

## EN BANC

[ A.M. No. 11-10-03-0, July 30, 2013 ]

**RE: LETTER DATED APRIL 18, 2011 OF CHIEF PUBLIC ATTORNEY  
PERSIDA RUEDA-ACOSTA REQUESTING EXEMPTION FROM THE  
PAYMENT OF SHERIFF'S EXPENSES**

### RESOLUTION

**REYES, J.:**

This case stemmed from the February 7, 2011 letter<sup>[1]</sup> of Attorney Persida V. Rueda-Acosta (Atty. Acosta), Chief Public Attorney of the Public Attorney's Office (PAO), to the Office of the Court Administrator (OCA). In the said letter, Atty. Acosta sought a clarification as to the exemption of PAO's clients from the payment of sheriff's expenses, alleging that PAO's clients in its Regional Office in Region VII are being charged with the payment of sheriff's expenses in the amount of P1,000.00 upon the filing of a civil action in court. She claimed that sheriff's expenses should not be exacted from PAO's clients since Section 6 of Republic Act No. 9406<sup>[2]</sup> (R.A. No. 9406) specifically exempts them from the payment of docket and other fees incidental to instituting an action in court and other quasi-judicial bodies.

In its letter<sup>[3]</sup> dated March 23, 2011 to Atty. Acosta, the OCA clarified that PAO's clients, notwithstanding their exemption under Section 6 of R.A. No. 9406 from payment of "docket and other fees incidental to instituting an action in court," are not exempted from the payment of sheriff's expenses. The OCA explained that sheriff's expenses, strictly speaking, are not considered as "legal fees" under Rule 141 of the Rules of Court since they are not payable to the government; they are payable to the sheriff/process server to defray his travel expenses in serving court processes in relation to the litigant's case.

In her letter<sup>[4]</sup> dated April 18, 2011 to the OCA, Atty. Acosta maintained that, while sheriff's expenses may not be strictly considered as a legal fee, they are nevertheless considered as a fee which is incidental to the filing of an action in court and, hence, should not be exacted from PAO's clients. She pointed out that the imposition of sheriff's expenses on PAO's clients would render the latter's exemption from payment of docket and other fees under Section 6 of R.A. No. 9406 nugatory. Considering that the matter involves an interpretation of R.A. No. 9406, Atty. Acosta requested that the same be referred to the Court *en banc* for resolution.

In its report and recommendation<sup>[5]</sup> dated September 14, 2011, the OCA maintained its position that PAO's clients are not exempted from the payment of sheriff's expenses; it stressed that the P1,000.00 sheriff's expenses are not the same as the sheriff's fee fixed by Section 10, Rule 141 of the Rules of Court and, hence, not covered by the exemption granted to PAO's clients under R.A. No. 9406. The OCA further alleged that the grant of exemption to PAO's clients from the

payment of sheriff's expenses amounts to disbursement of public funds for the protection of private interests. Accordingly, the OCA recommended that Atty. Acosta's request for exemption of PAO's clients from payment of sheriff's expenses be denied.

Adopting the recommendation of the OCA, the Court *en banc* issued Resolution<sup>[6]</sup> dated November 22, 2011 which denied Atty. Acosta's request for exemption from the payment of sheriff's expenses.

On January 2, 2012, Atty. Acosta sought a reconsideration<sup>[7]</sup> of the Court's Resolution dated November 22, 2011, which the Court *en banc* referred to the OCA for appropriate action. In its report and recommendation<sup>[8]</sup> dated March 22, 2012, the OCA averred that the exemption of PAO's clients from payment of legal fees is not an absolute rule and that the Court is not precluded from providing limitations thereto. Thus, the OCA recommended the denial of Atty. Acosta's motion for reconsideration.

On April 24, 2012, the Court *en banc* issued a Resolution<sup>[9]</sup> which denied the Motion for Reconsideration filed by Atty. Acosta.

Unperturbed, Atty. Acosta filed a motion for leave to file a second motion for reconsideration<sup>[10]</sup> and a Second Motion for Reconsideration<sup>[11]</sup> of the Court's Resolution dated April 24, 2012, alleging that the imposition of sheriff's expenses on PAO's clients is contrary to the language, intent and spirit of Section 6 of R.A. No. 9406 since sheriff's expenses are considered as fees "incidental to instituting an action in court." Further, she claimed that the said imposition on PAO's clients would hinder their access to the courts contrary to the mandate of Section 11, Article III of the Constitution.

After a conscientious review of the contrasting legal disquisitions set forth in this case, the Court still finds the instant petition devoid of merit.

At the outset, it bears stressing that this is already the third attempt of Atty. Acosta to obtain from this Court a declaration exempting PAO's clients from the payment of sheriff's fees – the initial request therefor and the subsequent motion for reconsideration having been denied by this Court. As a rule, a second motion for reconsideration is a prohibited pleading.<sup>[12]</sup> This rule, however, is not cast in stone. A second motion for reconsideration may be allowed if there are extraordinarily persuasive reasons therefor, and upon express leave of court first obtained.<sup>[13]</sup>

Ordinarily, the Court would have dismissed outright Atty. Acosta's second motion for reconsideration. However, for reasons to be discussed at length later, there is a need to give due course to the instant petition in order to reassess and clarify the Court's pronouncement in our Resolutions dated November 22, 2011 and April 24, 2012.

