



Republic of the Philippines
Supreme Court
Manila

EN BANC

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

A.M. No. 11-10-03-O

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

Promulgated:

JULY 30, 2013

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RESOLUTION

REYES, J.:

This case stemmed from the February 7, 2011 letter¹ 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

¹ Rollo, pp. 5-6.

payment of sheriff's expenses in the amount of ₱1,000.00 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. 9406² (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 letter³ 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 letter⁴ 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 recommendation⁵ 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 ₱1,000.00 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.

² AN ACT REORGANIZING AND STRENGTHENING THE PUBLIC ATTORNEY'S OFFICE (PAO), AMENDING FOR THE PURPOSE THE PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE "ADMINISTRATIVE CODE OF 1987," AS AMENDED, GRANTING SPECIAL ALLOWANCE TO PAO OFFICIALS AND LAWYERS, AND PROVIDING FUNDS THEREFOR.

³ *Rollo*, pp. 15-16.

⁴ *Id.* at 19-21.

⁵ *Id.* at 1-4.

Adopting the recommendation of the OCA, the Court *en banc* issued Resolution⁶ 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 reconsideration⁷ 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 recommendation⁸ 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 Resolution⁹ which denied the Motion for Reconsideration filed by Atty. Acosta.

Unperturbed, Atty. Acosta filed a motion for leave to file a second motion for reconsideration¹⁰ and a Second Motion for Reconsideration¹¹ 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.¹² 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.¹³

⁶ Id. at 24.

⁷ Id. at 25-43.

⁸ Id. at 84-87.

⁹ Id. at 88.

¹⁰ Id. at 89-98.

¹¹ Id. at 99-123.

¹² Section 2, Rule 52 in relation to Section 4, Rule 56 of the RULES OF COURT.

¹³ See *Ortigas and Co. Ltd. Partnership v. Judge Velasco*, 324 Phil. 483, 489 (1996).

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.¹⁴

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.¹⁵ 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 141¹⁶ 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.¹⁷ 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 (₱1,000.00) 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 (₱1,000.00) 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.

¹⁴ *People v. Sandiganbayan (Third Division)*, G.R. No. 167304, August 25, 2009, 597 SCRA 49, 65.

¹⁵ Webster’s Third New International Dictionary, p. 833.

¹⁶ As amended by A.M. No. 04-2-04-SC which took effect on August 16, 2004.

¹⁷ *Re: Request of National Committee on Legal Aid to Exempt Legal Aid Clients from Paying Filing, Docket and Other Fees*, A.M. No. 08-11-7-SC, August 28, 2009, 597 SCRA 350.

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 10,¹⁸ 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*,¹⁹ 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; otherwise, the Rules would not have used different designations. Likewise, the difference between the two terms is highlighted by a

