

THIRD DIVISION

[G.R. No. 210950, August 15, 2018]

**MILAGROS P. ENRIQUEZ, PETITIONER, VS. THE MERCANTILE
INSURANCE CO., INC., RESPONDENT.**

DECISION

LEONEN, J.:

A surety bond remains effective until the action or proceeding is finally decided, resolved, or terminated, regardless of whether the applicant fails to renew the bond. The applicant will be liable to the surety for any payment the surety makes on the bond, but only up to the amount of this bond.

This is a Petition for Review on Certiorari^[1] assailing the August 13, 2013 Decision^[2] and January 14, 2014 Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 95955, which affirmed the Regional Trial Court's finding that Milagros P. Enriquez (Enriquez) was liable for the full amount of the replevin bond issued by The Mercantile Insurance Company, Inc. (Mercantile Insurance).

Sometime in 2003, Enriquez filed a Complaint for Replevin^[4] against Wilfred Asuten (Asuten) before the Regional Trial Court of Angeles City, Pampanga. This Complaint, docketed as Civil Case No. 10846,^[5] was for the recovery of her Toyota Hi-Ace van valued at P300,000.00.^[6] Asuten allegedly refused to return her van, claiming that it was given by Enriquez's son as a consequence of a gambling deal.^[7]

Enriquez applied for a replevin bond from Mercantile Insurance. On February 24, 2003, Mercantile Insurance issued Bond No. 138 for P600,000.00,^[8] which had a period of one (1) year or until February 24, 2004. Enriquez also executed an indemnity agreement with Mercantile Insurance, where she agreed to indemnify the latter "for all damages, payments, advances, losses, costs, taxes, penalties, charges, attorney's fees and expenses of whatever kind and nature"^[9] that it would incur as surety of the replevin bond.^[10]

On May 24, 2004, the Regional Trial Court issued an Order^[11] dismissing the Complaint without prejudice due to Enriquez's continued failure to present evidence.

The Regional Trial Court found that Enriquez surrendered the van to the Bank of the Philippine Islands, San Fernando Branch but did not comply when ordered to return it to the sheriff within 24 hours from receipt of the Regional Trial Court March 15, 2004 Order.^[12] She also did not comply with prior court orders to prove payment of her premiums on the replevin bond or to post a new bond. Thus, the Regional Trial Court declared Bond No. 138 forfeited. Mercantile Insurance was given 10 days to produce the van or to show cause why judgment should not be rendered against it

for the amount of the bond.^[13]

On July 12, 2004, the Regional Trial Court held a hearing on the final forfeiture of the bond where it was found that Mercantile Insurance failed to produce the van, and that Bond No. 138 had already expired.^[14] In an Order^[15] issued on the same day, the Regional Trial Court directed Mercantile Insurance to pay Asuten the amount of P600,000.00.

Mercantile Insurance wrote to Enriquez requesting the remittance of P600,000.00 to be paid on the replevin bond.^[16] Due to Enriquez's failure to remit the amount, Mercantile Insurance paid Asuten P600,000.00 on September 3, 2004, in compliance with the Regional Trial Court July 12, 2004 Order.^[17] It was also constrained to file a collection suit against Enriquez with the Regional Trial Court of Manila.^[18]

In her defense, Enriquez claimed that her daughter-in-law, Asela, filed the Complaint for Replevin in her name and that Asela forged her signature in the indemnity agreement. She also argued that she could not be held liable since the replevin bond had already expired.^[19]

In its July 23, 2010 Decision,^[20] the Regional Trial Court ruled in favor of Mercantile Insurance. It found that non-payment of the premiums did not cause the replevin bond to expire. Thus, Enriquez was still liable for the reimbursement made by the surety on the bond. The Regional Trial Court likewise pointed out that Enriquez made "conflicting claims" of having applied for the bond and then later claiming that her daughter-in-law was the one who applied for it.^[21] The dispositive portion of the Regional Trial Court July 23, 2010 Decision read:

WHEREFORE, judgment is hereby rendered in favor of plaintiff The Mercantile Insurance Co., Inc. and against defendant Milagros P. Enriquez, as follows:

(i) Ordering defendant Milagros P. Enriquez to pay plaintiff the claim of P600,000.00 enforced under the Indemnity Agreement plus legal interest at the rate of 12% per annum from date of judicial demand on October 22, 2004, until fully paid;

(ii) Ordering defendant Milagros P. Enriquez to pay attorney's fees fixed in the reasonable amount of P50,000.00;

(iii) Ordering defendant Milagros P. Enriquez to pay the costs of

SO ORDERED.^[22]

Enriquez appealed^[23] with the Court of Appeals, arguing that the replevin bond had already expired; therefore, she could not have been liable under the indemnity agreement. She also averred that even assuming that she was still liable under the indemnity agreement, she should not pay the full amount considering that the value

of the van was only P300,000.00.^[24]

On August 13, 2013, the Court of Appeals rendered a Decision^[25] affirming the Regional Trial Court's July 23, 2010 Decision.

The Court of Appeals held that under the Guidelines on Corporate Surety Bonds,^[26] the lifetime of any bond issued in any court proceeding shall be from court approval until the case is finally terminated. Thus, it found that the replevin bond and indemnity agreement were still in force and effect when Mercantile Insurance paid P600,000.00 to Asuten.^[27]

The Court of Appeals likewise found that Enriquez was "bound by the incontestability of payments clause" in the indemnity agreement, which stated that she would be held liable for any payment made by the surety under the bond, regardless of the actual cost of the van.^[28] It held that the issue of whether Enriquez was liable for the full amount of the replevin bond should have been raised before the Regional Trial Court in the Complaint for Replevin, and not in her appeal.^[29]

Enriquez moved for reconsideration^[30] but was denied by the Court of Appeals in its January 14, 2014 Resolution.^[31] Hence, this Petition^[32] was filed before this Court.

