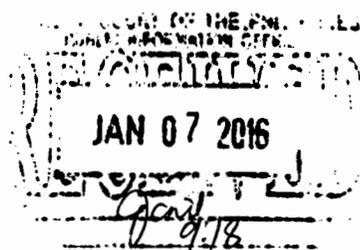




Republic of the Philippines  
**Supreme Court**  
 Manila



**FIRST DIVISION**

**CAPITAL INSURANCE and  
 SURETY CO., INC.,**  
 Petitioner,

**G.R. No. 159979**

Present:

- versus -

SERENO, C.J.,  
 LEONARDO-DE CASTRO,  
 BERSAMIN,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

**DEL MONTE MOTOR WORKS,  
 INC.,**  
 Respondent.

Promulgated:

**DEC 09 2015**

x-----x

**DECISION**

**BERSAMIN, J.:**

Are the securities deposited by the insurance company pursuant to Section 203 of the *Insurance Code* subject of levy by a creditor? The petitioner, a duly registered insurance company, hereby appeals to seek the reversal of the unfavorable affirmative ruling on this issue of the Court of Appeals (CA) promulgated on September 15, 2003.<sup>1</sup> The CA therein held that the securities were not covered by absolute immunity from liability, but could be made to answer for valid and legitimate claims against the insurance company under its contract.

**Antecedents**

On March 3, 1997, the respondent sued Vilfran Liner, Inc., Hilaria F. Villegas and Maura F. Villegas in the Regional Trial Court in Quezon City (RTC) to recover the unpaid billings related to the fabrication and construction of 35 passenger bus bodies. It applied for the issuance of a writ of preliminary attachment. Branch 221 of the RTC, to which the case was

<sup>1</sup> *Rollo*, pp. 31-41; penned by Associate Justice Remedios A. Salazar-Fernando, and concurred in by Associate Justice Eubulo G. Verzola (deceased) and Associate Justice Edgardo F. Sundiam (deceased).

assigned, issued the writ of preliminary attachment, which the sheriff served on the defendants, resulting in the levy of 10 buses and three parcels of land belonging to the defendants. The sheriff also sent notices of garnishment of the defendants' funds in the Quezon City branches of BPI Family Bank, China Bank, Asia Trust Bank, City Trust Bank, and Bank of the Philippine Island.<sup>2</sup> The levy and garnishment prompted defendant Maura F. Villegas to file an *Extremely Urgent Motion to Discharge Upon Filing of a Counterbond*, attaching thereto CISCO Bond No. 00011-00005/JCL(3) dated June 10, 1997 and its supporting documents purportedly issued by the petitioner.<sup>3</sup> On July 2, 1997, the RTC approved the counterbond and discharged the writ of preliminary attachment.<sup>4</sup>

On January 15, 2002, the RTC rendered its decision in favor of the respondent,<sup>5</sup> holding and disposing:

Premises considered, this Court hereby renders judgment in favor of the plaintiff ordering the defendants Vilfran Liner, Inc., Hilaria F. Villegas and Maura Villegas jointly and solidarily liable to pay plaintiff the following:

1. ₱11,835,375.50 including interest as of February 1997, representing the balance of their service contracts with plaintiff on the fabrication and construction of 35 passenger bus bodies.
2. ₱70,000.00, as litigation fees.
3. 25% of the recoverable amount, as attorney's fees; and
4. Costs of suit.

The foregoing judgment shall be enforceable against the counterbond posted by defendant Vilfran Liner, Inc. dated June 10, 1995.

Defendants-third party plaintiffs are entitled to recover from the third party defendants whatever amount is adjudged against the former under the premises. Third party-defendants are directed to reimburse defendants-third party plaintiffs for such monetary judgments adjudged against the latter under the premises.

SO ORDERED.<sup>6</sup>

To enforce the decision against the counterbond dated June 10, 1997, the respondent moved for execution. The RTC granted the motion,<sup>7</sup> over the

---

<sup>2</sup> Id. at 33.

<sup>3</sup> Id.

<sup>4</sup> Id. at 34.

<sup>5</sup> Id. at 13.

<sup>6</sup> Id.

