

SIXTEENTH DIVISION

[CA-G.R. SP NO. 121259, May 20, 2014]

**INDUSTRIAL INSURANCE CO., INC., AS REPRESENTED BY ITS
BONDS SUPERVISOR, ELISEO FLORES, PETITIONER, VS. HON.
ROLANDO G. MISLANG, ACTING PRESIDING JUDGE OF THE
REGIONAL TRIAL COURT OF PASIG CITY, BRANCH 164, PEOPLE
OF THE PHILIPPINES AND FELICIANO ENRIQUEZ,
RESPONDENTS.**

DECISION

CORALES, J.:

This is a Petition for Certiorari^[1] under Rule 65 of the Rules of Court assailing the March 25, 2011^[2] and July 6, 2011^[3] Orders of the Regional Trial Court (RTC), Branch 164, Pasig City in Criminal Case No. 15726-D which respectively denied petitioner Industrial Insurance Co., Inc.'s (Industrial Insurance) *Omnibus Motion to Quash Writ of Execution dated October 26, 2010 and Recall Bailbond No. JCR (2) 011275 (Omnibus Motion)* and its subsequent motion for reconsideration.

The Antecedents

On July 26, 2007, Industrial Insurance issued a P120,000.00 personal bail bond^[4] with serial number JCR (2) No. 011275 for the provisional release of accused Lemuel Mabote (Mabote) who was charged^[5] with illegal possession of drugs^[6] in Criminal Case No. 15726-D. Respondent Feliciano Enriquez (Enriquez), Industrial Insurance's Operations Manager for Judicial Bonds in criminal cases,^[7] signed the bail bond being the authorized signatory under the General Agency Agreement^[8] and Board Resolution dated August 17, 2005^[9] of the company. Enriquez also executed Endorsement No. 0708^[10] which states that "the restriction for NOT VALID FOR DRUG TRAFFICKING and VALID for P100,000.00 ONLY risk/offense for this particular bond is hereby reconsidered and deleted and that the bail bond JCR (2) 011275 is hereby APPROVED".

When Mabote failed to appear on the September 20, 2007 hearing, the RTC ordered his arrest and the confiscation of his bail bond in favor of the government. It also directed Industrial Insurance to produce the living body of Mabote within 30 days from notice and show cause why no judgment should be entered against the bond.
^[11]

On April 25, 2008, Industrial Insurance, through a certain George D. Baro, Jr. (Baro), filed a Motion for Extension of Time^[12] to comply with the September 20, 2007 Order. It appears that despite the grant of this motion, Industrial Insurance failed to produce the person of Mabote. On September 16, 2009, the RTC rendered a judgment against the bond. Thereafter, the RTC directed the issuance of a writ of

execution through its February 22, 2010 Order and the writ was eventually issued on October 26, 2010.

After a year, or on February 9, 2011 to be more specific, Industrial Insurance filed its Omnibus Motion^[13] arguing that the bail bond and the judgment against it were void. According to Industrial Insurance, the judgment against the bail bond is contrary to Section 21, Rule 114 of the Revised Rules of Criminal Procedure because the produced order was issued after Mabote had already jumped bail and not before the scheduled hearing on September 20, 2007. It also raised the following arguments in support of its contention that the bail bond was void, to wit: Enriquez acted beyond the scope of his authority when he executed Endorsement No. 078 in order to delete the excluded risk in the bond and increased the allowable bail; Endorsement No. 078 materially altered the terms and conditions of the bail bond without the approval of the Insurance Commission, thus, violative of Section 226 and 231 of the Insurance Code; and the bail bond with its supporting documents did not comply with Section 13, Rule 114 of the Revised Rules on Criminal Procedure considering that the affidavit of justification was not taken under oath before the judge, the serial number and place of commission of the notary public as well his roll of attorneys and office address were not stated in the *jurat* of the waiver of appearance, and the Supreme Court Certificate of Accreditation and Authority (Diploma) is a mere photocopy.

The Ruling of the RTC

In its March 25, 2011 Order,^[14] the RTC denied Industrial Insurance's omnibus motion for lack of merit. The pertinent portions of the Order read:

Movant bondsman contended that it was not given due process of law because there was no prior produce order issued and served that directs it to produce the accused on the scheduled date and time of the hearing held on September 20, 2007, thus, the forfeiture of the bailbond through the Order dated September 2007 as well as the subsequent rendition of the judgment against the bailbond through the Order dated September 2009 were issued in violation of bondsman Industrial Insurance Company, Inc. right to due process of law. It is also contended that the bailbond is void and should be cancelled as it was irregularly and illegally issued by Feliciano Enriquez former general agent of Industrial Insurance Company, Inc. beyond the scope of his authority.

This Court is not persuaded. The movant bondsman conveniently forgot that it filed on April 25, 2008 a Motion for Extension of time to produce the living body of the accused and it was granted an extension of a period of time of thirty days in the Order dated April 29, 2008. As such, movant bondsman has fully acknowledged its obligation. It cannot therefore feign ignorance as to the consequence of its failure to fulfill its undertaking, which is, judgment on the bond in the Order dated September 16, 2009 and the issuance of writ of execution in the Order dated February 22, 2010, and Writ of Execution dated October 26, 2010.

WHEREFORE, in light of the foregoing, the movant bondsman's omnibus motion must perforce be denied for lack of merit. (Emphasis appears in the original text of the Decision; underscoring supplied)

Industrial Insurance moved for reconsideration^[15] but the RTC denied the same in its July 6, 2011 Order.^[16]

Undeterred, Industrial Insurance filed the instant petition for *certiorari* anchored on the following grounds:^[17]

I.

