

## Title 8.

### Enforcement of Judgments.

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#### CHAPTER 1.

##### GENERAL PROVISIONS.

Sec.

1. Money judgments.
2. Judgments affecting land.

Sec.

3. Other judgments.
4. Other methods of enforcement.

**§ 1. Money judgments.** — Every judgment for the payment of money shall bear interest at the rate of nine percent a year from the date it is entered. The process to enforce a judgment for the payment of money may be a writ of execution or an order in aid of judgment, as provided in chapter 2 of this title. (Code 1966, § 282; Code 1970, tit. 8, § 1; P.L. No. 6-97, § 1.)

**Interest on judgment.** — Interest on judgment begins from date judgment is entered. *Torres v. Cruz*, 3 TTR 569 (App. Div. 1965).

**Money damages not available as a means of giving district court jurisdiction of action involving title to land.** — In action for specific performance of promise to transfer land, statute providing district court had no jurisdiction where title to or interest in land

was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. *Taisakan v. Taisakan*, 6 TTR 283 (1973).

**§ 2. Judgments affecting land.** — A judgment adjudicating an interest in land shall, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been entered that an appeal shall not stay the judgment, operate the release or transfer any interest in land in accordance with the terms of the judgment, when a copy thereof, certified by the clerk of courts, or any judge of the court, is recorded in the office of the clerk of courts, in the case of unregistered land, or in the district registrar's office, in the case of registered land, for the district in which the land lies. (Code 1966, § 283; Code 1970, tit. 8, § 2; P.L. No. 4C-34, § 1.)

**Enforcement of judgment stayed during appeal.** — Enforcement of judgment during appeal is stayed unless an order has been entered that the appeal shall not stay the judgment. Where there is no such order in an action, the trial court does not have the

authority to enter the order in aid of judgment, and if it does so that order is a nullity and of no force and effect and must be vacated and set aside by the appellate court. *Reab v. Langrine* (App. Div., June, 1977).

**§ 3. Other judgments.** — Judgment for any form of relief other than the payment of money or the adjudication of an interest in land, after the time for appeal therefrom has expired without notice of appeal being filed or after any appeal duly taken has been finally determined or after an order has been

entered that an appeal shall not stay the judgment, may be enforced by contempt proceedings; provided, that enforcement at such time is required to prevent irreparable injury or multiple damage to the interests of the winning party and is otherwise in the interests of justice. Upon a finding of contempt, the person against whom the judgment has been rendered may be fined or imprisoned at the discretion of the court until he or she complies with the judgment or is released by the court or has been imprisoned for six months, whichever happens first. (Code 1966, § 284; Code 1970, tit. 8, § 3; P.L. No. 4C-34, § 1.)

**Notice of injunction prerequisite for contempt citation.** — In case of civil contempt for violation of injunctions, person cannot be guilty of contempt for violating injunction unless it is shown he had actual notice of injunction prior to performance of acts complained of. *Ranipu v. Trust Territory*, 2 TTR 167 (1961).

**§ 4. Other methods of enforcement.** — Enforcement of judgment may also be affected, if the trial division of the high court deems justice requires and so orders by the appointment of a receiver, or receivers, by taking possession of property and disposing of it in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner known to American common law or common in courts in the United States. (Code 1966, § 285; Code 1970, tit. 8, § 4.)

## CHAPTER 2.

## ATTACHMENTS; EXECUTION; ORDERS IN AID OF JUDGMENT.

Sec.	Sec.
51. Writs of attachment.	57. Same; modification of orders.
52. Release and modification.	58. Same; punishment of violators.
53. Writs of execution.	59. Same; stay of execution.
54. Levying execution.	60. Same; application to community or district court.
55. Orders in aid of judgment; application.	61. Exemptions.
56. Same; hearings.	

**§ 51. Writs of attachment.** — (1) Writs of attachment may be issued only by the trial division of the high court for special cause shown, supported by statement of the high court for special cause shown, supported by statement under oath. Such writs when so issued shall authorize and require the chief of police, any policeman, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued as will be sufficient to satisfy the demand set forth in the action, including interest and costs. The chief of police, policeman, or other person named in the writ shall not attach any personal property which is exempt from attachment, nor any kinds or types of personal property which the court may specify in the writ.

(2) Debts payable to the defendant may be similarly attached by special order issued by the trial division of the high court, which shall exempt from the attachment so much of any salary or wages as the court deems necessary for the support of the person against whom the order is issued or his dependents. (Code 1966, § 280; Code 1970, tit. 8, § 51.)

**Editor's note.** — In the 1970 Code, the last sentence of subsection (1) read: "Such writs when so issued shall authorize and require the Chief of Police, policemen, or other person named therein, to attach and safely keep so much of the personal property of the person against whom the writ is issued, not exempt

from attachment, as will be sufficient to satisfy the demand set forth in the action, including interest and costs, excepting any kinds or types of personal property which the court may specify in the writ." This language was changed into its present form for clarification.