<sup>7</sup> Id. at 95.

petitioner's opposition.<sup>8</sup> Serving the writ of execution,<sup>9</sup> the sheriff levied against the petitioner's personal properties, and later issued the notice of auction sale. On August 15, 2002, the sheriff also served a notice of garnishment against the security deposit of the petitioner in the Insurance Commission.<sup>10</sup>

On September 11, 2002, the respondent moved to direct the release by the depository banks of funds subject to the notice of garnishment from the accounts of the petitioner, and to transfer or release the amount of ₱14,864,219.37 from the petitioner's security deposit in the Insurance Commission.<sup>11</sup> On September 26, 2002, the petitioner opposed the respondent's motion.<sup>12</sup>

Prior to the filing of its opposition, the petitioner presented evidence in the RTC on September 12, 2002 in the form of the affidavits of its witnesses, namely: Sheila L. Padilla and Nelia C. Laxa, who were both subjected to cross examination.

In her sworn affidavit,<sup>13</sup> Sheila L. Padilla stated thusly:

1. I am presently the Manager of the Surety Service Office of the Capital Insurance and Surety Co., Inc ("CISCO"). I was a liaison officer of CISCO in 1998;

2. My duties and functions as Manager of the Surety Service Office are to evaluate and verify documents submitted by the principal before the approval and issuing a certain bond. I am also responsible for the liquidation and cancellation of Customs Bonds and its clearances with the different ports;

3. I am familiar with the procedures followed by CISCO in 1997 before they issue and accept surety bonds which include counterbonds for attachment;

4. x x x.

5. If the insured amount exceeds P5 Million the approval of the President of CISCO or the Chief Operating Officer is required and either one of them signs the bond. The amount of the deposit or the value of the mortgaged property should be equal to or in excess of the amount of the coverage. After submission of the documents and payment of the premium the surety bond is issued to the insured. The duplicate originals of the bond and the Indemnity Agreement are transmitted to the main office. The collaterals and the other documents are kept in Service Office which

---

<sup>8</sup> Id. at 93-94.

<sup>9</sup> Id. at 96-97.

<sup>10</sup> Id. at 98.

<sup>11</sup> Id. at 35.

<sup>12</sup> Id. at 14.

<sup>13</sup> Id. at 119-121.

issued the bond. The main office includes the surety bond issued in the quarterly report to the main Insurance Commission;

6. I know a certain Mr. Pio Ancheta and Mr. Carlito D. Alub who were the Vice-President for Surety and Asst. Branch Manager of the Manila Service Office of CISCO, respectively, in 1997. They are no longer connected with CISCO since 1998;

7. I first learned of the purported issuance of CISCO BOND NO. JCL(3)00005 issued on July 10, 1997 from our Manila Service Office sometime in July of 2002 when I was tasked by our counsel, Atty. Rodolfo Gascon, to verify the same from the records of CISCO;

8. At that time the Manila Service Office of CISCO was already closed so I searched for the purported CISCO BOND NO. JCL(3)00005 in our warehouse but despite diligent efforts could not locate the same;

9. There is no proof from CISCO's records that CISCO BOND NO. JCL(3)00005 was ever issued or transmitted to the main office for filing. There is no proof in our records that the premium has been paid or that the counter-security which CISCO normally requires has been issued by insured;

10. I also know that the authority of Mr. Ancheta and Mr. Carlito D. Alub to issue surety like the CISCO BOND NO. JCL(3)00005 is restricted to only P5 Million. Any amount beyond that should have the approval of the President, Mr. Aurelio M. Beltran;

11. The amount of the coverage of the purported CISCO BOND NO. JCL(3)00005 is beyond the *maximum retention capacity* of CISCO which is P10,715,380.54 as indicated in the letter of the Insurance Commissioner dated August 5, 1996 (which appears in p. 320 of the Court Records);

12. CISCO's records also show that as early as 1998, an audit was conducted of the accountable forms in the Manila Service Office before it was closed in 1998. An audit was conducted where it was discovered that CISCO BOND NO. JCL(3)00005 was missing and unaccounted.

Similarly, Nelia C. Lax, declared in an affidavit<sup>14</sup> the following:

1. I was a member of the Audit Department of Capital Insurance and Surety Co., Inc. ("CISCO");

2. In 1998 before the Manila Service Office of CISCO was closed, I was tasked to audit the records and accountable forms of the said office, including the forms for JCL (3) which are the counterbonds for attachments;

3. I and Mr. Joel S. Chua made a count of all the accountable forms of the said office, including the JCL(3) forms approved by the

---

<sup>14</sup> Id. at 106-107.

