

FLORENTINA LUNA GONZALES, ASSISTED BY HER HUSBAND TOMAS GONZALES, PETITIONERS, VS. THE HONORABLE MARCELINO N. SAYO, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANCH XXXIII,...

G.R. No. 58407. May 30, 1983

Ponente: VASQUEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-58407/>

VASQUEZ, J.:

This is a petition for a writ of mandamus to direct and command respondent Judge Marcelino N. Sayo of the former Court of First Instance of Rizal, Branch XXXIII, Caloocan City, to order the execution of a judgment based on a compromise agreement rendered in Civil Case No. C-7371, entitled "Florentino Luna Gonzales, et al., Plaintiffs, versus Leonel Benjamin, et al., Defendants."

The petition was given due course and the parties were required to submit their memoranda.

Petitioners filed Civil Case No. C-7371 against the private respondents for the recovery of a loan in the amount of P16,243.50 supposed to be secured by a real estate mortgage which, however, was not registered. The petitioners merely took possession of Transfer Certificate of Title No. 258094 of the Registry of Deeds of Rizal covering the land supposedly given in mortgage, which title is not registered in the names of the private respondents. The complaint alleges that of the aforementioned loan, the private respondents had paid only the sum of P5,444.50, thereby leaving an unpaid balance of P10,536.00. The complaint further prays for the recovery of attorney's fees equivalent to twenty-five per cent of all the amounts due and for the appearances of counsel at the rate of P150.00 per appearance, P3,000.00 as actual damages, and P10,000.00 as exemplary damages.

The private respondents filed their answer to the complaint in Civil Case No. C-7371, alleging that the loan they obtained from the petitioners was only P14,000.00 from which was deducted P700.00 by way of advanced interest; that the said loan was made to bear usurious interest at the rate of eleven per cent for six months; and that the private respondents have been offering to pay the loan in installments, but the petitioners refused to receive less than the total amount due. In their answer, the private respondents asserted a counterclaim alleging that they suffered embarrassment, heartaches, anguish and other damages valued at no less than P50,000.00 due to the petitioners' unlawful and unkind acts; and that they were compelled to hire the services of counsel to whom they had paid the amount of P5,000.00 in advance, plus twenty-five per cent of whatever may be recovered, aside from the fee of P150.00 per appearance in court.

The petitioners failed to answer the counterclaim contained in the answer of the private respondents.

On motion of the private respondents, the petitioners were declared in default with respect to said counterclaim and the private respondents were permitted to present their evidence ex-parte. On the basis of the evidence presented by the private respondents in the ex-parte hearing by the Branch Clerk of Court, the trial court rendered judgment on the counterclaim, ordering the petitioners to pay P40,000.00 representing unrealized business

earnings; P20,000.00 as moral damages, P5,000.00 as exemplary damages, twenty-five per cent of the amount recovered as attorney's fees, plus P200.00 per appearance and the P5,000.00 already paid by the private respondents to their counsel, and the costs of suit.

The petitioners filed a motion to lift the order of default and to set aside the said judgment and a supplemental motion for reconsideration. Instead of resolving the said motions, the respondent Court called the parties to a conference and suggested that they settle the case amicably. The efforts of the respondent Court resulted in the execution of a compromise agreement between the parties, reading as follows:

"COMPROMISE AGREEMENT

PARTIES, in the above-entitled case, assisted by their respective counsel, and unto this Honorable Court, respectfully submit their Compromise Agreement, as follows:

Whereas, the plaintiffs provisionally lent to the Defendants the Owner's Duplicate Certificate TCT No. 258094 which is the property subject of the Deed of Real Estate Mortgage and connected with the instant case, purposely to obtain a loan for payment of their obligation;

WHEREAS, the parties agreed to amicably settle the instant case in the total amount of P9,890.00 as full and complete settlement to be paid by the defendants herein to the plaintiffs within two months from date hereof or immediately after the defendants obtain the aforesaid loan, which ever comes first;

WHEREAS, the plaintiffs by virtue of this Compromise Agreement hereby waived all their claims mentioned in the complaint and defendants likewise waived their counterclaims therein.

WHEREAS, any violation of the terms and conditions set forth in this Compromise Agreement, a Writ of Execution shall be immediately issued based on and as prayed for in their respective pleadings.

WHEREFORE, it is respectfully prayed of the Honorable Court that this compromise agreement be considered and approved based on the tenor thereof.

Manila for Caloocan City, August 21, 1980.

FLORENTINA LUNA GONZALES

(Sgd.) Rebecca Benjamin

Plaintiff

REBECCA BENJAMIN

Defendant

By:

(Sgd.) Anacleto Lao

(Sgd.) Leonel Benjamin

TOMAS GONZALES

LEONEL BENJAMIN

Plaintiff

Defendant

By:

(Sgd.) Anacleto Lao

SIGNED IN THE PRESENCE OF:

(Sgd.) Illegible

(Sgd.) Illegible

Witness

Witness

ASSISTED BY:

(Sgd.) Atty. Benigno Dayao

(Sgd.) Atty. Cecilia S. Rivera

ATTYS. BENIGNO DAYAO

ATTY. CECILIA S. RIVERA

AND AVELINO R. SALVADOR

Counsel for the Defendants

Counsel for the Plaintiffs

C/O OOLMC, Milan St.