¹⁸ Section 10. Sheriffs, PROCESS SERVERS and other persons serving processes. –
 (a) For serving summons and copy of complaint, for each defendant, TWO HUNDRED (₱200.00) PESOS;
 (b) For serving subpoenas in civil action or OTHER proceedings, for each witness to be served, ONE HUNDRED (₱100.00) PESOS;
 (c) For executing a writ of attachment against the property of defendant, FIVE HUNDRED (₱500.00) PESOS per defendant;
 (d) For serving and implementing a temporary restraining order, or writ of injunction, preliminary or final, of any court, THREE HUNDRED (₱300.00) PESOS per defendant;
 (e) For executing a writ of replevin, FIVE HUNDRED (₱500.00) PESOS;
 (f) For filing bonds or other instruments of indemnity or security in provisional remedies, for each bond or instrument, ONE HUNDRED (₱100.00) PESOS;
 (g) For executing a writ or process to place a party in possession of real PROPERTY OR estates, THREE HUNDRED (₱300.00) PESOS per property;
 (h) For SERVICES RELATING TO THE POSTING AND PUBLICATION REQUIREMENTS UNDER RULE 39 (EXECUTION, SATISFACTION AND EFFECT OF JUDGMENTS) AND IN EXTRAJUDICIAL FORECLOSURE OF MORTGAGE BY SHERIFF OR NOTARY PUBLIC besides the cost of publication, ONE HUNDRED AND FIFTY (₱150.00) PESOS;
 (i) For taking inventory of goods levied upon when the inventory is ordered by the court, THREE HUNDRED (₱300.00) PESOS per day or actual inventory;
 (j) For levying on execution on personal or real property, THREE HUNDRED (₱300.00) PESOS;
 (k) For issuing a notice of garnishment, for each notice, ONE HUNDRED (₱100.00) PESOS;
 (l) For money collected by him ACTUAL OR CONSTRUCTIVE (WHEN HIGHEST BIDDER IS THE MORTGAGEE AND THERE IS NO ACTUAL COLLECTION OF MONEY) by order, execution, attachment, or any other process, judicial or extrajudicial which shall immediately be turned over to the Clerk of Court, the following sums shall be paid to the clerk of court to wit:
 (1) On the first FOUR THOUSAND (₱4,000.00) PESOS, FIVE AND A HALF (5.5%) *per centum*;
 (2) On all sums in excess of FOUR THOUSAND (₱4,000.00) PESOS, THREE (3%) *per centum*;

x x x x

¹⁹ A.M. No. 03-4-01-0 dated September 1, 2009.

consideration of the phraseology in the first sentence of the second paragraph of Section 10, Rule 141, which uses the clause “*in addition to the fees hereinabove fixed,*” thereby unequivocally indicating that sheriff’s expenses are separate charges *on top* of the sheriff’s fees. (Italics supplied)

The Court, however, is not unmindful of the predicament of PAO’s clients. In exempting PAO’s clients from paying docket and other legal fees, R.A. No. 9406 intended to ensure that the indigents and the less privileged, who do not have the means to pay the said fees, would not be denied access to courts by reason of poverty. Indeed, requiring PAO’s clients to pay sheriff’s expenses, despite their exemption from the payment of docket and other legal fees, would effectly fetter their free access to the courts thereby negating the laudable intent of Congress in enacting R.A. No. 9406.

Free access to the courts and adequate legal assistance are among the fundamental rights which the Constitution extends to the less privileged. Thus, Section 11, Article III of the 1987 Constitution mandates that “[f]ree access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.” The Constitution affords litigants—moneyed or poor—equal access to the courts; moreover, it specifically provides that poverty shall not bar any person from having access to the courts. Accordingly, laws and rules must be formulated, interpreted, and implemented pursuant to the intent and spirit of this constitutional provision.²⁰

Access to justice by all, especially by the poor, is not simply an ideal in our society. Its existence is essential in a democracy and in the rule of law.²¹ Without doubt, one of the most precious rights which must be shielded and secured is the unhampered access to the justice system by the poor, the underprivileged and the marginalized.²²

Having the foregoing principles in mind, the Court, heeding the constitutional mandate of ensuring free access to the courts and adequate legal assistance to the marginalized and less privileged, hereby authorizes the officials and employees of PAO to serve summons, subpoena and other court processes pursuant to Section 3,²³ Rule 14 of the Rules of Court. The authority given herein by the Court to the officials and employees of PAO shall be limited only to cases involving their client.

²⁰ *Spouses Algura v. Local Government Unit of the City of Naga*, 536 Phil. 819 (2006).

²¹ *Supra* note 17, at 356.

²² *Supra* note 20.

²³ Sec. 3. *By whom served.* — The summons may be served by the sheriff, his deputy, or other proper court officer, or for justifiable reasons by any suitable person authorized by the court issuing the summons.