Insurance Commissioner and we discovered the CISCO BOND NO. JCL(3)00005 was missing and unaccounted for;

4. Mr. Chua and I prepared a report of our audit findings indicating therein the missing CISCO BOND NO. JCL(3)00005. A copy of the audit report is attached hereto as **Annex "A"** and the pertinent portion thereof as **Annex "A-1"**;

5. Upon being presented, a photocopy of the missing CISCO BOND JCL(3)00005, I noticed that the signature appearing thereon above my name as witness is not my signature.

On October 2, 2002, the petitioner, through its *Very Urgent Motion to Stay Auction Sale of Levied Personal Properties*, sought the stay of the auction sale until the RTC resolved the issue of validity or enforceability of CISCO BOND No. JCL(3)00005.<sup>15</sup>

On December 18, 2002, the RTC issued its assailed resolution,<sup>16</sup> viz.:

The Motion dated September 11, 2002 of plaintiff is hereby GRANTED. As prayed for, the Manager or any authorized officer of the following banks are ordered to release the funds under the account of Capital Insurance and Surety Co., Inc., subject of Notice of Garnishment of Deputy Sheriff Manuel S. Paguyo, to wit:

- a) Asia United Bank, Pasig City
- b) Banco de Oro, Head Office, Pasig City
- c) Philippine National Bank, Banawe, Quezon City
- d) East-West Bank, Makati City
- e) United Coconut Planters Bank, Makati City
- f) Manila Bank, Ayala Avenue, Makati City
- g) International Exchange Bank, Makati City

Furthermore, the Commissioner of the Office of the Insurance commissioner is hereby ordered to comply with its obligations under the Insurance Code by upholding the integrity and efficacy of bonds validly issued by duly accredited Bonding and Insurance Companies; and to safeguard the public interest by insuring the faithful performance to enforce contractual obligations under existing bonds. Accordingly said office is ordered to withdraw from security deposit of Capital Insurance & Surety Company, Inc. the amount of ₱11,835,375.50 to be paid to Sheriff Manuel S. Paguyo in satisfaction of the Notice of Garnishment served on August 16, 2002.<sup>17</sup>

On December 27, 2002, the sheriff served a copy of the assailed resolution on the then Insurance Commissioner Edgardo T. Malinis, with the request for him to release the security deposit. However, Insurance Commissioner Malinis turned down the request to release, citing Section 203

<sup>15</sup> Id. at 128-129.

<sup>16</sup> Id. at 131-145.

<sup>17</sup> Id. at 144-145.

↗

of the *Insurance Code*, which expressly provided that the security deposit was exempt from execution.<sup>18</sup>

On January 8, 2003, the respondent moved to cite Insurance Commissioner Malinis in contempt of court for refusing to comply with the RTC's resolution.<sup>19</sup>

On January 16, 2003, the RTC, finding no lawful justification for the Insurance Commissioner's refusal to comply with the order of the RTC, declared him guilty of indirect contempt of court.<sup>20</sup>

Meanwhile, on January 21, 2003, the petitioner filed a *Motion for Reconsideration*<sup>21</sup> against the December 18, 2002 resolution, but the RTC denied the motion on January 30, 2003.<sup>22</sup>

Thus, the petitioner assailed the resolution of December 18, 2002 and the order of January 30, 2003 by petition for *certiorari* in the CA.<sup>23</sup>

### Decision of the CA

On September 15, 2003, the CA dismissed the petitioner's petition for *certiorari*, explaining:

Per records of the Office of the Insurance Commission, petitioner CISCO is a duly accredited insurance and bonding company. Hence, a counterbond issued by it constitutes a valid and binding contract between petitioner CISCO and the court. As such, the counterbond it issued xxx is valid. No evidence was presented by petitioner CISCO to dispute its validity. Its contention that Pio Ancheta and Carlito Alub, petitioner CISCO's Vice President for Surety and Asst. Branch Manager, respectively, of the Manila Service Office were not authorized to sign the counterbond does not hold water. x x x.

Further, petitioner CISCO avers that the subject CISCO Bond No. 00005/JCL(3), is among those missing from its custody. Granting without admitting that this is true, it is incumbent upon petitioner CISCO to inform the court of such loss. Sad to say, petitioner CISCO failed to do so. x x x.

x x x x

If indeed, CISCO Bond No. JCL (3)00005 was lost, petitioner CISCO should have inform (sic) the court of such loss. It is incumbent

---

<sup>18</sup> Id. at 148-149.

