

## FIRST DIVISION

[ CA-G.R. CV NO. 80395, August 08, 2006 ]

**ROBY'S PAWNSHOP, INC., AND FAUSTINO M. SANTOS,  
PLAINTIFFS-APPELLEES, VS. AMELIA L. SANTOS, ET AL.,  
DEFENDANTS., AMELIA L. SANTOS, DEFENDANT-APPELLANT.**

### D E C I S I O N

**DE GUIA-SALVADOR, J.:**

The lifetime of a writ of execution is at issue in this appeal from the May 5, 2003 Order issued by the Regional Trial Court of Quezon City, Branch 93, in Civil Case No. Q-01-42967,<sup>[1]</sup> the decretal portion of which states:

"WHEREFORE, the foregoing premises considered, the court adjudges the defendant Amelia L. Santos, guilty of indirect contempt and penalizes her with a fine of TEN THOUSAND PESOS (P10,000.00) to be paid to the clerk of court immediately upon finality of this order.

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

### *The Facts*

On March 25, 1999, appellees Roby's Pawnshop, Inc. and Faustino Santos, as one of its stockholder-incorporators, filed a petition for accounting and damages against appellee pawnshop's other stockholders-incorporators, appellant Amelia Santos as well as Teresita de Leon, Alex de Leon and Zenaida dela Cruz. Docketed as SEC CASE No. 03-99-6252,<sup>[3]</sup> the petition was twice amended to incorporate, among other matters, additional causes of action for inspection and access to the records and books of the pawnshop, together with an inventory of its assets.<sup>[4]</sup> Served with summons, appellant and her co-respondent filed their answer to the amended petition on April 29, 1999.<sup>[5]</sup>

Pursuant to Section 5.2 of Republic Act No. 8799 and its implementation by Supreme Court Resolutions A.M. No. 00-8-10-SC and A.M. No. 00-11-03-SC, the petition was referred to the trial court sometime in January 2001. Thereat docketed as Civil Case No. Q-01-42967,<sup>[6]</sup> the case was decided as follows in the trial court's December 21, 2001 decision, to wit:

"WHEREFORE, the foregoing premises considered, the court orders as follows:

1. The defendants to allow plaintiff Faustino M. Santos to inspect the records of all business transactions, the minutes of any meeting of Roby's Pawnshop, Inc at reasonable hours of any business day and to let him photocopy the same at his expense.

2. The corporation Roby's Pawnshop, Inc. be dissolved and for this purpose, the defendants to make an accounting of the business operations of the company during its corporate existence and submit a liquidation inventory of all its assets and liabilities together with the pertinent, audited financial statements, copy furnished the plaintiff Faustino M. Santos, within thirty (30) days from receipt hereof.

Let a copy of this judgment be served upon the SEC for action as may be appropriate relative to the dissolution of Roby's Pawnshop, Inc., without prejudice to the compliance by the concerned officers of the corporation with the reportorial requirements of the SEC on the matter.

SO ORDERED."<sup>[7]</sup>

With the finality of the foregoing decision and its entry in the trial court's Book of Judgments on February 8, 2002,<sup>[8]</sup> appellee Santos moved for the issuance of the corresponding writ of execution on March 21, 2002.<sup>[9]</sup> Granted in the trial court's order of April 5, 2002,<sup>[10]</sup> the writ of execution was served to appellant at the pawnshop's address at 627 Valencia Building, Pinatubo Street, Quezon City. The Sheriff's Return shows that the writ was received by one Rita de Guzman, an employee of the pawnshop, who refused to allow appellee Santos to inspect the records when the latter visited the office on May 30, 2002.<sup>[11]</sup>

On June 19, 2002, appellee Santos consequently filed a motion to declare appellant and her co-defendants in contempt of court.<sup>[12]</sup> With the denial of said motion in the trial court's July 22, 2002 order<sup>[13]</sup> upon a showing that the pawnshop was no longer holding office at the address where the writ was served,<sup>[14]</sup> appellee Santos once again caused the same to be served, this time, upon appellant herself who was then attending the hearing of the criminal case she filed against him. Because of appellant's continued refusal to comply with the writ of execution issued in the premises,<sup>[15]</sup> appellee Santos filed another motion to cite appellant and her co-defendants in contempt of court on October 9, 2002.<sup>[16]</sup>

On October 21, 2002, appellant and her co-defendants filed their opposition to the foregoing motion on the ground that the writ of execution was served beyond the 60-day period allotted by the rules for its return.<sup>[17]</sup> As a matter of course, the trial court forthwith issued the November 21, 2002 order commanding appellant and her co-defendant to show cause why they should not be held in contempt of court for refusing to comply with the writ of execution for its December 21, 2001 decision.<sup>[18]</sup> After hearing, the trial court went on to issue the herein appealed May 5, 2003 order, upon the following findings and conclusions, viz:

xxx      xxx      xxx

"Despite service of a copy of the judgment upon her by way of execution of the final adjudication, the defendant Amelia Santos, has failed to comply with the orders therein contained. In an earlier motion to cite the defendants in contempt, the court denied the motion by reason of a

technical defect.

Subsequently, however, the execution of the judgment was carried out properly such that the plaintiff now moved a second time to cite the defendants in contempt of court.

During the hearing of the second motion for contempt, the defendant Amelia L. Santos and counsel appeared. Defendant Santos merely informed that there was no corporate records to speak of. She did not give a plausible reason for such a state of affairs. She did not also give any reason for her failure to comply with the second paragraph of the adjudication.

To date, the defendant Amelia L. Santos has not bothered to comply with any of the orders of adjudication which are contained in the final judgment.

Resolving now the motion to cite defendant Amelia L. Santos in contempt, the actuations of said defendant leave the court no option but to grant the motion. Defendant Santos has contumaciously refused the execution of a lawful judgment against her. She has not given any acceptable reason why she could not comply with said judgment as implemented by the deputy sheriff of this court.”<sup>[19]</sup>

xxx    xxx    xxx

Aggrieved, appellant perfected the appeal at bench with the filing of her Notice of Appeal within the reglementary period.<sup>[20]</sup>

### ***The Issues***

Appellant seeks the reversal and setting aside of the appealed order on the ground that the trial court committed the following reversible errors, to wit:

“I

THE TRIAL COURT COMMITTED A SERIOUS AND GRAVE REVERSIBLE ERROR IN DECLARING HEREIN DEFENDANT-APPELLANT GUILTY OF INDIRECT CONTEMPT.

II.

THE TRIAL COURT COMMITTED A SERIOUS AND GRAVE REVERSIBLE ERROR IN PENALIZING THE HEREIN DEFENDANT-APPELLANT WITH A FINE OF TEN THOUSAND PESOS (P10,000.00).”<sup>[21]</sup>

### ***The Court’s Ruling***

We find the appeal bereft of merit.

In urging the grant of her appeal, appellant argues that the improper service of the subject writ of execution the first time around has rendered said service a nullity, to