



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

CIRCULAR NO. 27-2001

TO: JUDGES AND EMPLOYEES OF THE REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARI'A CIRCUIT COURTS

SUBJECT : COMMISSION ON AUDIT CIRCULAR NUMBER 85-248 DATED 18 DECEMBER 1985. RE: POWER OF ATTORNEY FOR AUTHORITY TO RECEIVE PAYMENTS OF SALARIES, WAGES AND ALLOWANCES SHALL BE MADE ONLY TO ANY OF THE IMMEDIATE FAMILY MEMBERS OF CONCERNED EMPLOYEES

For the information and guidance of all concerned, quoted below is the Commission on Audit Circular No. 85-248 dated 18 December 1985 Re: Power of attorney for authority to receive payments of salaries, wages and allowances shall be made only to any of the immediate family members of concerned employees:

"Reports have reached this Commission to the effect that payments of the salaries, allowances or other emoluments of government officials and employees as well as the release of salary warrants/checks are made to persons other than the employees concerned on the strength of powers of attorney or other forms of authority executed by the said employees evidently as a consequence of or in satisfaction of obligations contracted by them.

This irregular practice has in fact continued despite the issuance of Memorandum Order No. 93 dated 5 February 1968 of the Office of the President, which insofar as pertinent, read as follows:

It has been observed that some employees delegate the collection of their salaries to attorneys-in-fact on the strength of powers of attorney or other forms of authority in favor of other persons, evidently in satisfaction of obligations contracted by them. This practice should be discouraged in view of its adverse effects on the efficiency and morale of employees whose incentive to work is necessarily impaired, since their salary or a portion thereof goes to other persons.

To curb this unwholesome practice, it is hereby directed that henceforth no cashier or disbursing officer shall pay to attorneys-in-fact or other persons who may be authorized under a power of attorney or other forms of authority to collect

the salary of the employee, except when the persons so designated and authorized is an immediate member of the family of the employee concerned. x x x

The legality of the prohibition contained in the second paragraph of the aforementioned Memorandum Order No. 93 was recently upheld by the Supreme Court in the case of Tiro vs. Hontanosas, 125 SCRA 697, when it ruled thus:

“The salary check of the government officer or employee x x x does not belong to him before it is physically delivered to him. Until that time the check belongs to the Government. Accordingly, before there is actual delivery of the check, the payee has no power over it; he cannot assign it without the consent of the Government. On this basis, Circular No. 21 stands on firm legal footing.

The claim that the Circular impairs the obligation of contracts x x x is baseless. For, the circular does not prevent (the creditor) from collecting the loans. The circular does not prevent (the creditor) from collecting the loans. The Circular merely makes the Government a non-participant in their collection which is within its competence to do.”

Accordingly, it is hereby directed that cashiers, disbursing officers or other officials entrusted with the task of paying the salary or any money due the government official or employee or issuing the treasury warrant/check covering the amount, shall pay the same directly to such official or employee only except when authority to collect the salary or any money due him/her has been give to another person under a power of attorney or other forms of authority and the person so authorized is an immediate member of the family of the official or employee concerned.

As herein contemplated, the term immediate member of the family shall include the spouses, the children whether legitimate, illegitimate or natural by legal fiction or acknowledged natural children, parents and/or brothers and sisters in case of unmarried government official or employee as the case may be pursuant to the pertinent provisions of Art. 29 of the New Civil Code.

All Auditors/Heads of Auditing units are hereby directed to disallow in audit payment of salaries and other money due the official or employee found to be not in accordance with the provisions of this Circular. Any violation thereof shall constitute sufficient ground for administrative disciplinary action against the cashier, disbursing officer or accountable officer concerned.”

This Circular shall take effect immediately.

18 April 2001


ZENaida N. ELEPAÑO
Acting Court Administrator