<sup>19</sup> Id. at 150-154.

<sup>20</sup> Id. at 156-157.

<sup>21</sup> Id. at 158-163.

<sup>22</sup> Id. at 164-165.

<sup>23</sup> Id. at 166-183.

upon petitioner CISCO to protect and safeguard the bonds it issues. Needless to say, this Court finds the petitioner CISCO's act as a thinly veiled attempt to renege on its obligation under the insurance contract it issued.<sup>24</sup>

The CA opined that the security deposit could answer for the depositor's liability, and be the subject of levy in accordance with Section 203 of the *Insurance Code*, viz.:

Section 203 of the Insurance Code is clear and unequivocal that the security deposit will be held by the Insurance Commissioner for the faithful performance by the depositing insurer of all its obligations under its insurance contracts. As aptly pointed out by the lower court, Section 203 does not provide for an absolute immunity of the security deposit from liability. The security deposit under this section is not designed to shield the insurance companies from valid and legitimate claims under its contract, for to do so would render bonds futile and useless.

Section 192 of the same Code will not apply as an exception to Section 203 because the former speaks of a situation where the Insurance Commissioner shall hold the security deposit for the benefit of the policy holders and from time to time with his assent allow the company "to withdraw any of such securities" as long as the company is solvent. It contemplates of a situation where the security deposit may be returned only if the company ceased to do business. It does not in any manner exempt the security deposit from the insurance company's obligations under its contracts. x x x.<sup>25</sup>

### Issues

Hence, this appeal, with the petitioner raising the following as issues:

#### I

THE COURT OF APPEALS ERRED IN RULING THAT THE COUNTERBOND FILED IN THE TRIAL COURT WAS A VALID AND SUBSISTING OBLIGATION OF THE PETITIONER

#### II

THE COURT OF APPEALS ERRED IN RULING THAT THE SECURITIES DEPOSITED BY THE PETITIONER INSURANCE COMPANY MAY BE THE SUBJECT OF LEVY IN CONTRAVENTION OF SECTION 203 OF THE INSURANCE CODE<sup>26</sup>

### Ruling of the Court

The appeal is meritorious.

<sup>24</sup> Supra note 1, at 36-39.

<sup>25</sup> Id. at 39-40.

<sup>26</sup> Id. at 18-19.

**I.****Validity of the petitioner's counterbond**

Essentially, the petitioner, through the officers of its Audit Department and its Manila Surety Service Office, disputed the validity of CISCO Bond No. 00005/JCL(3) on several grounds, namely: (1) under the petitioner's rules, any coverage exceeding ₱5,000,000.00 required the approval of its President and Chief Operating Officer. Given that the amount involved was ₱10,715,380.54, but the counterbond was signed only by Pio C. Ancheta, the Vice President for Surety, and Carlito D. Alub, the Assistant Branch Manager of the Manila Surety Service Office, whose authority to issue surety bonds was restricted to only ₱5,000,000.00; hence, the counterbond was invalid for being issued without proper authority; (2) an audit of the records and accountable forms of the petitioner revealed that the counterbond was among the missing and unaccounted for; (3) a photocopy of the missing counterbond showed that Nelia Laxa's signature appearing above her name as witness was a forgery; and (4) no evidence was presented to prove that the premiums for the counterbond were paid.

The petitioner cannot evade liability under the counterbond by hiding behind its own internal rules. Although a prospective applicant seeking insurance coverage is expected to exercise prudence and diligence in selecting the insurance provider, such responsibility does not require the prospective applicant to know and be aware of the insurer's internal rules, policies and procedure adopted for the conduct of its business. Considering that the petitioner has been a duly accredited bonding company, the officers who signed the bonds were presumed to be acting within the scope of their authority in behalf of the company, and the courts were not expected to verify the limits of the authority of the signatories of the bonds submitted in the regular course of judicial business, in the same manner that the applicants for the bonds were not expected to know the limits of the authority of the signatories. To insist otherwise is absurd. It is reasonable to hold here, therefore, that as between the petitioner and the respondent, the one who employed and gave character to the third person as its agent should be the one to bear the loss. That party was the petitioner.

Likewise, the petitioner's argument that the counterbond was invalid because the counterbond was unaccounted for and missing from its custody was implausible. The argument totally overlooks a simple tenet that honesty, good faith, and fair dealing required it as the insurer to communicate such an important fact to the assured, or at least keep the latter updated on the relevant facts. A contrary view would place every person seeking insurance at the insurer's mercy because the latter would simply claim so just to escape liability, thus causing uncertainty to the public and defeating the very purpose for which the insurance was contracted.

