



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 47-2019

TO : ALL JUDGES OF FIRST AND SECOND LEVEL COURTS

RE : EXECUTION OF JUDGMENTS IN APPEALED CASES
PURSUANT TO SECTION 1, RULE 39, RULES OF
COURT

Due to persistent reports that prior to the remand of the records to the court of origin, some courts have refused to issue the writ of execution in appealed cases which have been finally resolved thereby causing unnecessary delay, all judges are reminded of the mandatory requirements set forth under the Rules of Court and case law.

Section 1, Rule 39, Rules of Court, as amended, provides in part:

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.

In *Jason v. Judge Ygaña*,¹ the Court allowed the execution of the judgment by the court of origin even "before remand to the latter by the appellate court of the records of the case solely on the basis of the certified true copy of the judgment of the appellate court and the entry thereof."² In a similar case, the Court reiterated that "[u]nder the present procedure, the prevailing party can secure certified true copies of the judgment or final order of the appellate court and the entry thereof, and submit the same to the court of origin x x x without waiting for the receipt of the records from the appellate court."³

¹ *Jason v. Judge Ygaña*, A.M. No. RTJ-00-1543, 4 August 2000.

² *Ibid.*

³ *Bergonia v. Judge Gonzalez-Decano*, A.M. No. RTJ-99-1505, 29 October 1999.

While the Rules require that the motion is with “notice to the adverse party,”⁴ the Court, in more recent cases, has emphasized that “[o]nce a judgment becomes final and executory, the prevailing party can have it executed as a matter of right, and the judgment debtor need not be given advance notice of the application for execution nor be afforded prior hearings thereon.”⁵ Moreover, its “issuance is, in fact, the trial court’s ministerial duty x x x Even the holding in abeyance of the issuance of a writ of execution of a final and executory judgment can be considered abuse of discretion on the part of the trial court.”⁶

Considering the express mandate of Section 1, Rule 39, Rules of Court, as well as the consistent interpretation of the Court based on case law, all first and second level court judges are hereby directed to immediately issue the writ of execution in appealed cases which have been duly perfected and finally resolved, without waiting for the records of the case, upon motion of the judgment obligee, and upon submission to the court of origin of the following documents:⁷

1. certified true copy of the judgment or judgments or final order or orders;
2. certified true copy of the denial of the Motion for Reconsideration, if applicable; and,
3. certified true copy of the entry of judgment.

The same directive applies to quasi-judicial agencies with appealed cases before the Court of Appeals and the Supreme Court.

For strict compliance.

26 March 2019


JOSE MIDAS P. MARQUEZ
Court Administrator

⁴ RULES OF COURT, Rule 39, Section 1, as amended.

⁵ *Anama v. CA*, G.R. No. 187021, 25 January 2012, citing *De Mesa v. CA*, G.R. No. 109387, 25 April 1994. See also *Pamintuan v. Muñoz*, No. L-26331, 15 March 1968.

⁶ *Vargas and del Rosario v. Cajucom*, G.R. No. 171095, 22 June 2015.

⁷ *Supra* note 4.