

## EN BANC

[ A. M. No. 09-6-9-SC, August 19, 2009 ]

**RE: QUERY OF MR. ROGER C. PRIORESCHI RE EXEMPTION FROM  
LEGAL AND FILING FEES OF THE GOOD SHEPHERD  
FOUNDATION, INC.**

### R E S O L U T I O N

**BERSAMIN, J.:**

In his letter dated May 22, 2009 addressed to the Chief Justice, Mr. Roger C. Prioreshi, administrator of the Good Shepherd Foundation, Inc., wrote:

The Good Shepherd Foundation, Inc. is very grateful for your 1st. Indorsement to pay a nominal fee of Php 5,000.00 and the balance upon the collection action of 10 million pesos, thus giving us access to the *Justice System* previously denied by an up-front excessive court fee.

The Hon. Court Administrator Jose Perez pointed out to the need of complying with OCA Circular No. 42-2005 and Rule 141 that reserves this "privilege" to indigent persons. While judges are appointed to interpret the law, this type of law seems to be extremely detailed with requirements that do not leave much room for interpretations.

In addition, this law deals mainly with "individual indigent" and it does not include Foundations or Associations that work with and for the most Indigent persons. As seen in our Article of Incorporation, since 1985 the Good Shepherd Foundation, Inc. reached-out to the poorest among the poor, to the newly born and abandoned babies, to children who never saw the smile of their mother, to old people who cannot afford a few pesos to pay for "common prescriptions", to broken families who returned to a normal life. In other words, we have been working hard for the very Filipino people, that the Government and the society cannot reach to, or have rejected or abandoned them.

Can the Courts grant to our Foundation who works for indigent and underprivileged people, the same option granted to indigent people?

The two Executive Judges, that we have approached, fear accusations of favoritism or other kind of attack if they approve something which is not clearly and specifically stated in the law or approved by your HONOR.

Can your Honor help us once more?

Grateful for your understanding, God bless you and your undertakings.

We shall be privileged if you find time to visit our orphanage - the Home of Love - and the Spiritual Retreat Center in Antipolo City.

To answer the query of Mr. Pioreschi, the Courts cannot grant to foundations like the Good Shepherd Foundation, Inc. the same exemption from payment of legal fees granted to indigent litigants even if the foundations are working for indigent and underprivileged people.

The basis for the exemption from legal and filing fees is the *free access clause*, embodied in Sec. 11, Art. III of the 1987 Constitution, thus:

Sec. 11. Free access to the courts and quasi judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

The importance of the right to free access to the courts and quasi judicial bodies and to adequate legal assistance cannot be denied. A move to remove the provision on free access from the Constitution on the ground that it was already covered by the equal protection clause was defeated by the desire to give constitutional stature to such specific protection of the poor.<sup>[1]</sup>

In implementation of the right of free access under the Constitution, the Supreme Court promulgated rules, specifically, Sec. 21, Rule 3, *Rules of Court*,<sup>[2]</sup> and Sec. 19, Rule 141, *Rules of Court*,<sup>[3]</sup> which respectively state thus:

Sec. 21. *Indigent party.* -- A party may be authorized to litigate his action, claim or defense as an indigent if the court, upon an *ex parte* application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

Any adverse party may contest the grant of such authority at any time before judgment is rendered by the trial court. If the court should determine after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue for the payment thereof, without prejudice to such other sanctions as the court may impose. (22a)