The petitioner's contention that there was no evidence to show that the premiums for the counterbond were paid has no merit. To start with, the petitioner did not present any evidence to back up the contention. The bare allegation of non-payment had no weight, for mere allegation, unsubstantiated by evidence, did not equate to proof.<sup>27</sup> In any event, both the RTC and the CA found that the counterbond was approved and signed by both Ancheta and Alub, whose signatures were genuine. If the premiums were not paid, such officers of the petitioner would not have approved the counterbond in the first place.

An insurer or bonding company like the petitioner that seeks to defeat a claim on the ground that the counterbond was invalidly issued has the burden of proving such defense. However, the petitioner did not discharge the burden herein. No less than the officers charged with the responsibility of making sure that all forms and records of the petitioner were audited admitted that the missing counterbond was in fact a valid pre-approved form of the Insurance Commission, so that the absence or lack of the signature of the president did not render the bond invalid. Moreover, Laxa knew that as a matter of long practice both Ancheta and Alub normally signed and approved the counterbonds, regardless of the amounts thereof. She further knew of no rule that limited the authority of Ancheta and Alub to issue and sign counterbonds only up to ₱5,000,000.00.

In this regard, the CA correctly sustained the following findings of the RTC on the matter,<sup>28</sup> to wit:

On this score, this Court quotes with approval the lower court's resolution, to wit:

Ms Nelia Laxa's affidavit, in substance, declares that she was a member of the Audit Department of CISCO; that in 1998, before the Manila Service Office of CISCO was closed, she was tasked to audit the records and accountable forms including the forms for JCL (3) which are the counterbond for attachment; that she and Mr. Chua discovered that CISCO Bond No. JCL (3)00005 was missing and unaccounted for; that she prepared an audit report indicating the missing CISCO Bond No. JCL(3)00005.

On cross examination, Ms. Laxa admitted that as an employee of the Manila Service Office of CISCO in 1997 she was not aware of the Office policy of CISCO that Mr. Ancheta and Mr. Alub were not authorized to sign counterbonds issued over P5M and that she knew as a clerk in 1997, it was Mr. Ancheta and Mr. Alub who approve counterbonds regardless of

<sup>27</sup> *Real v. Belo*, G.R. No. 146224, January 26, 2007, 513 SCRA 111, 125.

<sup>28</sup> *Rollo*, pp. 37-38.

the amount (TSN, Sept. 17, 2002, pp. 43-44); that she admitted that the missing JCL (3) forms were formerly on file with the Manila Service Office of CISCO in 1997 and were missing in July 2002. (TSN, Sept. 17, 2002, pp. 45-46); that when asked by the Court after being shown of CISCO Bond No. JCL (3) 00005, she admitted that it was a valid pre-approved form by the insurance commission and that the signatures of Mr. Ancheta and Mr. Alub on CISCO Bond No. JCL (3)00005 are their signatures based on her familiarity with the signatures of both persons. (TSN, Sept. 17, 2002, pp. 50-53)

Likewise, Ms. Ester Abrogado, Chief Insurance Specialist of the Rating Division of the OIC testified that she is familiar with the security deposit of insurance companies which are required to have a minimum paid up capital stock of ₱15M, 25% of which is deposited with the OIC in the form of security deposit. x x x. This testimony was corroborated by Sigfredo Aclaracion, Supervising Insurance Specialist, Regulation Division of the OIC who further stated that they have no way of finding out whether a particular bond issued by a bonding company is valid or spurious; and that there is no legal opinion from the Department of Justice, the Office of the Corporate General Counsel or the legal Department OIC on the matter of the liability of security deposit to answer for a judgment which become final and executor.

