

## EN BANC

[ A.C. No. 11095, January 31, 2017 ]

**EUFEMIA A. CAMINO, COMPLAINANT, VS. ATTY. RYAN REY L. PASAGUI, RESPONDENT.**

### R E S O L U T I O N

#### PER CURIAM:

Before the Court is a Motion for Issuance of Writ of Execution<sup>[1]</sup> filed by Complainant Eufemia A. Camino, relative to the Court's *Per Curiam* Decision dated September 20, 2016 in A.C. No. 11095.

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* Decision<sup>[2]</sup> 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 P1,000,000.00 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 P120,000.00 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 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.**<sup>[3]</sup>

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.

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.<sup>[4]</sup> 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.<sup>[5]</sup>

Consequently, pursuant to Section 6,<sup>[6]</sup> 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 9<sup>[7]</sup> of the Rules of Court. Likewise, the **Ex-Officio Sheriff of 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 11<sup>[8]</sup> 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 **P1,000,000.00**, 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 **P120,000.00**, 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
3. To forthwith return to complainant **EUFEMIA A. CAMINO** all other documents pertinent to the loan obtained from **PHCCI** and those received