Rm. 300 El Hogar Filipino

S. Francisco Village

Bldg., Juan Luna, Manila

Taytay, Rizal"

On August 29, 1980, the respondent Court approved the compromise agreement, rendered judgment on the basis of the same, and enjoined the parties to abide and comply with the terms and conditions set forth therein.

Claiming that the private respondents failed to comply with the terms of the compromise agreement, the petitioners filed a motion for the execution of the judgment based on the same. The said motion was set for hearing on March 31, 1981 with due notice to the private respondents who did not manifest any opposition thereto. After the hearing, the said motion was declared submitted for resolution.

On August 14, 1981, upon verification that no action was taken on the motion for execution which was heard on March 31, 1981, the petitioners filed an ex-parte motion for an early resolution of said motion. The motion for execution remained unacted upon up to the filing of this petition in this Court on October 16, 1981. Parenthetically, it may be mentioned that, in the meanwhile, Judge Sayo was afflicted with a serious ailment which eventually caused his retirement from the service.

In their memorandum, the private respondents resist the issuance of the writ of mandamus prayed for by the petitioners on the following grounds: (1) that the petitioners demanded usurious interest on the loan obtained by them; and (2) the petition for mandamus is premature, inasmuch as there is a pending motion filed by the petitioners to lift the order of default and another motion for the reconsideration of the judgment by default.

The objections aired by the private respondents against the grant of the relief prayed for by the petitioners border on the insidious practice of arguing a point just for the sake of it. Their lack of merit is matched only by their irrelevance to the issues involved herein.

The claim of private respondents that the petitioners exacted usurious interest on the loan that they obtained is a closed matter. The same thing is true with the pendency of the motions for the lifting of the order of default and for reconsideration of the original judgment by default rendered by the respondent Court on the counterclaim. Both issues had been foreclosed by the execution of the compromise agreement subsequent to the rendition of the judgment by default, which the Court approved in the judgment based on the same. The rendition of the compromise judgment in fact and in effect resolved the then pending motions to lift the order of default and for the reconsideration of the original judgment by default. Similarly, the execution of the compromise agreement rendered the question of usury moot and academic. It will be noted that in said compromise agreement, the balance of the indebtedness of the private respondents to the petitioners was stated to be only P9,890.00, out of an original loan of P14,000.00 of which the private respondents had previously paid the sum of P5,000.00. The said balance obviously does not include the alleged usurious interest being complained of by the private respondents, the existence of which had been expressly referred to by the respondent Court in its original judgment by default. By acquiescing with the terms of the compromise agreement, the private respondents may no longer complain that the sum they agreed to pay includes usurious interest.

The real issue in this case is whether the writ of mandamus prayed for by the petitioners may issue for the reason that the respondent Court "unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office", and there being "no other plain, speedy and adequate remedy in the ordinary course of law." (Sec. 3, Rule 65, Rules of Court.) An affirmative resolution of this issue is inescapable under the facts obtaining herein.

The compromise agreement expressly provides that the private respondents shall pay to the petitioners the agreed sum of P9,890.00 "within two months from date hereof (August 21, 1980) or immediately after the defendants (private respondents) obtain the aforesaid loan (with which to pay said obligation) whichever comes first." The maximum period of two months for the private respondents to settle this obligation had long since expired. The actuality of the failure to comply with the terms of the compromise agreement is not denied. Due to said violation, a motion for execution was filed and set for hearing with notice to the private respondents who manifested no opposition thereto. Quite obviously, the issuance of the writ of execution prayed for was in order, if not imperative.

In the least, the respondent Court is in duty bound to act on the motion for execution, whether it be to deny or grant the same. While we may not interfere with its discretion, We can lawfully remedy its inaction.

The duty of a court to decide or resolve matters submitted to it for disposition is ministerial and mandatory. The Constitution and applicable laws and rules even fix a period within which to do so. (Sec. 11, Art. X, Constitution; Sec. 11, B.P. 129; Sec. 4[e], P.D. No. 1508; Sec. 18, P.D. No. 946; Sec. 6, P.D. No. 1606; etc.) We have repeatedly ruled that mandamus lies to compel a judge to issue a writ of execution when the judgment had already become final and executory and the prevailing party is entitled to the same as a matter of right. (*De Luna vs. Kayanan*, 61 SCRA 49; *Baldisimo vs. CFI of Capiz*, 21 SCRA 306.)

WHEREFORE, the petition is GRANTED, and the respondent Court, or the particular branch of the Regional Trial Court stationed in Caloocan City to which Civil Case No. C-7371 had been assigned is hereby ordered to issue immediately the writ of execution prayed for by the herein petitioners in said case. The private respondents shall pay the costs.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana and Gutierrez, Jr., JJ., concur.
Relova, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.