Petitioner argues that when respondent paid Asuten on September 3, 2004, the indemnity agreement was no longer in force and effect since the bond expired on February 24, 2004.^[33] She claims that the indemnity agreement was a contract of adhesion, and that respondent "intended the agreement to be so comprehensive and all-encompassing to the point of being ambiguous."^[34]

Petitioner contends that even assuming that the indemnity agreement could be enforced, she should not have been held liable for the full amount of the bond. Citing Rule 60, Section 2 of the Rules of Court, she argues that a judgment on replevin is only "either for the delivery of the property or for its value in case delivery cannot be made and for such damages as either party may prove, with costs."^[35]

Respondent, on the other hand, contends that the present action has already prescribed, considering that Rule 60, Section 10, in relation to Rule 57, Section 20 of the Rules of Court, mandates that any objection on the award should be raised in the trial court where the complaint for replevin is filed. It argues that since petitioner only raised the objection before the Court of Appeals, her action should have been barred.^[36]

Respondent likewise points out that the forfeiture of the bond was due to petitioner's own negligence. It asserts that in the proceedings before the Regional Trial Court, Enriquez failed to present her evidence, and it was only when she filed an appeal that she raised her objections.^[37] It argues that the Guidelines on Corporate Surety Bonds specify that the expiry of the bond shall be after the court proceeding is finally decided; hence, the bond was still in effect when respondent paid Asuten.^[38]

The sole issue for this Court's resolution is whether or not petitioner Milagros P.

Enriquez should be made liable for the full amount of the bond paid by respondent The Mercantile Insurance Co., Inc. as surety, in relation to a previous case for replevin filed by petitioner.

I

Replevin is an action for the recovery of personal property.^[39] It is both a principal remedy and a provisional relief. When utilized as a principal remedy, the objective is to recover possession of personal property that may have been wrongfully detained by another. When sought as a provisional relief, it allows a plaintiff to retain the contested property during the pendency of the action. In *Tillson v. Court of Appeals*:^[40]

The term replevin is popularly understood as "the return to or recovery by a person of goods or chattels claimed to be wrongfully taken or detained upon the person's giving security to try the matter in court and return the goods if defeated in the action;" "the writ by or the common-law action in which goods and chattels are replevied," i.e., taken or gotten back by a writ for replevin;" and to replevy, means to recover possession by an action of replevin; to take possession of goods or chattels under a replevin order. Bouvier's Law Dictionary defines replevin as "a form of action which lies to regain the possession of personal chattels which have been taken from the plaintiff unlawfully . . . , (or as) the writ by virtue of which the sheriff proceeds at once to take possession of the property therein described and transfer it to the plaintiff upon his giving pledges which are satisfactory to the sheriff to prove his title, or return the chattels taken if he fail so to do;" the same authority states that the term, "to replevy" means "to re-deliver goods which have been distrained to the original possessor of them, on his giving pledges in an action of replevin." The term therefore may refer either to the action itself, for the recovery of personality, or the provisional remedy traditionally associated with it, by which possession of the property may be obtained by the plaintiff and retained during the pendency of the action. In this jurisdiction, the provisional remedy is identified in Rule 60 of the Rules of Court as an order for delivery of personal property.^[41]

Similarly, in *BA Finance Corporation v. Court of Appeals*:^[42]

Replevin, broadly understood, is both a form of principal remedy and of a provisional relief. It may refer either to the action itself, i.e., to regain the possession of personal chattels being wrongfully detained from the plaintiff by another, or to the provisional remedy that would allow the plaintiff to retain the thing during the pendency of the action and hold it *pendente lite*. The action is primarily possessory in nature and generally determines nothing more than the right of possession. Replevin is so usually described as a mixed action, being partly *in rem* and partly *in personam-in rem* insofar as the recovery of specific property is

concerned, and *in personam* as regards to damages involved. As an "action in rem," the gist of the replevin action is the right of the plaintiff to obtain possession of specific personal property by reason of his being the owner or of his having a special interest therein. Consequently, the person in possession of the property sought to be replevied is ordinarily the proper and only necessary party defendant, and the plaintiff is not required to so join as defendants other persons claiming a right on the property but not in possession thereof. Rule 60 of the Rules of Court allows an application for the immediate possession of the property but the plaintiff must show that he has a good legal basis, i.e., a clear title thereto, for seeking such interim possession.^[43]

As a provisional remedy, a party may apply for an order for the delivery of the property before the commencement of the action or at any time before an answer is filed.^[44] Rule 60 of the Rules of Court outlines the procedure for the application of a writ of replevin. Rule 60, Section 2 requires that the party seeking the issuance of the writ must first file the required affidavit and a bond in an amount that is double the value of the property:

Section 2. Affidavit and bond. — The applicant must show by his own affidavit or that of some other person who personally knows the facts:

- (a) That the applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;
- (b) That the property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information, and belief;
- (c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under *custodia legis*, or if so seized, that it is exempt from such seizure or custody; and
- (d) The actual market value of the property.

The applicant must also give a bond, executed to the adverse party in double the value of the property as stated in the affidavit aforementioned, for the return of the property to the adverse party if such return be adjudged, and for the payment to the adverse party of such sum as he may recover from the applicant in the action.^[45]

Once the affidavit is filed and the bond is approved by the court, the court issues an order and a writ of seizure requiring the sheriff to take the property into his or her custody.^[46] If there is no further objection to the bond filed within five (5) days from the taking of the property, the sheriff shall deliver it to the applicant.^[47] The contested property remains in the applicant's custody until the court determines,