Authorizing the officials and employees of PAO to serve the summons, subpoenas and other court processes in behalf of their clients would relieve the latter from the burden of paying for the sheriff's expenses despite their non-exemption from the payment thereof under Section 6 of R.A. No. 9406. The amount to be defrayed in the service of summons, subpoena and other court processes in behalf of its clients would consequently have to be taken from the operating expenses of PAO. In turn, the amount advanced by PAO as actual travel expenses may be taken from the amount recovered from the adversaries of PAO's clients as costs of suit, attorney's fees or contingent fees prior to the deposit thereof in the National Treasury.

WHEREFORE, in consideration of the foregoing disquisitions, the Second Motion for Reconsideration filed by Atty. Persida V. Rueda-Acosta is **DENIED**. The Court's Resolutions dated November 22, 2011 and April 24, 2012 are hereby **AFFIRMED**. The request of Atty. Persida V. Rueda-Acosta for the exemption of the clients of the Public Attorney's Office from the payment of sheriff's expenses is **DENIED**.

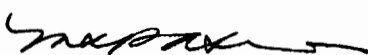
Nevertheless, the officials and employees of the Public Attorney's Office are hereby **AUTHORIZED** to serve summons, subpoenas and other court processes in behalf of their clients pursuant to Section 3, Rule 14 of the Rules of Court, in coordination with the concerned court. The amount to be defrayed in serving the summons, subpoenas and other court processes could be taken from the operating expenses of the Public Attorney's Office which, in turn, may be taken from the amount recovered by it from the adversaries of PAO's clients as costs of suit, attorney's fees or contingent fees prior to the deposit thereof in the National Treasury, or damages that said clients may be decreed as entitled to in case of the success of PAO's indigent clients.

SO ORDERED.

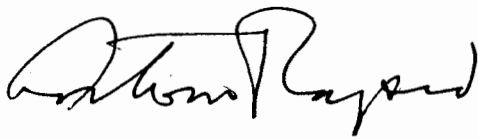


BIENVENIDO L. REYES
Associate Justice

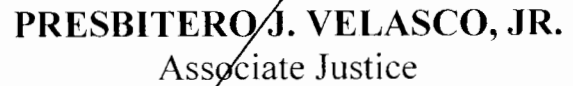
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



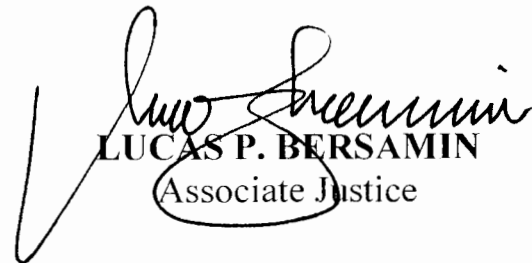
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice



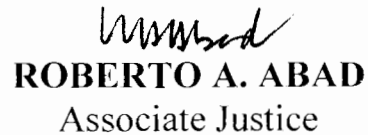
DIOSDADO M. PERALTA
Associate Justice



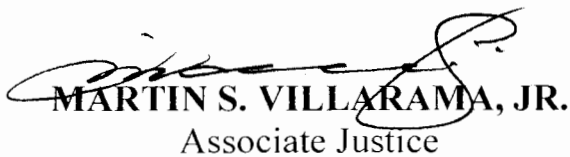
LUCAS P. BERSAMIN
Associate Justice



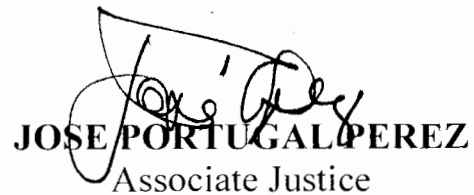
MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice



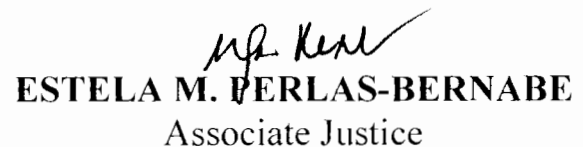
MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice