501 Phil. 86

SECOND DIVISION

[G.R. NO. 150994, June 30, 2005]

RELIANCE SURETY & INSURANCE CO., INC., PETITIONER, VS. HON. ANDRES R. AMANTE, JR., IN HIS CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 23, CABANATUAN CITY, THE HON. CITY PROSECUTOR, CABANATUAN CITY AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

TINGA, J.:

This *Petition for Review* is the culmination of a wrong-headed approach by a bonding company to acquit itself of liability on purportedly spurious bail bonds issued in its name. Even if we concede the basic premise the questioned bail bonds are indeed false, there are prescribed remedies under our procedural rules which the surety simply failed to avail of despite ample opportunity. Hence, although the lower court decisions under review are not free of flaws the Court is impelled to deny the petition.

Petitioner Reliance Surety & Insurance Co., Inc. (Reliance) is a duly organized insurance firm. On 5 October 1998, it filed a *Special Appearance And Motion to Set Aside Orders/Writs of Execution* with the Regional Trial Court (RTC) of Cabanatuan City, Branch 23, presided over by Hon. Andres R. Amante, Jr. Reliance pertinently alleged therein, thus:

> 1. On June 18, 1997, movant Reliance Surety & Insurance Co., Inc. was surprised to receive a letter from the Insurance Commission dated June 11, 1997 enclosing copies of the Orders/Judgments and Writs of Execution against the bailbonds allegedly issued by movant as follows:
>
> | Name of Accused & Crim. Case No. | Date of Writs Orders | Amount of Liability | Name of Court |
> |---|---|---|---|
> | Rogelio Andres, et al./3012 (A.F.) | Jan.19,1995 | P10,000.00 | RTC, 3rd Judicial Region Branch 23 Cabanatuan City |
> | Adelina Vidal/5822 (A.F.) | Sept. 25, 1996 | P20,000.00 | - do |

Naldy Jimenez & Geminiano Roxas/6035 (A.F.)	Aug. 6, 1996	P10,000.00	- do -

2. . . ;Movant replied to the aforesaid letter dated June 11, 1997 of the Insurance Commission stating that the bailbonds are false and spurious. . .;

3. Again, on July 22, 1997 and May 14, 1998, movant was surprised to receive letters from the Insurance Commission dated July 11, 1997 and May 7, 1998 enclosing copies of the Orders against the bailbonds allegedly issued by the movant as follows:

Name of Accused & Crim. Case No.	Date of Writs/ Orders	Amount of Liability	Name of Court
Dolores P. Posadas/63201997 – AF	June 25,	P13, 000.00	RTC, 3rd Judicial Region Branch 23 Cabanatuan City
Melania Dagdagan	Jan. 19, 1998	P8,000.00	- do -

4. . . ; Movant replied to said letter dated July 11, 1997 and May 7, 1998 of the Insurance Commission stating that the bonds mentioned therein are false and spurious. . . ;[1]

Reliance entered its special appearance in each of the above-cited criminal cases, at the same time seeking to set aside the cited writs of execution. Reliance alleged that the bonds in question were issued by one Evelyn Tinio, against whom it had since lodged a criminal case.[2]

Each of the criminal cases were prosecuted in behalf of the *People of the Philippines* by the City Prosecutor, who did not interpose any objection to Reliance's motion. Respondent judge conducted a hearing on the matter, and Reliance submitted documentary evidence in support of its motion.

On 21 April 1999, respondent judge issued an *Order* denying Reliance's motion. On the premise that the controversy revolved on the "tri-sided (*sic*) relationship of movant Reliance Surety; Alfredo Wy and Evelyn Tinio and the Insurance Commission," the *Order* stressed that the controversy "could only be resolved with authority and finality by the Insurance Commission under its Administrative and Adjudicatory Powers."[3]

As Reliance failed in its motion to reconsider the said Order, on 15 June 1999, it seasonably filed a *Notice of Appeal.* However, on 15 July 1999, respondent judge issued an Order disallowing the *Notice of Appeal* on the ground that Reliance failed "to pay the corresponding appeal fee, pursuant to the provisions of Sec. 1 (c), Rule

50, in relation to Sec. 4, Rule 41."[4]

Reliance sought the reconsideration of the disallowance of the appeal, stressing among others, that the rules cited by the RTC were inapplicable, as they pertained to civil actions and not to criminal cases, and that there was nothing in the Rules of Criminal Procedure that requires the payment of appeal fees in criminal cases.[5] However, Reliance's *Motion for Reconsideration* was denied in an *Order*[6] dated 24 August 1999. Therein, the RTC characterized the pending incident as having a "civil nature," which has not been subsumed by the criminal nature of the cases under which Reliance's motion was captioned.[7]

Reliance then filed a Petition for *Mandamus* with the Court of Appeals, praying that the orders disallowing the *Notice of Appeal* be declared null and void, and that respondent Judge be ordered to immediately transmit the complete records, together with the *Notice of Appeal* in accordance with Section 8, Rule 12 of the Rules of Court.[8]

Before the appellate court, the Office of the Solicitor General (OSG) in representation of the *People* filed a Manifestation expressing concurrence with Reliance's position.[9] Nonetheless, the Court of Appeals Twelfth Division issued a *Decision*[10] dated 22 December 2000 dismissing the petition.

Casting the issue as whether docket fees should be paid in appealing the order dismissing petitioner's motion to set aside order/writ of execution, the appellate court cited Section 7, Rule 5 of the Revised Internal Rules of the Court of Appeals (RIRCA), which provides that "appeals from orders of confiscation or forfeiture of bail bonds shall be treated as appeals in civil cases," and Section 3, Rule 5 of the same Rules which ordains that "no payment of docketing and other legal fees shall be required in criminal cases except in petitions for review of criminal cases and appeals from confiscation or forfeiture of bail bond."[11] With these rules as anchor, the Court of Appeals concluded that Reliance was obligated to pay the corresponding docket fees, and failure to do so was ground to dismiss the appeal, as the RTC properly did.

Before this Court, Reliance points out that nothing in the Rules of Criminal Procedure requires the payment of appeal fees in criminal cases. It notes as "obvious" that respondent judge, petitioner, and the OSG were aware of the provisions of the RIRCA cited by the Court of Appeals, and that the RTC Clerk of Court had accepted the *Notice of Appeal* without being required to pay the appeal fee. Moreover, arguing that the RIRCA could not supplant, amend or modify the Rules of Court, Reliance asserts that the cited provisions of the RIRCA, which operate towards that result, are clearly null and void. Finally, Reliance submits that should the Court rule that an appeal fee is required even in cases of the sort, it be allowed instead to pay such appeal fee.[12]

Interestingly, the OSG has reversed its earlier concurrence with Reliance's stance, seeking this time the dismissal of the present petition. Holding forth that the Court of Appeals was within the bounds of its discretion when it dismissed the petition, the government counsel endorses the validity and enforceability of the challenged provisions of the RIRCA, as they were approved by this Court.[13]

The facts as presented by Reliance manifest disconcerting aspects of the dismissal of the appeal as decreed by the trial court. No disputation has been made of Reliance's claim that when it filed the *Notice of Appeal,* it inquired with the Office of the Clerk of Court and Cashier's Office in the RTC whether an appeal or docket fee should be paid and was informed that none was required.[14] Moreover, the provisions cited by the RTC in its dismissal of the *Notice of Appeal,* Sec. 1 (c), Rule 50, in relation to Sec. 4, Rule 41, plainly apply only to civil cases since appeals in criminal cases are governed by Rules 122 to 125 of the Rules of Criminal Procedure. There is no provision in the Rules of Court equivalent to that of the RIRCA providing that an appeal from an order for the confiscation or forfeiture of bail bonds should be treated as an appeal in a civil case.

