



Republic of the Philippines
Supreme Court
Manila

EN BANC

EUFEMIA A. CAMINO,
Complainant,

A.C. No. 11095

Present:

SERENO, C. J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA, and
CAGUIOA, JJ.

- versus -

Promulgated:

ATTY. RYAN REY L. PASAGUI,
Respondent.

January 31, 2017

X ----- X

RESOLUTION

PER CURIAM:

Before the Court is a Motion for Issuance of Writ of Execution¹ filed by Complainant Eufemia A. Camino, relative to the Court's *Per Curiam* Decision dated September 20, 2016 in A.C. No. 11095.

¹ Rollo, pp. 269-271.

In a Disbarment Complaint dated July 13, 2011 filed by complainant against respondent Atty. Ryan Rey L. Pasagui (*Atty. Pasagui*) before the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*), docketed as CBD Case No. 11-3140, now A.C. No. 11095, complainant alleged, among other things, that respondent violated their agreement for the latter to facilitate and secure a loan in order to finance the payment of necessary expenses to transfer the title of a certain property under her name. She claimed that respondent obtained a loan in her name and that of her husband, using their property as collateral, but Atty. Pasagui arrogated the proceeds thereof to himself.

In a *Per Curiam* Decision² dated September 20, 2016, the Court, ruling in favor of the complainant, found that respondent was guilty of deceit, malpractice and gross misconduct for converting the money of his client to his own personal use without her consent. By his failure to make good of their agreement to use the proceeds of the loan for the transfer of the title in complainant's name, Atty. Pasagui not only betrayed the trust and confidence reposed upon him by his client, but he is likewise guilty of engaging in dishonest and deceitful conduct. For his acts, Atty. Pasagui degraded himself and besmirched the fair name of an honorable profession. Thus, the Court affirmed the findings and conclusions of the IBP Board of Governors, but modified the recommended penalty and instead imposed the penalty to Disbarment. The Court also ordered Atty. Pasagui to return the loan proceeds he received from Perpetual Help Credit Cooperative, Inc. (*PHCCI*) on behalf of the complainant, with interest, together with all the documents pertinent to the loan application and those he received from the complainant, to wit:

WHEREFORE, Resolution No. XXI-2014-938 dated December 14, 2014 of the IBP-Board of Governors which found respondent Atty. Ryan Rey L. Pasagui **GUILTY** of violation of Rule 1.01 of the Code of Professional Responsibility is **AFFIRMED with MODIFICATION as to the penalty**. Respondent Atty. Ryan Rey L. Pasagui is instead meted the penalty of **DISBARMENT**. Respondent is further **ORDERED** to immediately **RETURN** the loan proceeds amounting to ₱1,000,000.00 and to pay legal interest at the rate of twelve percent (12%) *per annum* computed from the release of the loan on February 15, 2011 up to June 30, 2013, and six percent (6%) *per annum* from July 1, 2013 until fully paid, as well as, the ₱120,000.00 received for the purpose of transferring the title in the name of the complainant and to pay legal interest at the rate of twelve percent (12%) *per annum* computed from receipt of the amount on February 3, 2011 up to June 30, 2013, and six percent (6%) *per annum* from July 1, 2013 until fully paid. He is likewise **ORDERED** to **RETURN** all other documents pertinent to the loan obtained from PHCCI and those received from complainant.

Let a copy of this Decision be furnished to the Office of the Bar Confidant, to be appended to the personal record of respondent; the

² *Id.* at 248-258.

J. B. Alayon, Jr.

Integrated Bar of the Philippines; and the Office of the Court Administrator for circulation to all courts in the country for their information and guidance.

This Decision shall be immediately executory.

SO ORDERED.³

In the present Motion for Issuance of Writ of Execution, complainant now prays for the issuance of a Writ of Execution for the enforcement of the said judgment.

Generally, once a judgment or order becomes final and executory, the judgment obligee may file a motion for the issuance of a writ of execution in the court of origin as provided for under Rule 39, Sec. 1, of the 1997 Rules of Civil Procedure, *viz.*:

SEC. 1. Execution upon judgments or final orders. — Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

Likewise, a judgment or final order may also be executed pending appeal as provided for in Rule 39, Sec. 2, as follows:

SEC. 2. Discretionary execution. -

- (a) **Execution of a judgment or final order pending appeal.** - On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

³

Id. at 256-257.

By: [Signature]

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

- (b) **Execution of several, separate or partial judgments.** — A several, separate or partial judgment may be executed under the same terms and conditions as execution of a judgment or final order pending appeal.

Corollarily, judgments declared to be immediately executory, as in the present case, are enforceable after their rendition. Similar to judgments or orders that become final and executory, the execution of the decision in the case at bar is already a matter of right.⁴ The judgment obligee may, therefore, file a motion for the issuance of a writ of execution in the court of origin as provided for under Rule 39, Sec. 1, of the 1997 Rules of Civil Procedure.

