Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

- *versus* -

INDUSTRIAL INSURANCE COMPANY, INC.,
Respondent.

G.R. No. 222955

Present:

PERALTA, ***J.***, *Chairperson,*
LEONEN,*
REYES, A., JR.,
HERNANDO, and
INTING, ***JJ.***

Promulgated:

October 16, 2019
MisDCBatt

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RESOLUTION

INTING, *J.*:

The People of the Philippines (petitioner), through the Office of the Solicitor General (OSG) filed the petition for review on *certiorari* assailing the Decision[1] dated April 10, 2015 and the Resolution[2] dated February 4, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 120712. The CA found grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Albert R. Fonacier (Judge Fonacier) of Branch 76, Regional Trial Court (RTC), Malolos City in denying the Motion to Lift and Recall Forfeiture Order (dated May 31, 2010) and to Withdraw Approval of and Return IICI Bail Bond No. JCR (2) 005246[3] (motion to lift and recall forfeiture order) of respondent

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* On leave.

1 *Rollo*, pp. 12-22; penned by Associate Justice Melchor Q.C. Sadang with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a member of the Court), concurring.

2 *Id.* at 9-10.

3 *Id.* at 105-117.

Industrial Insurance Company, Inc. (IICI), not declaring IICI Bail Bond JCR No. (2) 005246 dated September 14, 2006 (bail bond) void, and ordering the issuance of a writ of execution against it.[4]

Antecedents

IICI, a non-life insurance company, alleged that on April 22, 2005, it executed a General Agency Agreement (GAA) with FGE Insurance Management (FGE), a single proprietorship owned by Feliciano Enriquez (Enriquez), whereby it designated FGE as its general agent for the solicitation of non-life insurance including bonds.[5] Thereafter, through its Board of Directors, IICI also appointed Enriquez as its Operations Manager for Judicial Bonds – Criminal Cases with authority to issue bonds in criminal cases up to the maximum amount of ₱100,000.00.[6]

In the criminal case filed against the accused Rosita Enriquez (accused) for illegal possession of drugs under Section 11, Book II of Republic Act (RA) No. 9165,[7] before the RTC docketed as Criminal Case No. 2245-M-2006, accused posted the bail bond in the amount of ₱200,000.00. It was signed by Enriquez and approved by 1st Vice Executive Judge Herminia Pasamba.[8]

On July 7, 2008, IICI revoked Enriquez's authority after discovering that Enriquez had not been remitting proper premiums or giving a full and written accounting of all his bail bond transactions with the courts, or furnishing copies of IICI bail bonds that he filed in court, including the bail bond of the accused. The Court Administrator and the Sandiganbayan were then notified of the revocation of Enriquez's authority.[9]

For failure of the accused to appear at the hearing on May 31, 2010, Judge Fonacier issued an Order[10] dated May 31, 2010 declaring the subject bond forfeited in favor of the Government, and directing IICI to produce the accused in court 30 days from receipt of the Order and to

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4 *Id.* at 21.
5 *Id.* at 12.
6 *Id.* at 12-13.
7 Comprehensive Dangerous Drugs Act of 2002.
8 *Rollo*, p. 13.
9 *Id.*
10 *Rollo*, p. 171.

show cause why judgment should not be rendered against the bond.[11] For failure of IICI to do so and considering the manifestation of the accused's counsel that the accused had already gone abroad, the RTC issued its Order[12] dated August 16, 2010, giving IICI a period of 30 days from receipt of the Order to show cause as to why judgment should not be rendered against the bond.[13]

On October 20, 2010, IICI filed its motion to lift and recall forfeiture order, alleging that: (1) the bail bond was void because it was issued in violation of Sections 226 and 361 of the Insurance Code; (2) it should have been disapproved by the Office of the Clerk of Court and returned to IICI pursuant to Administrative Matter (A.M.) No. 04-7-02-SC, otherwise known as the Guidelines on Corporate Surety Bonds; and (3) the forfeiture of the bond was issued in violation of Section 13, Rule 114 of the Revised Rules on Criminal Procedure (Rules).[14]

Ruling of the RTC

On January 24, 2011, Judge Fonacier issued an Order[15] denying the motion to lift and recall forfeiture order and directing the issuance of a writ of execution against the bail bond.[16] Judge Fonacier ruled that: (1) none of the circumstances under Section 22, Rule 114 of the Rules are present in the case as to warrant the cancellation of the bail bond; (2) the Clerk of Court, who was primarily tasked with determining the completeness and authenticity of the bail bond and its supporting documents, is vested with the presumption of regularity in the performance of duty; and (3) even assuming that Enriquez no longer had authority to approve the bail bond, IICI should have apprised the court, but failed to do so.[17]