**§ 52. Release and modification.** — The trial division of the high court, upon application of either party or of its own motion, may make and, from time to time, modify such orders as it deems just for the release of property from attachment or for the sale thereof if perishable or if the owner of the property shall so request, and for the safekeeping of the proceeds of the sale. (Code 1966, § 281; Code 1970, tit. 8, § 52.)

**§ 53. Writs of execution.** — Every court, at the request of the party recovering any civil judgment in that court for the payment of money, shall issue a writ of execution against the personal property of the party against whom the judgment has been rendered, except as provided in section 61 of this chapter. (Code 1966, § 286; Code 1970, tit. 8, § 53; P.L. No. 4C-21, § 1.)

**§ 54. Levying execution.** — Every chief of police, policeman or other person duly authorized receiving a writ of execution issued by any court, shall levy or cause a chief of police or policeman to levy execution as follows:

(1) *Demand of payment — seizure of property.* He shall demand of the person against whom the execution is issued, if he may be found within the municipality where the levy is being attempted, that the person pay the execution or exhibit sufficient property subject to execution. If such person has

property of a kind exempt from execution but to an amount exceeding the exemption, he may select the portion of this property provided by law which he desires to retain under the exemption, providing he makes this selection known promptly to the person making the levy. Otherwise, the person making the levy shall make the selection. If the person against whom the execution is issued does not pay the execution in full, including interest and costs and expenses thereof, the person making the levy shall take into his possession property of the person against whom the execution is issued, not exempt from execution, sufficient in his opinion to cover the amount of the execution. He shall take first any property under attachment in the action in which the execution was issued; next, property, if any, indicated by the person against whom the execution was issued. He may, if he thinks best, remove the property to a safe place, or place a caretaker in charge of it. He shall make a list of the property levied upon.

(2) *Notice of sale.* The person making the levy shall, after levy, give public notice of the sale at least seven days in advance of the time and place of sale, by notifying the magistrate of the municipality or municipalities in which the levy was made, by posting a written notice of the sale in a conspicuous place at or near the municipal office in the municipality in which the sale is to be held, and must notify the person against whom the execution is issued, if he can be found within the municipality or municipalities where the levy was made, or notify any agent who had custody of the property levied upon at the time of levy.

(3) *Sale — Procedure — Disposition of proceeds.* The person making the levy on the day and at the place set for the sale, unless payment has been made of the amount of the judgment and interest and the costs and expenses in connection with the levy, shall sell the property levied upon at public auction to the highest bidder. He shall deduct from the proceeds of the sale sufficient money for the full payment of his fees and expenses, and shall then pay the person in whose favor the execution was issued, or his counsel, such balance as remains up to the amount due on the execution. If there are any proceeds of the sale left after the deduction and payment directed above, such remaining proceeds shall be paid over to the person against whom the execution was issued. The person making the levy shall then return the writ to the court with a report of his doings thereon, showing the amounts collected and paid out thereon.

(4) *Postponement of sale.* Whenever a request in writing signed by the debtor and creditor for a postponement of the sale to an agreed date and hour is given to the person conducting the sale under execution, such person shall thereupon by public declaration postpone the sale to the day and hour so fixed in such request and at the place originally fixed by the person for the sale. In the case of postponements, notice of each thereof must be given by public declaration by the person conducting the sale at the time and place last appointed for the sale. No other notice of postponed sale need be given.

(5) *Completion of sale by person other than one making levy.* If a chief of police, policeman or other person duly authorized starts to levy execution and for any reason is prevented from or fails to complete the matter, any chief of police, policeman or other person duly authorized may complete the levy, sale, and payment of proceeds as provided in this section. (Code 1966, § 287; Code 1970, tit. 8, § 54; P.L. No. 4C-21, § 2.)

**§ 55. Orders in aid of judgment; application.** — At any time after a finding for the payment of money by one party to another, and before any judgment based thereon has been satisfied in full, either party may apply to the court for an order in aid of judgment. Thereupon the court, after notice to the opposite party, shall hold a hearing on the question of the debtor's ability to pay and determine the fastest manner in which the debtor can reasonably pay

a judgment based on the finding. In making this determination the court shall allow the debtor to retain such property and such portion of his income as may be necessary to provide the reasonable living requirements of the debtor and his dependents, including fulfillment of any obligations he may have to any clan, lineage, or other similar group, in return for which obligations he, or his dependents, receive any necessary part of the food, goods, shelter or services required for their living. (Code 1966, § 289; Code 1970, tit. 8, § 55.)

**Nature of proceeding under section.** — A proceeding under this section of this Code is one to determine a judgment debtor's ability to pay after a court has made a finding for the payment of money by one party to another. *Rilometo v. Lanlobar*, 4 TTR 1972 (1968).

