

RICARDO L. MANOTOC, JR., PETITIONER, VS. THE COURT OF APPEALS, HONS. SERAFIN E. CAMILON AND RICARDO L. PRONOVE, JR., AS JUDGES OF THE COURT OF FIRST INSTANCE OF RIZAL, PASIG BRA...*G.R. No. 62100. May 30, 1986*

Ponente: FERNAN, J.

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The issue posed for resolution in this petition for review may be stated thus: Does a person facing a criminal indictment and provisionally released on bail have an unrestricted right to travel?

Petitioner Ricardo L. Manotoc, Jr., is one of the two principal stockholders of Trans-Insular Management Inc. and the Manotoc Securities, Inc., a stock brokerage house. Having transferred the management of the latter into the hands of professional men, he holds no officer-position in said business, but acts as president of the former corporation.

Following the "run" on stock brokerages caused by stock broker Santamaria's flight from this jurisdiction, petitioner, who was then in the United States, came home, and together with his co-stockholders, filed a petition with the Securities and Exchange Commission for the appointment of a management committee, not only for Manotoc Securities, Inc. but likewise for Trans-Insular Management, Inc. The petition relative to the Manotoc Securities, Inc., docketed as SEC Case No. 001826, entitled, "In the Matter of the Appointment of a Management Committee for Manotoc Securities, Inc., Teodoro Kalaw, Jr., Ricardo Manotoc, Jr., Petitioners", was granted and a management committee was organized and appointed.

Pending disposition of SEC Case No. 001826, the Securities and Exchange Commission requested the then Commissioner of Immigration, Edmundo Reyes, not to clear petitioner for departure and a memorandum to this effect was issued by the Commissioner on February 4, 1980 to the Chief of the Immigration Regulation Division.

When a Torrens title submitted to and accepted by Manotoc Securities, Inc. was suspected to be a fake, six of its clients filed six separate criminal complaints against petitioner and one Raul Leveriza, Jr., as president and vice-president, respectively, of Manotoc Securities, Inc. In due course, corresponding criminal charges for estafa were filed by the investigating fiscal before the then Court of First Instance of Rizal, docketed as Criminal Cases Nos. 45399 and 45400, assigned to respondent Judge Camilon, and Criminal Cases Nos. 45542 to 45545, raffled off to Judge Pronove. In all cases, petitioner has been admitted to bail in the total amount of P105,000.00, with FGU Insurance Corporation as surety.

On March 1, 1982, petitioner filed before each of the trial courts a motion entitled, "motion for permission to leave the country", stating as ground therefor his desire to go to the United States, "relative to his business transactions and opportunities." [1] The prosecution opposed said motion and after due hearing, both trial judges denied the same. The order of Judge Camilon dated March 9, 1982, reads:

"Accused Ricardo Manotoc Jr. desires to leave for the United States on the all embracing ground that his trip is 'x x x relative to his business transactions and opportunities.'

"The Court sees no urgency from this statement. No matter of any magnitude is discerned to warrant judicial imprimatur on the proposed trip.

"In view thereof, permission to leave the country is denied Ricardo Manotoc, Jr. now or in the future until these two (2) cases are terminated." [2]

On the other hand, the order of Judge Pronove dated March 26, 1982, reads in part:

"6. Finally, there is also merit in the prosecution's contention that if the Court would allow the accused to leave the Philippines the surety companies that filed the bail bonds in his behalf might claim that they could no longer be held liable in their undertakings because it was the Court which allowed the accused to go outside the territorial jurisdiction of the Philippine Court, should the accused fail or decide not to return.

"WHEREFORE, the motion of the accused is DENIED." [3]

It appears that petitioner likewise wrote the Immigration Commissioner a letter requesting the recall or withdrawal of the latter's memorandum dated February 4, 1980, but said request was also denied in a letter dated May 27, 1982.

Petitioner thus filed a petition for certiorari and mandamus before the then Court of Appeals [4] seeking to annul the orders dated March 9 and 26, 1982, of Judges Camilon and Pronove, respectively, as well as the communication-request of the Securities and Exchange Commission, denying his leave to travel abroad. He likewise prayed for the issuance of the appropriate writ commanding the Immigration Commissioner and the Chief of the Aviation Security Command (AVSECOM) to clear him for departure.

On October 5, 1982, the appellate court rendered a decision [5] dismissing the petition for lack of merit.