We emphasize that we have no reason to disturb the factual findings of the RTC, as affirmed by the CA, in the absence of any clear showing by the petitioner of any abuse, arbitrariness or capriciousness committed by the trial court; hence, the findings of facts of the RTC, especially after being affirmed by the CA as the appellate court, are binding and conclusive upon this Court.<sup>29</sup>

## II. The security deposit was immune from levy or execution

Anent the security deposit, Section 203 of the *Insurance Code* provides as follows:

Every domestic insurance company shall, to the extent of an amount equal in value to twenty-five *per centum* of the minimum paid-up capital required under section one hundred eighty-eight, invest its funds only in securities, satisfactory to the Commissioner, consisting of bonds or other evidences of debt of the Government of the Philippines or its political subdivisions or instrumentalities, or of government-owned or controlled corporations and entities, including the Central Bank of the Philippines: *Provided*, That such investments shall at all times be maintained free from any lien or encumbrance; and *Provided, further*, That such securities shall be deposited with and held by the Commissioner for the faithful performance by the depositing insurer of all its obligations

---

<sup>29</sup> *Plameras v. People of the Philippines*, G.R. No. 187268, September 4, 2013, 705 SCRA 104, 122.

under its insurance contracts. The provisions of section one hundred ninety-two shall, as far as practicable, apply to the securities deposited under this section.

Except as otherwise provided in this Code, **no judgment creditor or other claimant shall have the right to levy upon any securities of the insurer held on deposit under this section or held on deposit pursuant to the requirement of the Commissioner.**

The forthright text of provision indicates that the security deposit is exempt from levy by a judgment creditor or any other claimant. This exemption has been recognized in several rulings, particularly in *Republic v. Del Monte Motors, Inc.*,<sup>30</sup> the prequel case for this ruling, where the Court has ruled:

x x x As worded, the law expressly and clearly states that the security deposit shall be (1) answerable for *all* the obligations of the depositing insurer under its insurance contracts; (2) *at all times* free from any liens or encumbrance; and (3) exempt from levy by any claimant.

To be sure, CISCO, though presently under conservatorship, has valid outstanding policies. Its policy holders have a right under the law to be equally protected by its security deposit. To allow the garnishment of that deposit would impair the fund by decreasing it to less than the percentage of paid-up capital that the law requires to be maintained. Further, this move would create, in favor of respondent, a preference of credit over the other policy holders and beneficiaries.

Our Insurance Code is patterned after that of California. Thus, the ruling of the state's Supreme Court on a similar concept as that of the security deposit is instructive. *Engwicht v. Pacific States Life Assurance Co.* held that the money required to be deposited by a mutual assessment insurance company with the state treasurer was "a trust fund to be ratably distributed amongst all the claimants entitled to share in it. Such a distribution cannot be had except in an action in the nature of a creditors' bill, upon the hearing of which, and with all the parties interested in the fund before it, the court may make equitable distribution of the fund, and appoint a receiver to carry that distribution into effect." (Emphasis supplied)

*Republic v. Del Monte Motors, Inc.*<sup>31</sup> also spelled out the purpose for the enactment of Section 203 of the *Insurance Code*, to wit:

Basic is the statutory construction rule that provisions of a statute should be construed in accordance with the purpose for which it was enacted. **That is, the securities are held as a contingency fund to answer for the claims against the insurance company by all its policy holders and their beneficiaries. This step is taken in the event that the company becomes insolvent or otherwise unable to satisfy the claims**

<sup>30</sup> G.R. No. 156956, October 9, 2006, 504 SCRA 53, 60-61.

<sup>31</sup> Id. at 61-62.

**against it. Thus, a single claimant may not lay stake on the securities to the exclusion of all others. The other parties may have their own claims against the insurance company under other insurance contracts it has entered into.** (bold emphasis ours)

The simplistic interpretation of Section 203 of the *Insurance Code* by the CA ostensibly ran counter to the intention of the statute and the Court's pronouncement on the matter. We cannot uphold the CA's interpretation, therefore, because the holders or beneficiaries of the policies of an insolvent company would thereby likely end up becoming unpaid claimants. Besides, denying the exemption would potentially pave the way for a single claimant, like the respondent, to short-circuit the procedure normally undertaken in adjudicating the claims against an insolvent company under the rules on concurrence and preference of credits in order to ensure that none could obtain an advantage or preference over another by virtue of an attachment or execution. To allow the respondent to proceed independently against the security deposit of the petitioner would not only prejudice the policy holders and their beneficiaries, but would also annul the very reason for which the law required the security deposit.

What right, if any, did the respondent have in the petitioner's security deposit?

According to *Republic v. Del Monte Motors, Inc.*,<sup>32</sup> the right to claim against the security deposit is dependent on the solvency of the insurance company, and is subject to all other obligations of the insurance company arising from its insurance contracts. Accordingly, the respondent's interest in the security deposit could only be inchoate or a mere expectancy, and thus had no attribute as property.

