

**MUNICIPALITY OF SAN MIGUEL, BULACAN, PETITIONER, VS.
HONORABLE OSCAR C. FERNANDEZ, IN HIS CAPACITY AS THE
PRESIDING JUDGE, BRANCH IV, BALIUAG, BULACAN, THE
PROVINCIAL SHERIFF O...**

G.R. No. 61744. June 25, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

In Civil Case No. 604-B, entitled "Margarita D. Vda. de Imperio, et al. vs. Municipal Government of San Miguel, Bulacan, et al.", the then Court of First Instance of Bulacan, on April 28, 1978, rendered judgment holding herein petitioner municipality liable to private respondents, as follows:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendant Municipal Government of San Miguel, Bulacan, represented by Mayor Mar Marcelo G. Aure and its Municipal Treasurer:

"1. ordering the partial revocation of the Deed of Donation signed by the deceased Carlos Imperio in favor of the Municipality of San Miguel, Bulacan, dated October 27, 1947 insofar as Lots Nos. 1, 2, 3, 4 and 5, Block 11 of Subdivision Plan Psd-20831 are concerned, with an aggregate total area of 4,646 square meters, which lots are among those covered and described under TCT No. T-1831 of the Register of Deeds of Bulacan in the name of the Municipal Government of San Miguel, Bulacan;

"2. ordering the defendant to execute the corresponding Deed of Reconveyance over the aforementioned five lots in favor of the plaintiffs in the proportion of the undivided one-half (1/2) share in the name of plaintiffs Margarita D. Vda. de Imperio, Adoracion, Rodolfo, Conrado, Ernesto, Alfredo, Carlos, Jr. and Juan, all surnamed Imperio, and the remaining undivided one-half (1/2) share in favor of plaintiff-spouses Marcelo E. Pineda and Lucila Pongco;

"3. ordering the defendant municipality to pay to the plaintiffs in the proportion mentioned in the immediately preceding paragraph the sum of P64,440.00 corresponding to the rentals it has collected from the occupants for their use and occupation of the premises from 1970 up to and including 1975, plus interest thereon at the legal rate from January 1970 until fully paid;

"4. ordering the restoration of ownership and possession over the five lots in question in favor of the plaintiffs in the same proportion aforementioned;

"5. ordering the defendant to pay the plaintiffs the sum of P3,000.00 for attorney's fees; and to pay the cost of suit.

"The counterclaim of the defendant is hereby ordered dismissed for lack of evidence presented to substantiate the same.

"SO ORDERED." (pp. 11-12, Rollo)

The foregoing judgment became final when herein petitioner's appeal was dismissed due to its failure to file the record on appeal on time. The dismissal was affirmed by the then Court of Appeals in CA-G.R. No. SP-12118 and by this Court in G.R. No. 59938. Thereafter, herein private respondents moved for issuance of a writ of execution for the satisfaction of the judgment. Respondent judge, on July 27, 1982, issued an order, to wit:

"Considering that an entry of judgment had already been made on June 14, 1982 in G.R. No. L-59938 and;

"Considering further that there is no opposition to plaintiffs' motion for execution dated July 23, 1982,

"Let a writ of execution be so issued, as prayed for in the aforestated motion." (p. 10, Rollo)

Petitioner, on July 30, 1982, filed a Motion to Quash the writ of execution on the ground that the municipality's property or funds are all public funds exempt from execution. The said motion to quash was, however, denied by the respondent judge in an order dated August 23, 1982 and the alias writ of execution stands in full force and effect.

On September 13, 1982, respondent judge issued an order which in part, states:

"It is clear and evident from the foregoing that defendant has more than enough funds to meet its judgment obligation. Municipal Treasurer Miguel C. Roura of San Miguel, Bulacan and Provincial Treasurer of Bulacan Agustin O. Talavera are therefor hereby ordered to comply with the money judgment rendered by Judge Agustin C. Bagasao against said municipality. In like manner, the municipal authorities of San Miguel, Bulacan are like-wise ordered to desist from plaintiffs' legal possession of the property already returned to plaintiffs by virtue of the alias writ of execution.

"Finally, defendants are hereby given an inextendible period of ten (10) days from receipt of a copy of this order by the Office of the Provincial Fiscal of Bulacan within which to submit their written compliance." (p. 24, Rollo)

When the treasurers (provincial and municipal) failed to comply with the order of September 13, 1982, respondent judge issued an order for their arrest and that they will be released only upon compliance thereof.

Hence, the present petition on the issue whether the funds of the Municipality of San Miguel, Bulacan, in the hands of the provincial and municipal treasurers of Bulacan and San Miguel, respectively, are public funds which are exempt from execution for the satisfaction of the money judgment in Civil Case No. 604-B.

Well settled is the rule that public funds are not subject to levy and execution. The reason for this was explained in the case of *Municipality of Paoay vs. Manaois*, 86 Phil. 629 "that they are held in trust for the people, intended and used for the accomplishment of the purposes for which municipal corporations are created, and that to subject said properties and public funds to execution would materially impede, even defeat and in some instances destroy said purpose." And, in *Tantoco vs. Municipal Council of Iloilo*, 49 Phil. 52, it was held that "it is the settled doctrine of the law that not only the public property but also the taxes and public revenues of such corporations cannot be seized under execution against them, either in the treasury or when in transit to it. Judgments rendered for taxes, and the proceeds of such judgments in the hands of officers of the law, are not subject to execution unless so declared by statute." Thus, it is clear that all the funds of petitioner municipality in the possession of the Municipal Treasurer of San Miguel, as well as those in the possession of the Provincial Treasurer of Bulacan, are also public funds and as such they are exempt from execution.

Besides, Presidential Decree No. 477, known as "The Decree on Local Fiscal Administration", Section 2 (a), provides:

"SEC. 2. Fundamental Principles. - Local government financial affairs, transactions, and operations shall be

governed by the fundamental principles set forth hereunder:

"(a) No money shall be paid out of the treasury except in pursuance of a lawful appropriation or other specific statutory authority.

x x x x x x x x"

Otherwise stated, there must be a corresponding appropriation in the form of an ordinance duly passed by the Sangguniang Bayan before any money of the municipality may be paid out. In the case at bar, it has not been shown that the Sangguniang Bayan has passed an ordinance to this effect.

Furthermore, Section 15, Rule 39 of the New Rules of Court, outlines the procedure for the enforcement of money judgment:

"(a) By levying on all the property of the debtor, whether real or personal, not otherwise exempt from execution, or only on such part of the property as is sufficient to satisfy the judgment and accruing cost, if he has more than sufficient property for the purpose;

"(b) By selling the property levied upon;

"(c) By paying the judgment-creditor so much of the proceeds as will satisfy the judgment and accruing costs; and

"(d) By delivering to the judgment-debtor the excess, if any, unless otherwise directed by judgment or order of the court."

The foregoing has not been followed in the case at bar.

ACCORDINGLY, the petition is granted and the order of respondent judge, dated July 27, 1982, granting issuance of a writ of execution; the alias writ of execution, dated July 27, 1982; and the order of respondent judge, dated September 13, 1982, directing the Provincial Treasurer of Bulacan and the Municipal Treasurer of San Miguel, Bulacan to comply with the money judgments, are SET ASIDE; and respondents are hereby enjoined from implementing the writ of execution.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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