**Money damages not available as a means of giving district court jurisdiction of action involving title to land.** — In action for specific performance of promise to transfer land, statute providing district court had no

jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. *Taisakan v. Taisakan*, 6 TTR 283 (1973).

**§ 56. Same; hearings.** — (1) At the hearing provided by section 55 of this chapter, the debtor may be examined orally before the court, or the court may refer the examination to a single judge of the court or to a master to take evidence and report his findings. In either case any evidence properly bearing on the question may be introduced by either party or by the court, the single judge or master, in the same manner as at the trial of a civil action. Upon having heard the evidence or having received the report of the single judge or master, the court shall make such order in aid of judgment as is just for the payment of any judgment based on the finding.

(2) This order in aid of judgment may provide for the transfer of particular assets at a price determined by the court, or for the sale of particular assets and payment of the net proceeds to the creditor, or for payments, in specified installments on particular dates or at specified intervals, or for any other method of payment which the court deems just. (Code 1966, § 290; Code 1970, tit. 8, § 56; P.L. No. 4C-21, § 3.)

**Payments before appeal; order in aid of judgment.** — Order in aid of judgment may call for payments before appeal is finally determined, if order has been entered that appeal shall not stay the judgment. *Mottan v. Lanjen*, 2 TTR 347 (1962).

**Security and guarantees.** — Person who

desires to delay effect of judgment should be ready to give security or other guarantee that judgment will be paid or otherwise complied with if it is affirmed in whole or in part, as result of the appeal. *Mottan v. Lanjen*, 2 TTR 347 (1962).

**§ 57. Same; modification of orders.** — Any order in aid of judgment made under this chapter may be modified by the court as justice may require, at any time, upon application of either party and notice to the other, or on the court's own motion. (Code 1966, § 291; Code 1970, tit. 8, § 57.)

**§ 58. Same; punishment of violations.** — If any debtor fails without good cause to comply with any order in aid of judgment made under this chapter, he may be adjudged in contempt as a civil matter, after notice to show cause why he should not be so adjudged and an opportunity to be heard thereon, and upon such adjudication shall be committed to jail until he complies with the order or is released by the court or serves a period fixed by the court of not more than six months in jail, whichever happens first. (Code 1966, § 292; Code 1970, tit. 8, § 58.)

**§ 59. Same; stay of execution.** — (1) After an application for an order in aid of judgment has been filed in any action, no writ of execution shall be issued therein except under an order in aid of judgment as provided in this chapter, or by special order of the court for cause shown.

(2) If a writ of execution is outstanding, a judgment creditor applying for an order in aid of judgment shall file the writ of execution with his application, and a judgment debtor applying for an order in aid of judgment may request a stay of execution which may be granted by the court on such terms, if any, as it deems just. (Code 1966, § 293; Code 1970, tit. 8, § 59.)

**§ 60. Same; application to community or district court.** — A judgment creditor who has obtained an execution may, instead of applying to the court in which the action was tried, apply for an order in aid of judgment to the district court or community court within whose jurisdiction the judgment debtor lives or has his usual place of business or employment. The court so applied to shall then proceed with notice to the opposite party, hearing, determination, and the issuance of such order in aid of judgment as it deems just, as provided in this chapter. (Code 1966, § 294; Code 1970, tit. 8, § 60.)

**§ 61. Exemptions.** — The following described property shall be exempt from attachment and execution:

(1) *Personal and household goods.* All necessary household furniture, cooking and eating utensils, and all necessary wearing apparel, bedding, and provisions for household use sufficient for four months.

(2) *Necessities for trade or occupation.* All tools, implements, utensils, two work animals, and equipment necessary to enable the person against whom the attachment or execution is issued to carry on his usual occupation.

(3) *Land and interests in land.* All interests in land, but any interest owned solely by a judgment debtor, in his own right, may be ordered sold or transferred under an order in aid of judgment if the court making the order deems that justice so requires and finds as a fact that after the sale or transfer, the debtor will have sufficient land remaining to support himself and those persons directly dependent on him according to recognized local custom and the law of the Trust Territory. No person not an indigenous inhabitant of the Trust Territory may acquire any interest in such land, by sale, transfer, or otherwise, except with the prior approval of the High Commissioner. (Code 1966, § 288; Code 1970, tit. 8, § 61.)

**Transfer of land interests; order in aid of judgment.** — Trust Territory law expressly authorizes transfers of interests in land under an order in aid of judgment. *Miko v. Keit*, 2 TTR 582 (1964).

**Money damages not available as a means of giving district court jurisdiction of action involving title to land.** — In action for specific performance of promise to transfer land, statute providing district court had no

jurisdiction where title to or interest in land was involved could not be avoided by first granting the alternative relief of money damages equal to the value of the land and then ordering transfer of the land in satisfaction of the judgment, for when money judgment is satisfied through execution, the attached property is sold and the purchase payment is transferred to the judgment creditor. *Taisakan v. Taisakan*, 6 TTR 283 (1973).