Dissatisfied with the appellate court's ruling, petitioner filed the instant petition for review on certiorari. Pending resolution of the petition to which we gave due course on April 14, 1983 [6] petitioner filed on August 15, 1984 a motion for leave to go abroad pendente lite. [7] In his motion, petitioner stated that his presence in Louisiana, U.S.A. is needed in connection "with the obtention of foreign investment in Manotoc Securities, Inc." [8] He attached the letter dated August 9, 1984 of the chief executive officer of the Exploration Company of Louisiana, Inc., Mr. Marsden W. Miller [9] requesting his presence in the United States to "meet the people and companies who would be involved in its investments." Petitioner, likewise manifested that on August 1, 1984, Criminal Cases Nos. 4933 to 4936 of the Regional Trial Court of Makati (formerly Nos. 45542-45545) had been dismissed as to him "on motion of the prosecution on the ground that after verification of the records of the Securities and Exchange Commission x x x (he) was not in any way connected with the Manotoc Securities, Inc. as of the date of the commission of the offenses imputed to him." [10] Criminal Cases Nos. 45399 and 45400 of the Regional Trial Court of Makati, however, remained pending as Judge Camilon, when notified of the dismissal of the other cases against petitioner, instead of dismissing the cases before him, ordered merely the informations amended so as to delete the allegation that petitioner was president and to substitute that he was "controlling/majority stockholder," [11] of Manotoc Securities, Inc.

On September 20, 1984, the Court in a resolution en banc denied petitioner's motion for leave to go abroad pendente lite. [12]

Petitioner contends that having been admitted to bail as a matter of right, neither the courts which granted him bail nor the Securities and Exchange Commission which has no jurisdiction over his liberty, could prevent him from exercising his constitutional right to travel.

Petitioner's contention is untenable.

A court has the power to prohibit a person admitted to bail from leaving the Philippines. This is a necessary consequence of the nature and function of a bail bond.

Rule 114, Section 1 of the Rules of Court defines bail as the security required and given for the release of a person who is in the custody of the law, that he will appear before any court in which his appearance may be required as stipulated in the bail bond or recognizance.

"Its object is to relieve the accused of imprisonment and the state of the burden of keeping him, pending the trial, and at the same time, to put the accused as much under the power of the court as if he were in custody of the proper officer, and to secure the appearance of the accused so as to answer the call of the court and do what the law may require of him." [13]

The condition imposed upon petitioner to make himself available at all times whenever the court requires his presence operates as a valid restriction on his right to travel. As we have held in *People v. Uy Tuising*, 61 Phil. 404 (1935).

"x x x the result of the obligation assumed appellee (surety) hold the accused amenable at all times to the orders and processes of the lower court, was to prohibit said accused from leaving the jurisdiction of the Philippines, because, otherwise, said orders and processes will be nugatory, and inasmuch as the jurisdiction of the courts from which they issued does not extend beyond that of the Philippines they would have no binding force outside of said jurisdiction."

Indeed, if the accused were allowed to leave the Philippines without sufficient reason, he may be placed beyond the reach of the courts.

"The effect of a recognizance or bail bond, when fully executed or filed of record, and the prisoner released thereunder, is to transfer the custody of the accused from the public officials who have him in their charge to keepers of his own selection. Such custody has been regarded merely as a continuation of the original imprisonment. The sureties become invested with full authority over the person of the principal and have the right to prevent the principal from leaving the state." [14]

If the sureties have the right to prevent the principal from leaving the state, more so then has the court from which the sureties merely derive such right, and whose jurisdiction over the person of the principal remains unaffected despite the grant of bail to the latter. In fact, this inherent right of the court is recognized by petitioner himself, notwithstanding his allegation that he is at total liberty to leave the country, for he would not have filed the motion for permission to leave the country in the first place, if it were otherwise.

To support his contention, petitioner places reliance upon the then Court of Appeals' ruling in *People vs. Shepherd* (C.A.-G.R. No. 23505-R, February 13, 1980) particularly citing the following passage:

"x x x The law obliges the bondsmen to produce the person of the appellants at the pleasure of the Court. x x x The law does not limit such undertaking of the bondsmen as demandable only when the appellants are in the territorial confines of the Philippines and not demandable if the appellants are out of the country. Liberty, the most important consequence of bail, albeit provisional, is indivisible. If granted at all, liberty operates as fully within as without the boundaries of the granting state. This principle perhaps accounts for the absence of any law or jurisprudence expressly declaring that liberty under bail does not transcend the territorial boundaries of the country."