Was the Insurance Commissioner's refusal to release the security deposit despite the garnishment on execution legally justified?

The Insurance Commissioner's refusal to release was legally justified. Under Section 191 and Section 203 of the *Insurance Code*, the Insurance Commissioner had the specific legal duty to hold the security deposits for the benefit of all policy holders. In this regard, *Republic v. Del Monte Motors, Inc.*<sup>33</sup> has also been clear, viz.:

The Insurance Code has vested the Office of the Insurance Commission with both *regulatory* and *adjudicatory* authority over insurance matters.

---

<sup>32</sup> Id. at 60-61.

<sup>33</sup> Id. at 62-65.

The general regulatory authority of the insurance commissioner is described in Section 414 of the Code as follows:

“Sec. 414. The Insurance Commissioner shall have the duty to see that all laws relating to insurance, insurance companies and other insurance matters, mutual benefit associations, and trusts for charitable uses are faithfully executed *and to perform the duties imposed upon him by this Code*, and shall, notwithstanding any existing laws to the contrary, have sole and exclusive authority to regulate the issuance and sale of variable contracts as defined in section two hundred thirty-two and to provide for the licensing of persons selling such contracts, and to issue such reasonable rules and regulations governing the same.

*“The Commissioner may issue such rulings, instructions, circulars, orders and decisions as he may deem necessary to secure the enforcement of the provisions of this Code, subject to the approval of the Secretary of Finance. Except as otherwise specified, decisions made by the Commissioner shall be appealable to the Secretary of Finance.”* (Emphasis supplied)

x x x x

Included in the above regulatory responsibilities is the duty to hold the security deposits under Sections 191 and 203 of the Code, for the benefit and security of all policy holders. In relation to these provisions, Section 192 of the Insurance Code states:

“Sec. 192. The Commissioner shall hold the securities, deposited as aforesaid, for the benefit and security of all the policyholders of the company depositing the same, but shall as long as the company is solvent, permit the company to collect the interest or dividends on the securities so deposited, and, from time to time, *with his assent, to withdraw any of such securities*, upon depositing with said Commissioner other like securities, the market value of which shall be equal to the market value of such as may be withdrawn. In the event of any company ceasing to do business in the Philippines *the securities deposited as aforesaid shall be returned upon the company's making application therefor and proving to the satisfaction of the Commissioner that it has no further liability under any of its policies in the Philippines.*” (Emphasis supplied)

Undeniably, the insurance commissioner has been given a wide latitude of discretion to regulate the insurance industry so as to protect the insuring public. **The law specifically confers custody over the securities upon the commissioner, with whom these investments are required to be deposited. An implied trust is created by the law for the benefit of all claimants under subsisting insurance contracts issued by the insurance company.**

**As the officer vested with custody of the security deposit, the insurance commissioner is in the best position to determine if and**

**when it may be released without prejudicing the rights of other policy holders.** Before allowing the withdrawal or the release of the deposit, the commissioner must be satisfied that the conditions contemplated by the law are met and all policy holders protected. (bold emphasis supplied)

Under the circumstances, the Insurance Commissioner properly refused the request to release issued by the sheriff under the notice of garnishment, and was not guilty of contempt of court for disobedience to the assailed order of December 18, 2002 of the RTC.

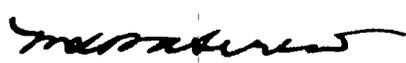
**WHEREFORE**, the Court **PARTIALLY GRANTS** the petition for review on *certiorari*; **REVERSES** the decision of the Court of Appeals in so far as it allowed the withdrawal of ₱11,835,375.50 from petitioner Capital Insurance & Surety Company's security deposit in the Insurance Commission to comply with the notice of garnishment served on August 16, 2002; **AFFIRMS** the decision promulgated on September 15, 2003 in all other respects; and **MAKES NO PRONOUNCEMENT** on costs of suit.

**SO ORDERED.**



LUCAS P. BERSAMIN  
Associate Justice

**WE CONCUR:**



MARIA LOURDES P. A. SERENO  
Chief Justice



TERESITA J. LEONARDO-DE CASTRO  
Associate Justice



JOSE PORTUGAL PEREZ  
Associate Justice



ESTELA M. PERLAS-BERNABE  
Associate Justice

**CERTIFICATION**

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



**MARIA LOURDES P. A. SERENO**  
Chief Justice