In this particular case, however, the case did not originate from the lower courts, but instead is an original action for disbarment filed by the complainant against Atty. Pasagui, accusing the latter of Estafa through Abuse of Confidence.⁵

Consequently, pursuant to Section 6,⁶ Rule 135 of the Rules of Court, the Clerk of Court of the Supreme Court should issue the Writ of Execution prayed for. But, in as much as this Court does not have a sheriff of its own to execute its own decision and considering that the complainant resides in Tacloban City, the **Ex-Officio Sheriff of Tacloban City** is directed to execute the money judgment against the respondent in accordance with Rule 39, Section 9⁷ of the Rules of Court. Likewise, the **Ex-Officio Sheriff of**

⁴ See *Anama v. Court of Appeals*, 680 Phil. 305 (2012).

⁵ *Rollo*, p. 2.

⁶ **Section 6. Means to carry jurisdiction into effect.** — When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears comfortable to the spirit of the said law or rules.

⁷ **SEC. 9. Execution of judgments for money, how enforced. - (a) Immediate payment on demand.** - The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

(b) Satisfaction by levy. - If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value

Handwritten signature

Tacloban City is ordered to enforce the Court's directive for respondent to return all the pertinent documents in his possession to the complainant pursuant to Section 11⁸ of the Rules of Court.

WHEREFORE, premises considered, the Court resolves to **GRANT** complainant's Motion for Issuance of Writ of Execution by **DIRECTING** the **Clerk of Court** of the Supreme Court to issue the Writ of Execution prayed for **ORDERING** respondent **ATTY. RYAN REY L. PASAGUI**:

- 1. To IMMEDIATELY RETURN to complainant EUFEMIA A. CAMINO the amount of ₱1,000,000.00, plus interest of 12% per annum from February 15, 2011 up to June 30, 2013; and interest of 6% per annum from July 1, 2013 until fully paid;**
- 2. To pay to complainant EUFEMIA A. CAMINO the further amount of ₱120,000.00, plus interest of 12% per annum from February 3, 2011 up to June 30, 2013; and interest of 6% per annum from July 1, 2013 until fully paid; and**

and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

(c) **Garnishment of debts and credits** . - The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash, or certified bank check issued in the name of the judgment obligee, shall be delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the court.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the judgment obligee.

The executing sheriff shall observe the same procedure under paragraph (a) with respect to delivery of payment to the judgment obligee.

⁸ **SEC. 11. Execution of special judgments.** - When a judgment requires the performance of any act other than those mentioned in the two preceding sections, a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment.

ryl pasagui

3. To forthwith return to complainant EUFEMIA A. CAMINO all other documents pertinent to the loan obtained from PHCCI and those received from complainant.

The Clerk of Court of the Supreme Court shall transmit the Writ of Execution to the Clerk of Court and *Ex Officio* Sheriff of the Regional Trial Court in Tacloban City (with the certified copies of this Resolution and the decision promulgated on September 20, 2016) for prompt service and implementation either directly or by a duly authorized deputy sheriff.

The legal fees for the service and implementation of the Writ of Execution as provided in Rule 141 of the *Rules of Court* shall be paid by respondent ATTY. PASAGUI.

The Executive Judge of the Regional Trial Court in Tacloban City is hereby expressly authorized to oversee the proceedings of execution; act on and resolve any incident arising therefrom; issue *alias* writ of execution, if necessary, as if the judgment under execution was rendered by the Regional Trial Court; receive and approve the Sheriff's Return on satisfaction (full or partial) or failure of satisfaction; and to submit a final Report on the execution to the Clerk of Court of the Supreme Court.

Complainant EUFEMIA A. CAMINO is directed to hereafter deal with the Clerk of Court and *Ex Officio* Sheriff of Tacloban City in relation to the enforcement of the decision promulgated in this administrative matter.

SO ORDERED.



MARIA LOURDES P. A. SERENO

Chief Justice



ANTONIO T. CARPIO

Associate Justice



PRESBITERO J. VELASCO, JR.

Associate Justice

Terésita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
 Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
 Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
 Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
 Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
 Associate Justice

Estela M. Berlas-Bernabe
ESTELA M. BERLAS-BERNABE
 Associate Justice

Marvic M.V.F. Leonen
MARVIC M.V.F. LEONEN
 Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA
 Associate Justice

Aleredo Benjamin S. Caguioa
ALEREDO BENJAMIN S. CAGUIOA
 Associate Justice

CERTIFIED XEROX COPY:
Felipa B. Anama
FELIPA B. ANAMA
 CLERK OF COURT, EN BANC
 SUPREME COURT