Nonetheless, a review of the available record reveals a more complex factual milieu. Reliance proceeds from the premise that the twin denials of Reliance's *Motion to Set Aside Orders/Writs of Execution* and the succeeding *Notice of Appeal* serve as the linchpin on which its attempt to acquit itself of liability from the bonds should hinge. However, it is evident from the record that Reliance, long before it filed its motion in October of 1998, was already afforded the opportunity to timely challenge liability on these bonds, yet failed to do so.

To best appreciate this case, it is essential to elaborate on the procedure surrounding the confiscation or forfeiture of a bail bond by the trial court, and the proper remedies which may be undertaken by the bondsmen adversely affected.

Any domestic or foreign corporation, licensed as a surety in accordance with law and currently authorized to act as such, may provide bail by a bond subscribed jointly by the accused and an officer of the corporation duly authorized by its board of directors.[15] Once the obligation of bail is assumed, the bondsman or surety becomes in law the jailer of the accused and is subrogated to all the rights and means which the government possesses to make his control of him effective.[16]

Section 21, Rule 114 of the 1985 Rules of Criminal Procedure, in force at the time of the subject incidents, provides for the procedure to be followed before a bail bond may be forfeited, and judgment on the bond rendered against the surety:

> SEC. 21. Forfeiture of bailbond. — When the presence of the accused is required by the court, or these Rules, his bondsman shall be notified to produce him before the court on a given date. If the accused fails to appear in person as required, the bond shall be declared forfeited and the bondsman are given thirty (30) days within which to produce their principal and to show cause why judgment should not be rendered against them for the amount of their bond. Within the said period, the bondsmen:
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> > (a) must produce the body of their principal or give the reason for his non-production; and
> >
> > (b) must explain satisfactorily why the accused did not appear before the court when first required to do so.

> Failing in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bond, and the court shall not reduce or otherwise mitigate the liability of the bondsmen, except when the accused has been surrendered or is acquitted.[17]

As evident in the provision, there are two occasions upon which the trial court judge may rule adversely against the bondsmen in cases when the accused fails to appear in court. First, the non-appearance by the accused is cause for the judge to summarily declare the bond as forfeited. Second, the bondsmen, after the summary forfeiture of the bond, are given thirty (30) days within which to produce the principal and to show cause why a judgment should not be rendered against them for the amount of the bond. It is only after this thirty (30)-day period, during which the bondsmen are afforded the opportunity to be heard by the trial court, that the trial court may render a judgment on the bond against the bondsmen. Judgment against the bondsmen cannot be entered unless such judgment is preceded by the order of forfeiture and an opportunity given to the bondsmen to produce the accused or to adduce satisfactory reason for their inability to do so.[18]

The judgment against the bondsmen on the bond may be construed as a final order, hence subject to appeal. There is no reason to disturb the doctrine of long standing that characterizes such judgment as a final judgment or order[19] or that such judgment may be subject to appeal.[20] A final order has been defined as one which disposes of the whole subject matter or terminates a particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined.[21] Indeed, from a judgment on the bond, a writ of execution may immediately issue,[22] and need not be effected through a separate action.[23] Indeed, an appeal from a judgment on the bond is subsumed under Section 1, Rule 122 of the Rules of Criminal Procedure, which provides that appeals in criminal cases avail only from a judgment or final order,[24] and Section 6 of the same Rule which requires that the appeal be taken within fifteen (15) days from notice of the final order appealed from.[25]

Moreover, the special civil action of certiorari to assail a judgment of forfeiture may be available under exceptional circumstances,[26] although the availability of appeal as a remedy to such judgment greatly raises the bar for the allowance of the certiorari action. The writ of execution itself may, in theory, be assailed through the special civil action for certiorari, though qualified again by the limited circumstances under which certiorari may avail.

Clearly then, under the procedure just elaborated, the surety has ample opportunities to defend itself before the trial court against the execution against a bond in its name which it might not have actually issued. Assuming that the provisions of Rule 122 were actually followed in this case, the matter of the spuriousness of the subject bonds could have very well been raised even before judgment on the bond was rendered. But was such procedure actually observed before the trial court?

Admittedly, the record is bereft of details as to the particular proceedings in the five criminal cases wherein the subject bonds were issued. However, Reliance itself