

## FIRST DIVISION

[ A.M. No. P-02-1615, April 29, 2003 ]

**PEDRO MAGNAYE, COMPLAINANT, VS. ERIBERTO R. SABAS,  
CLERK OF COURT IV, MTCC, PUERTO PRINCESA CITY,  
RESPONDENT.**

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

**YNARES-SANTIAGO, J.:**

On November 27, 1995, the spouses Pedro and Lorenza Magnaye filed an action for damages and easment of right of way against Macario Lagan, Jr., Francisco Rañada and Jesus Valdeztamon, which was docketed as Civil Case No. 1353 at the Municipal Trial Court in Cities of Puerto Princesa City.<sup>[1]</sup>

Judgment was rendered on November 24, 1997 as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiffs and against defendant Macario Lagan, Jr.; ordering him to provide, by all means, plaintiffs with an adequate outlet to a public highway. As the right of way has now been disposed of, Macario Lagan, Jr., is hereby ordered to either repurchase the same from their present owners or find any other way of providing a right of way for the plaintiffs. Lagan is further ordered to pay plaintiffs litigation expenses in the amount of five thousand pesos (P5,000.00).

Should Lagan opt to repurchase the right of way, defendants Francisco Rañada and Jesus Valdeztamon are hereby ordered to resell to Lagan a portion of their lots that used to form part of the right of way.

SO ORDERED.<sup>[2]</sup>

Subsequently, upon motion of complainant Pedro Magnaye, a Special Order was issued directing defendant Rañada to remove his concrete fence in order to give complainant a two-meter wide right of way pursuant to the decision.<sup>[3]</sup> However, the decision was never executed.

Meanwhile, Civil Case No. 1353 was dismissed on the ground that the court had no jurisdiction over the subject matter of the action. The Municipal Trial Court ruled that while judgment has already been rendered, the judgment was nonetheless void and subject to attack at anytime.<sup>[4]</sup>

Thus, complainant went to see respondent Eriberto R. Sabas, Clerk of Court of the Municipal Trial Court in Cities, Puerto Princesa City. Respondent agreed to conduct an ocular inspection of the site. On October 10, 1999, respondent went to visit complainant<sup>[5]</sup> who reiterated his request for the enforcement of the decision.