, 1980, adding up to the full value of the bond of P250,000.00, including the amount of P115,680.55 already partially executed. Private respondent acknowledged the last payment on August 15, 1980 to be "in full satisfaction of the writ of execution issued."

On November 26, 1980, private respondent filed a Motion for the Issuance of an Alias Writ of Execution to enforce the judgment award. The Trial Court initially denied alias execution as against petitioner on January 26, 1981, reasoning that, in executing the judgment, only the dispositive portion is to be looked into in the absence of such ambiguity as would justify resort to the body of the Decision, and that as the judgment is clear, the liability of petitioner is confined to the amount of the bond.

Private respondent moved for reconsideration. On April 9, 1981, the Trial Court issued the questioned Order reconsidering its Order of January 26, 1981, and granting the Motion for the issuance of an Alias Writ of Execution, petitioner's liability "not (being) limited to the amount of the bond it has put up but includes all the actual and consequential damages suffered by private respondent, there having intervened malice and bad faith" on petitioner's part. Alias Writ was issued and served upon petitioner. The latter's cash deposit at the Commercial Bank and Trust Company, Escolta Branch, and at the Philippine Bank of Communications, Juan Luna Branch, were garnished.

Petitioner filed with the Court of Appeals, a Petition for "Certiorari and Prohibition with Preliminary Mandatory Injunction" (CA-G.R. No. SP-12295) imputing grave abuse of discretion to respondent Judge in the issuance of the Order of April 9, 1981 granting the Alias Writ.

On May 21, 1981, respondent Court of Appeals upheld the Alias Writ of Execution, petitioner's "solidary

liability (having) been clearly pronounced by this Court in case CA-G.R. No. 53497-R" when it held that petitioner is equally liable for all the damages that resulted from the wrongful issuance of the writ (of attachment)." Petitioner moved for reconsideration arguing that liability on the attachment bond is not to be confounded with liability on the judgment, and that its liability cannot exceed the amount of the attachment bond. Reconsideration was denied for lack of merit.

Petitioner filed the present Petition stating that respondent Judge acted without or in excess of jurisdiction in issuing the Order for the issuance of the Alias Writ of Execution for the further enforcement of the judgment against petitioner; and that respondent Court of Appeals acted with grave abuse of discretion or erred in sustaining the said Order considering that:

"1) private respondent has been paid the full value of the P250,000.00 attachment bond posted by petitioner for plaintiff, as required by the judgment and has, upon receipt of the last installment completing such payment, acknowledged the same to be 'in full satisfaction of the writ of execution';

2) the alias writ of execution would have petitioner surety company satisfy, not the judgment with respect to the damages resulting from the wrongful issuance of the writ of attachment, but the judgment on the causes of action asserted by defendant (herein private respondent) in his counterclaims against plaintiff;

3) the alias writ of execution would have petitioner surety company pay more than the value of the attachment bond, in disregard of the express limitation in the judgment of its liability to the value of the bond as well as of settled jurisprudence."

On September 16, 1981, we issued a Temporary Restraining Order enjoining enforcement of the Order dated April 9, 1981, and on November 4, 1981, we resolved to give due course and required the filing of Memoranda by the parties, which they have done.

The only issue to be determined in this Petition is whether or not respondent Court committed grave abuse of discretion in ordering the issuance of the Alias Writ of Execution making petitioner solidarily liable for all costs and damages, or, for more than the amount of its bond.

We find for petitioner.

Paragraph "6" of the dispositive portion of the Trial Court's Decision, which states:

"6. On the action of the defendant against the attachment bond, ordering the plaintiff and the respondent Zenith Insurance Corporation to pay defendant, jointly and severally against the attachment bond but not exceeding the amount secured thereby in the sum of P250,000.00, the following amounts:"

xxx xxx xxx

is clear and correct. There is no ambiguity that would "justify resort to the entire contents of the decision in order to determine the extent of the liability of a party litigant".^[1] The liability of petitioner is expressly limited to P250,000.00, the amount of the attachment bond. "A guaranty is not presumed, it must be express and cannot extend to more than what is stipulated therein."^[2]

It is true that in CA-G.R. No. 53497-R (the appeal from the Trial Court's Decision), petitioner was pronounced "equally liable with its principal for all damages sustained resulting from the wrongful issuance of the Writ (of Preliminary Attachment)". The phrase "all damages" refers to those resulting from the undertaking itself. It does not mean that the surety is answerable for all costs and damages that may be adjudged against its principal over and above what is adjudged against it in the dispositive portion of the Decision, as it would be unreasonable to expand petitioner's liability for any and all amounts arising from the case as if it were a "solidary judgment

debtor."

When a surety executes a bond, it does not guarantee that the plaintiff's cause of action is meritorious, and that it will be responsible for all the costs that may be adjudicated against its principal in case the action fails.[3] The extent of a surety's liability is determined only by the clause of the contract of suretyship.[4] It cannot be extended by implication, beyond the terms of the contract.[5]

Specifically, this Court in *Rocco vs. Meads*, supra, ruled:

"Liability on the bond is contractual in nature, and is ordinarily restricted to the obligation expressly assumed therein. Liability on an attachment bond is created by, and rests on, its stipulations. The obligor has a right to stand on the very terms of his contract, and his liability will not be extended beyond the fair import of the words used; his liability is one not to be extended by implication, and it will not be inferred that he agreed to do more than that which is fairly expressed in the bond."

The ruling in *PNB vs. Luzon Surety Co., Inc.* 68 SCRA 207 (1975), which increased the surety's liability beyond the maximum of the bond by making it liable to pay interest because of its failure to pay its obligation on demand, does not apply in this case, because petitioner herein has settled its obligation, and its liability had already been fully satisfied, unlike in the cited case where the increased liability was "not because of the contract but because of the default and the necessity of judicial collection".

WHEREFORE, the Petition is hereby granted. The questioned Order of April 9, 1981 of the Court of First Instance of Rizal, Branch VI, in Civil Case No. 9490, entitled "*William B. Murphy vs. Pedro F. Meiorada*, defendant, and *Zenith Insurance Corporation, Surety*" and the Decision of the Court of Appeals in CA-G. R. No. SP-12295, entitled "*Zenith Insurance Corporation vs. Hon. Judge Ricardo Francisco, et. als.*," are hereby REVERSED and SET ASIDE. The "Temporary Restraining Order" heretofore issued is hereby made permanent.

No costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

[1] Decision, CA-G.R. No. SP-12295, p. 6.

[2] Art. 2055, Civil Code.

[3] *Rocco vs. Meads*, 96 Phil. 884 (1955).

[4] *Republic vs. Umali*, 22 SCRA 922 (1968).

[5] *Magdalena Estate, Inc. vs. Rodriguez*, 18 SCRA 967 (1966); *Jao vs. Royal Financing Corporation*, 4 SCRA 1210 (1962).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.