

EN BANC

[A.m. No. 12-2-03-0, March 13, 2012]

**RE: IN THE MATTER OF CLARIFICATION OF EXEMPTION FROM
PAYMENT OF ALL COURT AND SHERIFF'S FEES OF
COOPERATIVES DULY REGISTERED IN ACCORDANCE WITH
REPUBLIC ACT NO. 9520 OTHERWISE KNOWN AS THE
PHILIPPINE COOPERATIVE CODE OF 2008, PERPETUAL HELP
COMMUNITY COOPERATIVE (PHCCI), PETITIONER,**

R E S O L U T I O N

PEREZ, J.:

In a Petition^[1] dated 24 October 2011, Perpetual Help Community Cooperative (PHCCI), through counsel, requests for the issuance of a court order to clarify and implement the exemption of cooperatives from the payment of court and sheriff's fees pursuant to Republic Act No. 6938, as amended by Republic Act No. 9520, otherwise known as the *Philippine Cooperative Act of 2008*.

PHCCI contends that as a cooperative it enjoys the exemption provided for under Section 6, Article 61 of Republic Act No. 9520, which states:

(6) Cooperatives shall be exempt from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under this Code, or where such actions is brought by the Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative.

It claims that this was a reiteration of Section 62, paragraph 6 of Republic Act No. 6938, *An Act to Ordain a Cooperative Code of the Philippines*,^[2] and was made basis for the Court's Resolution in A.M. No. 03-4-01-0, as well as of Office of the Court Administrator (OCA) Circular No. 44-2007.^[3]

It avers that despite the exemptions granted by the aforesaid laws and issuances, PHCCI had been continuously assessed and required to pay legal and other fees whenever it files cases in court.

PHCCI reports that it filed with the Office of the Executive Judge of the Municipal Trial Court in Cities (MTCC), Dumaguete City, Negros Oriental, a Motion to implement the exemption of cooperatives from the payment of court and sheriff's fees in cases filed before the courts in his jurisdiction, but the Executive Judge ruled that the matter is of national concern and should be brought to the attention of the Supreme Court for it to come up with a straight policy and uniform system of collection. In the meantime, the MTCC has continued the assessment of filing fees

against cooperatives.

Records reveal that on 21 September 2011, Executive Judge Antonio Estoconing (Executive Judge Estoconing), MTCC, Dumaguete City, Negros Oriental, issued an Order treating the motion filed by PHCCI as a mere *consulta* considering that no main action was filed in his court. Executive Judge Estoconing submits that he had second thoughts in considering the exemption in view of the guidelines laid down in the Rules. He reported that many cases filed by PHCCI are small claims cases and under Section 8 of the Rule on Small Claims, the plaintiff is required to pay docket fees and other related costs unless he is allowed to litigate the case as an indigent.

Hence, this Petition.

Before this Court is the issue on whether cooperatives are exempt from the payment of court and sheriff's fees. The fees referred to are those provided for under Rule 141 (Legal Fees) of the Rules of Court.

The term "all court fees" under Section 6, Article 61 of Republic Act No. 9520 refers to the totality of "legal fees" imposed under Rule 141 of the Rules of Court as an incident of instituting an action in court.^[4] These fees include filing or docket fees, appeal fees, fees for issuance of provisional remedies, mediation fees, sheriff's fees, stenographer's fees and commissioner's fees.^[5]

With regard to the term "sheriff's fees," this Court, in an extended minute Resolution dated 1 September 2009, held that the exemptions granted to cooperatives under Section 2, paragraph 6 of Republic Act No. 6938; Section 6, Article 61 of Republic Act No. 9520; and OCA Circular No. 44-2007 clearly do not cover the amount required "to defray the actual travel expenses of the sheriff, process server or other court-authorized person in the service of summons, subpoena and other court processes issued relative to the trial of the case,"^[6] which are neither considered as court and sheriff's fees nor are amounts payable to the Philippine Government.^[7]

In fine, the 1 September 2009 Resolution exempted the cooperatives from court fees but not from sheriff's fees/expenses.

On 11 February 2010, however, the Supreme Court *En Banc* issued a Resolution in A.M. No. 08-2-01-0,^[8] which denied the petition of the Government Service Insurance System (GSIS) for recognition of its exemption from payment of legal fees imposed under Section 22 of Rule 141 of the Rules of Court. In the GSIS case, the Court citing *Echegaray v. Secretary of Justice*,^[9] stressed that the 1987 Constitution molded an even stronger and more independent judiciary; took away the power of Congress to repeal, alter, or supplement rules concerning pleading, practice and procedure; and held that the power to promulgate these Rules is no longer shared by the Court with Congress, more so, with the Executive,^[10] thus:

Since the payment of legal fees is a vital component of the rules promulgated by this Court concerning pleading, practice and procedure, it cannot be validly annulled, changed or modified by Congress. As one of the safeguards of this Court's institutional independence, the power to promulgate rules of pleading, practice and procedure is now the Court's

exclusive domain. That power is no longer shared by this Court with Congress, much less with the Executive.^[11]

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The separation of powers among the three co-equal branches of our government has erected an impregnable wall that keeps the power to promulgate rules of pleading, practice and procedure within the sole province of this Court. The other branches trespass upon this prerogative if they enact laws or issue orders that effectively repeal, alter or modify any of the procedural rules promulgated by this Court. Viewed from this perspective, the claim of a legislative grant of exemption from the payment of legal fees under Section 39 of R.A. 8291 necessarily fails.

Congress could not have carved out an exemption for the GSIS from the payment of legal fees without transgressing another equally important institutional safeguard of the Court's independence - fiscal autonomy.^[12] Fiscal autonomy recognizes the power and authority of the Court to levy, assess and collect fees,^[13] including legal fees. Moreover, legal fees under Rule 141 have two basic components, the Judiciary Development Fund (JDF) and the Special Allowance for the Judiciary Fund (SAJF).^[14] The laws which established the JDF and SAJF^[15] expressly declare the identical purpose of these funds to guarantee the independence of the Judiciary as mandated by the Constitution and public policy.^[16] Legal fees therefore do not only constitute a vital source of the Court's financial resources but also comprise an essential element of the Court's fiscal independence. Any exemption from the payment of legal fees granted by Congress to government-owned or controlled corporations and local government units will necessarily reduce the JDF and the SAJF. Undoubtedly, such situation is constitutionally infirm for it impairs the Court's guaranteed fiscal autonomy and erodes its independence.^[17]

In a decision dated 26 February 2010 in *Baguio Market Vendors Multi-Purpose Cooperative (BAMARVEMPCO) v. Cabato-Cortes*,^[18] this Court reiterated its ruling in the GSIS case when it denied the petition of the cooperative to be exempted from the payment of legal fees under Section 7(c) of Rule 141 of the Rules of Court relative to fees in petitions for extra-judicial foreclosure.

On 10 March 2010, relying again on the GSIS ruling, the Court *En Banc* issued a resolution clarifying that the National Power Corporation is not exempt from the payment of legal fees.^[19]

With the foregoing categorical pronouncements of the Supreme Court, it is evident that the exemption of cooperatives from payment of court and sheriff's fees no longer stands. Cooperatives can no longer invoke Republic Act No. 6938, as amended by Republic Act No. 9520, as basis for exemption from the payment of legal fees.

WHEREFORE, in the light of the foregoing premises, the petition of PHCCI