



Republic of the Philippines
 Supreme Court
 Office of the Court Administrator
 Manila

OCA CIRCULAR NO. 135-2009

TO : ALL JUDGES AND CLERKS OF COURT/ACCOUNTABLE OFFICERS OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT : CLARIFICATION ON THE EXEMPTION OF COOPERATIVES FROM PAYMENT OF COURT AND SHERIFF'S FEES PAYABLE TO THE GOVERNMENT IN ACTIONS BROUGHT UNDER R.A. 6938

Quoted hereunder are portions of the Resolution of the Supreme Court *En Banc* dated 1 September 2009 in A.M. No. 03-4-01-0 (Re: Exemption of Cooperatives from Payment of Courts and Sheriff's fees payable to the government in actions brought under R.A. 6938), to wit:

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"Our reading of the express wordings of Article 62, paragraph 6 of R.A. 6938 and Article 61 of R.A. 9520 proceeds from the statutory construction rule that words used in statutes are to be given their usual and commonly understood meanings unless different meanings are plainly intended. In the provision under consideration, the term "all court fees" 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. 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. These legal fees are payable *to the Philippine Government*, not to sheriffs or process servers for their travel expenses. As correctly pointed out by the Office of the Court Administrator (OCA), the ₱1,000.00 service fee being assessed against the petitioners is not in the nature of court and sheriff's fees within the contemplation of the exemption granted to cooperatives under the law and OCA Circular No. 44-2007.

Section 10, Rule 141 of the 1997 Revised Rules of Procedure (*Rules*) distinguishes between the terms sheriff's fees (*as enumerated in items (a) to (l)*) and sheriff's expenses (*as found in the second paragraph of Section 10*). Section 10, Rule 141 of the Rule relating to sheriff's expenses provides:

SEC. 10 Sheriffs, PROCESS SERVERS and other persons serving processes.-

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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 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.[Emphasis and underscoring supplied]"

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"In this case, Article 62, paragraph 6 of RA 6938; Section 6, Article 61 of RA 9520; and OCA Circular 44-2007 explicitly state that cooperatives shall only be exempted from payment of all court sheriff's fees payable to the Philippine Government for and in connection with all actions brought under the Cooperative Code, or where such action is brought by the Cooperative Development Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative. The amount required to defray the sheriff's expenses is clearly not covered by the exemption; they are not considered as court and sheriff's fees and nor are they amounts payable to the Philippine Government. Accordingly, REMPCO is not exempted from the deposit/payment of sheriff's expenses assessed by small claims court in collection actions filed before these courts."

For strict compliance of all concerned is the dispositive portion of the resolution of the Supreme Court *En Banc* dated 1 September 2009 in the A.M. No 03-4-01-0 which states that:

"**WHEREFORE**, premises considered, we rule that the REMPCO Multi-Purpose Cooperative is **NOT EXEMPT** from the deposit/payment of **sheriff's expenses** under Section 10, Rule 141 of the Rules of Court in collection actions filed with the Small Claims Court of Makati City."

October 1, 2009, 2009


JOSE P. PEREZ
Court Administrator