In any case, it bears stressing that what is involved in this case is the Court's administrative power to determine its policy vis-à-vis the exaction of legal fees from the litigants. The Court's policy determination respecting administrative matters must not be unnecessarily bound by procedural considerations. Surely, a rule of procedure may not debilitate the Court and render inutile its power of administration

and supervision over court procedures.

At the core of this case is the proper interpretation of Section 6 of R.A. No. 9406 which, in part, reads:

Sec. 6. New sections are hereby inserted in Chapter 5, Title III, Book IV of Executive Order No. 292, to read as follows:

x x x x

Sec. 16-D. Exemption from Fees and Costs of the Suit – The clients of PAO shall be exempt from payment of docket **and other fees incidental to instituting an action in court and other quasi-judicial bodies, as an original proceeding or on appeal.**

The costs of the suit, attorney's fees and contingent fees imposed upon the adversary of the PAO clients after a successful litigation shall be deposited in the National Treasury as trust fund and shall be disbursed for special allowances of authorized officials and lawyers of the PAO. (Emphasis ours)

The OCA maintains that sheriff's expenses are not covered by the exemption granted to PAO's clients under R.A. No. 9406 since the same are not considered as a legal fee under Rule 141 of the Rules of Court. Stated differently, the OCA asserts that the exemption provided for under R.A. No. 9406 only covers the legal fees enumerated under Rule 141 of the Rules of Court.

The court agrees.

It is a well-settled principle of legal hermeneutics that words of a statute will be interpreted in their natural, plain and ordinary acceptation and signification, unless it is evident that the legislature intended a technical or special legal meaning to those words. The intention of the lawmakers—who are, ordinarily, untrained philologists and lexicographers—to use statutory phraseology in such a manner is always presumed.<sup>[14]</sup>

That Section 6 of R.A. No. 9406 exempts PAO's clients from the payment of "docket and other fees incidental to instituting an action in court and other quasi-judicial bodies" is beyond cavil. However, contrary to Atty. Acosta's claim, a plain reading of the said provision clearly shows that the exemption granted to PAO's clients cannot be extended to the payment of sheriff's expenses; the exemption is specifically limited to the payment of fees, *i.e.*, docket and other fees incidental to instituting an action.

The term "fees" is defined as a charge fixed by law or by an institution for certain privileges or services.<sup>[15]</sup> Viewed from this context, the phrase "docket and other fees incidental to instituting an action" refers to the totality of the legal fees imposed under Rule 141<sup>[16]</sup> of the Rules of Court. In particular, it includes filing or docket fees, appeal fees, fees for issuance of provisional remedies, mediation fees,

sheriff's fees, stenographer's fees and commissioner's fees.<sup>[17]</sup> These are the fees that are exacted for the services rendered by the court in connection with the action instituted before it.

Sheriff's expenses, however, cannot be classified as a "fee" within the purview of the exemption granted to PAO's clients under Section 6 of R.A. No. 9406. Sheriff's expenses are provided for under Section 10, Rule 141 of the Rules of Court, viz:

Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes.–

x x x x

In addition to the fees hereinabove fixed, the amount of ONE THOUSAND (P1,000.00) PESOS shall be deposited with the Clerk of Court upon filing of the complaint **to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case.** In case the initial deposit of ONE THOUSAND (P1,000.00) PESOS is not sufficient, then the plaintiff or petitioner shall be required to make an additional deposit. The sheriff, process server or other court authorized person shall submit to the court for its approval a statement of the estimated travel expenses for service of summons and court processes. Once approved, the Clerk of Court shall release the money to said sheriff or process server. After service, a statement of liquidation shall be submitted to the court for approval. After rendition of judgment by the court, any excess from the deposit shall be returned to the party who made the deposit.

x x x x (Emphasis ours)

Sheriff's expenses are not exacted for any service rendered by the court; they are the amount deposited to the Clerk of Court upon filing of the complaint to defray the actual travel expenses of the sheriff, process server or other court-authorized persons in the service of summons, subpoena and other court processes that would be issued relative to the trial of the case. It is not the same as sheriff's fees under Section 10,<sup>[18]</sup> Rule 141 of the Rules of Court, which refers to those imposed by the court for services rendered to a party incident to the proceedings before it.

Thus, in *In Re: Exemption of Cooperatives from Payment of Court and Sheriff's Fees Payable to the Government in Actions Brought Under R.A. 6938*,<sup>[19]</sup> the Court clarified that sheriff's expenses are not considered as legal fees, ratiocinating that:

The difference in the treatment between the sheriff's fees and the sheriff's expenses in relation with the exemption enjoyed by cooperatives is further demonstrated by the wording of Section 10, Rule 141, which uses "fees" in delineating the enumeration in the first paragraph, and "expenses" in qualifying the subsequent paragraphs of this provision. The intention to make a distinction between the two charges is clear;