IICI filed a motion for reconsideration, but this was denied by Judge Fonacier in his Order[18] dated May 6, 2011. Judge Fonacier reiterated his grounds for denying the motion to lift and recall forfeiture order and the issuance of a writ of execution.[19] He added that

[11] *Id.*
[12] Records, Vol. I, p. 258
[13] *Id.*
[14] *Rollo*, p. 13.
[15] *Id.* at 100-101.
[16] *Id.* at 101.
[17] *Id.*
[18] *Rollo*, pp. 102-104.
[19] *Id.* at 102-103.

the RTC received a letter dated October 16, 2008 from IICI, through its manager Esmael Cuevas Gerga (Gerga) on December 5, 2008 wherein IICI requested that all writs of execution and orders should be forwarded to its head office at the address stated therein.[20] However, it did not mention that Enriquez ceased to be its authorized agent. Further, it was only after the Order dated August 16, 2010 was issued against it that, it raised for the first time the alleged lack of authority of Enriquez to issue the bail bond.[21]

Thus, IICI filed a petition for *certiorari* before the CA.[22]

Ruling of the CA

In its Decision[23] dated April 10, 2015, the CA granted the petition.[24]

As to the procedural aspect, the CA ruled that the petition for *certiorari* was the proper remedy in this case.[25]

As to the merits, the CA found grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Judge Fonacier in denying the motion to lift and recall forfeiture order of IICI, in not declaring the bond void, and in ordering the issuance of a writ of execution against it.[26]

The CA identified the defects in the bond which marred its issuance.[27]

First, Enriquez's act of increasing the amount of the bail to ₱200,000.00 was his unilateral act; hence, it did not bind IICI.[28] The CA ruled that the maximum amount of ₱100,000.00, as one of the

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[20] *Id.* at 103.
[21] *Id.*
[22] *Rollo*, pp. 78-99.
[23] *Id.* at 12-22.
[24] *Id.* at 21.
[25] *Id.* at 16-17.
[26] *Id.* at 21.
[27] *Id.* at 20.
[28] *Id.* at 18.

limitations of the bond, was written on its face.[29] Also, there was no competent proof that Enriquez was authorized to do so by the IICI Board of Directors or that he had such authority by virtue of his position as operations manager.[30] Thus, the Clerk of Court should have required proof of such authority.[31]

Second, the waiver of appearance was not executed by the accused under oath as required by A.M. No. 04-7-02-SC.[32]

Third, as to the affidavit of justification, the jurat did not contain competent evidence of Enriquez's identity since what was presented was the community tax certificate (CTC) of Enriquez.[33] The CA explained that the CTC is not a competent evidence of identity because it did not bear the photograph of the individual concerned.[34]

Petitioner filed a motion for reconsideration of the CA Decision, but this was denied by the CA through its Resolution[35] dated February 4, 2016.

Hence, the instant petition.[36]

In the Resolution[37] dated June 6, 2016, the Court then required IICI to file its comment. However, the copy of the Resolution dated June 6, 2016 was returned to this Court on September 8, 2016, with postal notation "RTS-Moved Out."[38]

Subsequently, in a Manifestation[39] dated July 13, 2017, petitioner, through the OSG, stated among others that a certain Ms. Joe Ledesma, a Staff of the Conservatorship, Receivership and Liquidation Division of the Insurance Commission, confirmed the merger of IICI and Sterling Insurance Co., Inc. (Sterling) with the latter as the surviving entity and

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29 *Id.*
30 *Id.*
31 *Id.*
32 *Rollo*, p. 19.
33 *Id.* at 20.
34 *Id.*
35 *Rollo*, pp. 9-10.
36 *Id.* at 26-40.
37 *Id.* at 184.
38 *Id.* at 190.
39 *Id.* at 196-198.

that the current address of Sterling is at 6/F, Zetta II Annex Bldg., 191 Salcedo Street, Legaspi Village, Makati City.[40]

After IICI received a copy of the petition at Sterling's address, IICI, through its counsel, filed its Explanation and Compliance[41] dated December 19, 2018 "submit[ting] upon the sound action and discretion of this Honorable Court the decision, judgment or resolution over the case or petition based on the existing records, even without the filing of the corresponding comment thereon."[42] IICI reasoned that it was difficult for it to submit a substantive comment within the given period. Considering the difficulty in locating or retrieving the pertinent records of the case brought about by the physical turn-over and transfer of company records and documents from IICI to Sterling.[43]

The Court, in the Resolution[44] dated February 6, 2019, noted and accepted IICI's Explanation and Compliance dated December 19, 2018, and dispensed with the filing of IICI's comment on the petition.

Ruling of this Court

The Court grants the petition.

