

PASCUALA DENZON ET AL., PLAINTIFFS AND APPELLEES, VS. CORAZON CH. VELOSO, DEFENDANT AND APPELLANT.

G.R. No. 9154. February 20, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

This is an action upon a bond.

It appears that Bartolome Ch. Veloso, on or about the month of January, 1909, was convicted of the crime of seduction in the Court of First Instance of Cebu and sentenced to four months of *arresto mayor* and to recognize and maintain the child born of the relations between him and the girl seduced, Pascuala Denzon. After having served a part of his sentence, Bartolome Ch. Veloso petitioned the Governor-General for a pardon. This was granted upon the condition that he give a bond to the girl seduced and to the child born of such seduction, Lourdes Denzon, in a sum to be fixed and approved by the court, conditioned that the sureties would undertake to assure that said Bartolome Ch. Veloso would furnish to the child, Lourdes Denzon, support and maintainance until it arrived at its majority. In pursuance of this requirement the defendant Corazon Ch. Veloso, jointly and severally with Pedro Rodriguez, executed a bond in favor of the plaintiffs, of which the following is a copy:

"Know all men by these presents, that we, Corazon Ch. Veloso and Pedro Rodriguez, as sureties for Bartolome Ch. Veloso, are hereby bound jointly and severally to Pascuala Denzon in the sum of seven thousand five hundred pesos (P7,500) to be paid by us and our heirs and administrators, to which payment we bind ourselves by these presents.

"The condition of this obligation is the following:

"Whereas Bartolome Ch. Veloso was pardoned by the Governor-General of the Philippine Islands of the sentence imposed on him by the Court of First Instance of the Province of Cebu in the above-entitled cause;

"Whereas one of the conditions imposed by the Governor General being that the said Bartolome Ch. Veloso should give a bond, approved by the court, for the maintenance and education of the child, Lourdes Denzon, daughter of the said Pascuala Denzon, during her minority:

"Therefore, we, Corazon Ch. Veloso and Pedro Rodriguez, as sureties of the said Bartolome Ch. Veloso, bind ourselves jointly and severally, and promise that the latter will pay the sums which the court may fix for the maintenance of the said Lourdes Denzon during her minority; and we promise, moreover that the sum so named as the support and maintenance of the said child shall be delivered to the person who has the care and the legal custody of the said child in accordance with the terms and conditions which the court will hereafter fix with reference to said support and maintenance."

A stipulation of facts was made in the court below which formed the basis of the decision. The only defense made to the action is based upon the following paragraphs in the stipulation of facts:

"That since the month of November, 1910, to the present, Bartolome Ch. Veloso, the principal in the bond providing for the support and maintenance of the minor Lourdes Denzon, has been without property or funds to

such an extent that he has been unable to satisfy his own necessities and is completely unable to pay for the support and maintenance of the said minor Lourdes Denzon, he having been since said month of November, 1910, without property or money and without employment of any kind from which he could obtain a recompense.

"That said Bartolome Ch. Veloso, from the time that he entered into the obligation to maintain the said minor Lourdes Denzon, fulfilled his obligation by paying thirty pesos every month in accordance with the order of the court mentioned in the eighth paragraph of the complaint until the 1st of November, 1910, from which date he has failed to maintain said minor for the reasons alleged in the previous paragraph."

This action is to recover the sum of P900, being P30 a month from November, 1910, to the filing of the complaint in this action.

The defense based upon the two paragraphs quoted is founded in article 152 of the Civil Code which reads, so far as material, as follows:

"The obligation to give support shall cease:

"1. By the death of the recipient.

"2. If the means of the person obliged to pay it are reduced to such a point that he or she cannot pay it without neglecting his or her own requirements and those of his or her family."

It is the contention of the appellant that the stipulation of facts, so far as quoted, brings the case squarely within the provisions of the article referred to. The learned trial court did not agree with the appellant in this regard and found that the sureties were bound in accordance with the express wording of their undertaking and that the impoverishment of the principal did not relieve them. He accordingly decided in favor of the plaintiffs and gave judgment for the sum of P900 and costs.

This appeal is from that judgment.

We are of the opinion that the judgment appealed from is correct. The obligation sought to be enforced here is not, strictly speaking, the legal obligation of the principal to maintain and educate his offspring as set out in the Civil Code. Nor is the court seeking to enforce against him the general provisions of the Civil Code (articles 142 to 154) relative to the obligation to support. If it were, the contention of the appellant would have considerable, if not complete, foundation. The bond was given to fulfill a condition named by the Governor-General as a prerequisite to the pardon which he proposed to issue to Bartolome Ch. Veloso. In making his conditions to the pardon the Governor-General was not limited to the obligation which the law placed upon Veloso to support and maintain his off spring. He had the power to make any condition which he deemed advisable and proper for the welfare of the convict and his offspring as well as for the protection of the public interests. From the whole instrument and from the facts and circumstances surrounding its execution, we cannot say that the learned trial court was in error in determining that it was the intention of the Governor-General to assure beyond peradventure that Veloso's offspring should be taken care of by him during its minority and that, consequently, it was the intention of the sureties to bind themselves in that sense and to that extent. It is true that we held in the case of Bandoy vs. Judge of La Laguna (14 Phil. Rep., 620), that "where the form of the bond, for the purpose of admitting a defendant in a criminal case to liberty during the pendency of the action, is prescribed by law, such form must be followed in substance," and that "the authorities can not vary its terms so as to impose greater obligations upon the defendant and his bondsmen;" and that we have also held in the case of Herrera vs. Neis (18 Phil. Rep., 366), that "where a bond is given for the dissolution of an attachment, in the form prescribed by section 440 of the Code of Civil Procedure, but contains an additional clause, not prescribed by statute, under which the sureties agree to assume a further obligation, no recovery can be had under such additional clause which is not required by law and for

which there is no consideration."

In the latter case we laid down the proposition that in general it will not be presumed that a bond given in accordance with the requirements of law was intended to have greater reach or broader effect than the conditions which the law itself imposed. This rule was laid down in aid of the interpretation of a bond given in pursuance of law. It was not intended to hold in that case, or either of the cases referred to, that parties may not make provisions in bonds in civil actions in addition to those required by law, provided the intention is clear and the consideration present.

The Civil Code does not require a bond to be given for the maintenance of relations. It simply states the liability of parties to support and maintain their relations and prescribes how that obligation shall be enforced. The bond in the present case was not given in pursuance of law or of any provisions of the Civil Code. We do not have, therefore, the question of whether or not its provisions are broader than the requirements of the law. It was given in pursuance of a requirement of the Governor-General, precedent to a pardon which had been solicited, and its binding force must be determined by the intention of the parties as gathered from the instrument itself. The words used therein are clearly sufficient to require the sureties to furnish the support and maintenance mentioned therein, no matter what the financial condition of the principal may be; and the bond having been given for the purposes mentioned, we do not see how we would be justified in limiting the scope of the provisions of the obligation beyond that which the wording clearly implies.

The judgment appealed from is affirmed, with costs against the appellant.

Arellano, C. J., Carson and Araullo, JJ., concur.

Trent, J., dissents.

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