The faith reposed by petitioner on the above-quoted opinion of the appellate court is misplaced. The rather broad and generalized statement suffers from a serious fallacy; for while there is, indeed, neither law nor jurisprudence expressly declaring that liberty under bail does not transcend the territorial boundaries of the country, it is not for

the reason suggested by the appellate court.

Also, petitioner's case is not on all fours with the Shepherd case. In the latter case, the accused was able to show the urgent necessity for her travel abroad, the duration thereof and the conforme of her sureties to the proposed travel thereby satisfying the court that she would comply with the conditions of her bail bond. In contrast, petitioner in this case has not satisfactorily shown any of the above. As aptly observed by the Solicitor General in his comment:

"A perusal of petitioner's 'Motion for Permission to Leave the Country' will show that it is solely predicated on petitioner's wish to travel to the United States where he will, allegedly attend to some business transactions and search for business opportunities. From the tenor and import of petitioner's motion, no urgent or compelling reason can be discerned to justify the grant of judicial imprimatur thereto. Petitioner has not sufficiently shown that there is absolute necessity for him to travel abroad. Petitioner's motion bears no indication that the alleged business transactions could not be undertaken by any other person in his behalf. Neither is there any hint that petitioner's absence from the United States would absolutely preclude him from taking advantage of business opportunities therein, nor is there any showing that petitioner's non-presence in the United States would cause him irreparable damage or prejudice." [15]

Petitioner has not specified the duration of the proposed travel or shown that his surety has agreed to it. Petitioner merely alleges that his surety has agreed to his plans as he had posted cash indemnities. The court cannot allow the accused to leave the country without the assent of the surety because in accepting a bail bond or recognizance, the government impliedly agrees "that it will not take any proceedings with the principal that will increase the risks of the sureties or affect their remedies against him. Under this rule, the surety on a bail bond or recognizance may be discharged by a stipulation inconsistent with the conditions thereof, which is made without his assent. This result has been reached as to a stipulation or agreement to postpone the trial until after the final disposition of other cases, or to permit the principal to leave the state or country." [16] Thus, although the order of March 26, 1982 issued by Judge Pronove has been rendered moot and academic by the dismissal as to petitioner of the criminal cases pending before said judge, We see the rationale behind said order.

As petitioner has failed to satisfy the trial courts and the appellate court of the urgency of his travel, the duration thereof, as well as the consent of his surety to the proposed travel, We find no abuse of judicial discretion in their having denied petitioner's motion for permission to leave the country, in much the same way, albeit with contrary results, that We found no reversible error to have been committed by the appellate court in allowing Shepherd to leave the country after it had satisfied itself that she would comply with the conditions of her bail bond.

The constitutional right to travel being invoked by petitioner is not an absolute right. Section 5, Article IV of the 1973 Constitution states:

"The liberty of abode and of travel shall not be impaired except upon lawful order of the court, or when necessary in the interest of national security, public safety or public health."

To our mind, the order of the trial court releasing petitioner on bail constitutes such lawful order as contemplated by the above-quoted constitutional provision.

Finding the decision of the appellate court to be in accordance with law and jurisprudence, the Court finds that no gainful purpose will be served in discussing the other issues raised by petitioner.

WHEREFORE, the petition for review is hereby dismissed, with costs against petitioner.

SO ORDERED.

Teehankee, C.J., Abad Santos, Yap, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

Feria, J., no part.

[1] Annex "D", Petition, p. 44, Rollo.

[2] Ibid, p. 44, Rollo.

[3] Ibid, p. 44, Rollo.

[4] Annex "A", Petition, p. 17, Rollo.

[5] Annex "D", Petition, p. 42, Rollo.

[6] p. 87, Rollo.

[7] p. 117, Rollo.

[8] p. 120, Rollo.

[9] Annex "BB", Motion for Leave, p. 124, Rollo.

[10] p. 117, Rollo.

[11] p. 121, Rollo.

[12] p. 129, Rollo.

[13] 6 Am. Jur. [Rev. Ed.], Bailment, S6.

[14] 6 Am. Jur. [Rev. Ed.], Bailments, \$100.

[15] Comment, pp. 69-70, Rollo.

[16] 6 Am. Jur. 125.

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