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION WHEN IT RENDERED A FORFEITURE, JUDGMENT AND WRIT OF EXECUTION AGAINST THE SUBJECT BAIL BOND WITHOUT A PRIOR ORDER DIRECTING THE BONDSMAN TO PRODUCE THE ACCUSED ON A SPECIFIC DATE AND TIME IN VIOLATION OF *SECTION 21, RULE 114 OF THE REVISED RULES ON CRIMINAL PROCEDURE*.

II

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION WHEN IT FAILED TO ACKNOWLEDGE THAT THE SUBJECT BAIL BOND IS VOID FOR HAVING BEEN ISSUED IN VIOLATION OF *SECTIONS 226 AND 361 OF THE INSURANCE CODE*.

III

THE PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION WHEN IT FAILED TO ACKNOWLEDGE THAT THE BAIL BOND AND ITS SUPPORTING DOCUMENTS ARE FATALY DEFECTIVE WARRANTING OUTRIGHT DISAPPROVAL UNDER *SECTION 13, RULE 114 OF THE REVISED RULES ON CRIMINAL PROCEDURE AND RETURN OF THE BONDS TO THE BONDSMAN PURSUANT TO ADMINISTRATIVE MATTER NO. 04-7-02-SC* OTHERWISE KNOWN AS THE 2004 SUPREME COURT GUIDELINES ON CORPORATE SURETY BONDS.

Industrial Insurance reiterates its arguments in the Omnibus Motion and claims that the April 18, 2008 Motion for Extension of Time is not binding on the company because Baro has no authority to sign the same.^[18]

For his part, Enriquez argues that Industrial Insurance gave him unlimited authority to sign and issue bail bonds as shown in the August 2, 2007^[19] Secretary's Certificate. He insists that Industrial Insurance is denying the validity of the bail bond in order to discredit his name and avoid the payment of confiscated bonds. Enriquez avers that in 2008, Industrial Insurance was experiencing losses due to forfeited bonds and to avoid payment, it issued a fabricated Secretary's Certificate dated August 24, 2005 to supposedly limit his authority to issue bonds only up to the maximum amount of P100,000.00. Allegedly, no Board of Directors' meeting was held on August 24, 2005 and as certified^[20] by the Office of the Clerk of Court and Ex-Officio Sheriff Notarial Section's Certification, Atty. Henry D. Adasa, who purportedly notarized the August 24, 2005 Secretary Certificate, was not a Notary Public in the City of Manila in 2005. Enriquez further claims that in recognition of his unlimited authority to issue bail bonds, Industrial Insurance provided him with blank

endorsements and the contents of Endorsement No. 0708 was supplied by the Chairman and President of Industrial Insurance.^[21]

The Office of the Solicitor General (OSG) also filed a Comment^[22] on behalf of the public respondent. It argues that the RTC did not act with grave abuse of discretion in denying Industrial Insurance's Omnibus Motion considering that there has been full compliance with the mandate of Section 21, Rule 114 of the Revised Rules on Criminal Procedure. The public respondent cannot be faulted for rendering judgment against the bond because Industrial Insurance failed to fulfill its obligation despite the grant of a 30-day extension period to produce the person of Mabote in court. The OSG also contends that the limit of authority supposedly given by Industrial Insurance to Enriquez is an internal matter between the parties and the courts are not privy nor bound by the same unless so disclosed.

This Court's Ruling

The petition is devoid of merit.

Being an extraordinary remedy, a petition for *certiorari* is available only and restrictively in truly exceptional cases.^[23] The sole office of this is the correction of errors of jurisdiction and does not include a review of public respondent's evaluation of the evidence and factual findings.^[24] It cannot be issued to review the intrinsic correctness of the subject judgment, whether upon the law or upon the facts of the case, because the inquiry should be limited to whether the public respondent acted without or in excess of its jurisdiction or with grave abuse of discretion.^[25]

It also bears stressing that a petition for *certiorari* under Rule 65 of the Rules of Court would prosper only if there is a clear showing of grave abuse of discretion on the part of the public respondent. It is therefore imperative for the petitioner to prove that the power of discretion is being exercised in an arbitrary or despotic manner by reason of passion or personal hostility which is so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined by, or to act at all in contemplation of law.^[26]

Industrial Insurance failed to discharge this burden. It did not present any controverting evidence to rebut the disputable presumption that official duties have been regularly performed.^[27] The petition did not even make a clear narration of the facts that led to the issuance of the September 20, 2007 Order directing the arrest of Mabote and forfeiting his bail bond in favor of the government, *i.e.*, was there an order setting the case for hearing on September 20, 2007 and who were furnished with a copy of this Order. We need all these factual bases to make a ruling on the propriety of the order of forfeiture of bail bond and the eventual judgment on the bail. We cannot simply assume that Industrial Insurance has not been furnished a copy of the notice of hearing *sans* proof thereof. Mere allegation is not equivalent to proof.^[28] Thus, it is reasonably presumed that the notice for the September 20, 2007 hearing has been served to Mabote and Industrial Insurance.

The writ of execution and judgment on the bond cannot also be nullified on the ground of denial of due process. The essence of due process is satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. What is frowned upon is the absolute lack of notice and hearing.^[29] Here, the parties did not dispute the fact that after the summary