

FOURTH DIVISION

[CA-G.R. CV NO. 96955[*], November 20, 2014]

**REPUBLIC OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
INDUSTRIAL INSURANCE CO., INC., DEFENDANT-APPELLANT.**

DECISION

SORONGON, J.:

The Case

On appeal is the Order^[1] dated November 3, 2009 of the Regional Trial Court (RTC), Baloc, Sto. Domingo, Nueva Ecija, Branch 37, which denied Industrial Insurance Company, Inc.'s *Motion to Recall and Cancel IICI Bail Bond Nos. JCR(2) No. 012575 and 012576* in Criminal Case No. SD(07)-1716 and SD(07)-1717, respectively.

The Facts

Moises Real (accused) was charged with the crimes of frustrated murder under two Informations^[2] both dated October 31, 2007. He was arrested and detained at the Philippine National Police (PNP) Station in Sto. Domingo, Nueva Ecija. He applied for and was granted bail^[3] for his provisional liberty by the Executive Judge^[4] of RTC of Baloc, Sto. Domingo, Nueva Ecija in the amount of P200,000.00 for each case, under IICI Bond NO. JCR(2) Nos. 012575^[5] and 012576^[6] of Industrial Insurance Company, Inc., (defendant-appellant).

In view of the death of the victim Salvador S. Delfin, the information^[7] in Criminal Case No. SD(07)-17116 was amended to Murder. Thus, Police Chief Inspector Nicasio P. Malazzab, the Station Commander of Sto. Domingo Police Station, filed a Manifestation to the trial court that he cannot implement the release of the accused. On November 8, 2007, Vice-Executive Judge Santiago M. Arenas issued an order that accused can no longer utilize his surety bond in Criminal Case No. SD (07)-1716 since the offense charged is already murder, a non-bailable offense.

Meanwhile, the cases were raffled to RTC Branch 37. On November 22, 2007, the Public Attorney's Office (PAO) filed an *Entry of Appearance and Motion for Investigation/Reinvestigation*^[8] alleging that the accused has not yet been arraigned and moved that he be given the chance to present his evidence before the Office of the Provincial Prosecutor. In an Order^[9] dated January 7, 2008, the trial court granted the *Motion for Reinvestigation*.

Via a Resolution on Reinvestigation^[10] dated March 5, 2008, the Assistant Provincial Prosecutor recommended the filing of the Amended Informations for Homicide and Frustrated Homicide.

Thereafter, the records of both cases were returned to the trial court which issued the two Orders^[11] dated March 28, 2008 setting the arraignment of the accused on April 8, 2008 and fixing his bail in the amounts of P40,000.00 and P24,000.00 for homicide and frustrated homicide, respectively.

On March 31, 2008, the accused filed a *Manifestation and Motion*^[12] basically requesting the trial court to allow him to utilize the surety bonds he previously filed under the original informations and which were already approved by the trial court. To such a request, Industrial Insurance Company, Inc. did not interpose an objection per *Manifestation*^[13] it filed on April 1, 2008. By Order^[14] dated April 8, 2008, the trial court allowed the accused to use said surety bonds for his temporary liberty and ordered his release from the PNP custody.

At the scheduled pre-trial on October 21, 2008, the accused failed to appear despite notice. On even date, the trial court issued an Order^[15] declaring him to have jumped bail and ordering the issuance of a warrant for his arrest. Likewise, the trial court directed his bondsman Industrial Insurance Company, Inc. to produce the accused at the next hearing on February 3, 2009 with a warning that the surety bond would be forfeited in favor of the government should it fail to produce him.

On March 6, 2009, Industrial Insurance Company, Inc. filed a *Motion and Manifestation*^[16] stating that it is exerting efforts with the assistance of the PNP in locating the accused and praying for an order fixing its liability under the Amended Information for Homicide and Frustrated Homicide in the amount of P40,000.00 and P24,000.00, respectively. However, said *Manifestation and Motion* was denied by the trial court with a directive to Industrial Insurance Company, Inc. to produce the accused in court and to explain within 30 days why judgment against its bail bond should not issue.

On August 18, 2009, Industrial Insurance Company, Inc. filed a *Motion to Recall and Cancel IICI Bail Bond Nos. JCR(2) Nos. 012575 and 012576 (and any other subsequent Order confiscating the bonds, Judgment on the Bonds, Writ of Execution and Notice of Garnishments on the bonds that may have been issued)*^[17] alleging the following: (1) that the subject IICI bail bonds are void because they were issued in violation of the printed restrictions that the bonds cannot apply in cases involving murder and in bail bonds which exceed the amount of P100,000.00; (2) that while the printed restrictions may be deleted and modified, there is no showing that its former IICI general agent, Feliciano Enriquez, executed a written endorsement to effect the necessary deletion or modification; (3) that Carino Esteban, who filed the *Manifestation and Motion*, was not authorized by a Special Power of Attorney to bind it when he interposed no objection to the accused's request to use the approved surety bonds for his temporary liberty; (4) that the bail bonds should have been disapproved by the trial court for non submission of a certified true copy of a valid *Certificate of Accreditation and Authority* issued by the Office of the Court Administrator as required under A.M. No. 04-7-02-SC of the Guidelines on Corporate Surety Bonds; and (5) that the surety bonds are defective because the Affidavits of Justification were not fully accomplished thus leaving the vital information in blank, such as the name of the affiant and amount of the undertaking.

In its now assailed Order^[18], the trial court denied Industrial Insurance Company, Inc.'s motion saying that the surety bonds were issued not for the crime of murder since the accused was only charged with two counts of frustrated murder, which were later on changed to homicide and frustrated homicide. The trial court also ruled that the case record, specifically on pages 14 and 15 thereof, contain the certified true copies of the Certification of Accreditation and Authority which negate Industrial Insurance Company, Inc.'s averment that it failed to submit said certificate. The trial court also ruled that although the Affidavits of Justification were unaccomplished, they were still issued together with the bail bond and other supporting documents, which meant that the said Affidavits of Justification can only refer to the particular attached bail bonds. Thus:

"WHEREFORE, foregoing considered, the Motion to Recall and Cancel IICI Bond Nos. JCR (2) 012575 and 102576, etcc. and the Supplement thereto, are hereby DENIED for lack of merit. Accordingly, for failure of bondsman Industrial Insurance Company, Inc. to comply with its undertaking under the bonds, let judgment issue against IICI Bail Bond Nos. JCR (2) 012575 and 012576, to the extent of its limit of P100,000.00 each.

SO ORDERED."

A reconsideration^[19] of the foregoing Order was sought by Industrial Insurance Company, Inc. but failed.

The Issue

Aggrieved, Industrial Insurance Company, Inc. interposed the instant appeal alleging that:

"THE TRIAL COURT ERRED WHEN IT RENDERED A JUDGMENT AGAINST THE SUBJECT BAIL BONDS IN VIOLATION OF THE BONDSMAN'S RIGHT TO DUE PROCESS OF LAW AS WELL AS SECTION 21, RULE 114 OF THE REVISED RULES ON CRIMINAL PROCEDURE."^[20]

The Court's Ruling

The appeal is partly meritorious.

Industrial Insurance Company, Inc. alleges that the trial court failed to furnish it with a notice requiring it to produce the accused before the court on a given date and time as required under Section 21, Rule 114 of the Revised Rules on Criminal Procedure, a clear violation of its right to due process.

It is well-settled that questions not raised before the court below cannot be considered for the first time on appeal. As aptly held by the Supreme Court in the case of *Francisco Madrid and Edgardo Bernardo vs. Spouses Bonifacio Mapoy and*