Contrary to the ruling of the CA, the Court finds that Judge Fonacier did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in denying respondent's motion to lift and recall forfeiture order and in ordering the issuance of a writ of execution against the bond.

The Court notes that in IICI's petition before the CA, it indicated its principal office address at 8th floor, Cuevas Tower Condominium, Taft Avenue corner Pedro Gil Street, Malate Manila (Malate, Manila).[45]

IICI's address as stated in its petition before the CA is significant considering that after IICI revoked the authority of Enriquez as its agent

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[40] *Id.* at 197.
[41] *Id.* at 225-228.
[42] *Id.* at 226.
[43] *Id.* at 225.
[44] *Id.* at 235.
[45] *Id.* at 79.

on July 7, 2008, IICI, through Gerga, requested to the RTC thru its letter dated October 16, 2008 that all writs of execution and orders be forwarded to its head office at the address stated therein.[46]

On December 9, 2008,[47] the Produce Order issued by the RTC for IICI to produce the accused in court were sent to Malate, Manila unlike the previous Produce Orders which bore different addresses.

The RTC then issued Produce Orders dated February 23, 2009,[48] April 13, 2009,[49] July 27, 2009,[50] September 14, 2009,[51] November 9, 2009,[52] January 18, 2010,[53] March 1, 2010,[54] and April 12, 2010.[55] All of these Produce Orders were addressed to IICI at its address in Malate, Manila and directed IICI to produce the accused in court on the particular dates stated therein for arraignment/pre-trial. Despite receipt of the Produce Orders, IICI failed to produce the accused in court.

Notably, IICI was silent as to the revocation of Enriquez's authority despite the fact that as discussed by the RTC, it previously sent a letter dated October 16, 2008 indicating its address. Further, IICI was already deemed to know of the existence of the bail bond when the RTC sent the Produce Orders at its given address. And yet, IICI still remained silent and failed to bring the alleged irregularities of the bail bond to the RTC until the filing of its motion to lift and recall forfeiture order.

In *Pasion v. Melegrito*,[56] the Court ruled that a party may be estopped from claiming the contrary of the matter through his or her silence whether the failure to speak is intentional or negligent as when such silence would result to a fraud on the other party. The Court explained:

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46 *Id.* at 103.
47 Records, Vol. I, p. 207.
48 *Id.* at 210.
49 *Id.* at 214.
50 *Id.* at 219.
51 *Id.* at 222.
52 *Id.* at 226.
53 *Id.* at 237.
54 *Id.* at 241.
55 *Id.* at. 245
56 548 Phil. 302 (2007)

> The principles of equitable estoppel, sometimes called *estoppel in pais*, are made part of our law by Art. 1432 of the Civil Code. Coming under this class is estoppel by silence, which obtains here and as to which it has been held that:
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> > x x x an estoppel may arise from silence as well as from words. **'Estoppel by silence' arises where a person, who by force of circumstances is under a duty to another to speak, refrains from doing so and thereby leads the other to believe in the existence of a state of facts in reliance on which he acts to his prejudice.** Silence may support an estoppel whether the failure to speak is intentional or negligent.
> >
> > 'Inaction or silence may under some circumstances amount to a misrepresentation and concealment of facts, so as to raise an equitable estoppel. **When the silence is of such a character and under such circumstances that it would become a fraud on the other party to permit the party who has kept silent to deny what his silence has induced the other to believe and act on, it will operate as an estoppel. This doctrine rests on the principle that if one maintains silence, when in conscience he ought to speak, equity will debar him from speaking when in conscience he ought to remain silent. He who remains silent when he ought to speak cannot be heard to speak when he should be silent.'**[57] (Emphasis in the original.)

Here, the Court finds that IICI is estopped from assailing the vailidity of the bail bond. By IICI's silence and failure to notify the RTC despite repeated notice as to the existence of the bail bond in favor of the accused, Judge Fonacier was made to believe that Enriquez' act of issuing the bail bond was authorized by IICI. Had IICI been diligent in informing the court and moving for the cancellation of the bail bond after knowledge of its existence, the RTC could have cancelled it.

[57] *Id.* at 311.

Further, the RTC could have prevented the accused from fleeing from the trial of her case.

WHEREFORE, the Petition is **GRANTED**. The Decision dated April 10, 2015 and the Resolution dated February 4, 2016 of the Court of Appeals in CA-G.R. SP No. 120712 are **REVERSED** and **SET ASIDE**. The Orders dated January 24, 2011 and May 6, 2011 of the Regional Trial Court are **REINSTATED.**

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

(On leave)
MARVIC M.V.F. LEONEN
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LUCAS P. BERSAMIN
Chief Justice