

OCA CIRCULAR NO. 26-2010, February 25, 2010

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TO:

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

SUBJECT:

CLARIFICATION ON THE EXEMPTION OF THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS) FROM LEGAL FEES IMPOSED BY THE COURT ON GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS AND LOCAL GOVERNMENT UNITS

Quoted hereunder are relevant portions of the Honorable Court's pronouncement in its En Banc Resolution elated February 11, 2010; in Administrative Matter No. 08-2-01-0 (Re: Petition for Recognition of the Exemption of the Government Service Insurance System from Payment of Legal Fees), to wit:

"XXXX XXXX XXXX XXXX

The GSIS urges the Court to show deference to Congress by recognizing the exemption of the GSIS under Section 39 of RA 8291 from legal fees imposed under Rule 141. Effectively, the GSIS wants this Court to recognize a power of Congress to repeal, amend or modify a rule of procedure promulgated by the Court. However, the Constitution and jurisprudence do not sanction such view.

XXXX XXXX XXXX XXXX

The GSIS cannot successfully invoke the right to social security of government employees in support of its petition. It is a corporate entity whose personality is separate and distinct from that of its individual members. The rights of its members are not its rights; its rights, powers and functions pertain to it solely and are not shared by its members. Its capacity to sue and bring actions under Section 41(q) of RA 8291, the specific power which involves the exemption that it claims in this case, pertains to it and not to its members. Indeed, even the GSIS acknowledges that, in claiming exemption from the payment of legal fees, it is not asking that rules be made to enforce the right to social security of its members but that the Court recognize the alleged right of the GSIS "to seek relief from the courts of justice sans payment of legal fees".

However, the alleged right of the GSIS does not exist. The payment of legal fees does not take away the capacity of the GSIS to sue. It simply operates as a means by which that capacity may be implemented.

Since the payment of legal fees is a vital component of the rules promulgated by this Court concerning pleading, practice and procedure, it cannot be validly annulled, changed or modified by Congress. As one of the safeguards of this Court's institutional independence, the power to promulgate rules of pleading, practice and procedure is now the Court's exclusive domain. That power is no longer shared by this Court with Congress, much less with the Executive.

Congress could not have carved out an exemption for the GSIS from the payment of legal fees without

transgressing another equally important institutional safeguard of the Court's independence - fiscal autonomy. Fiscal autonomy recognizes the power and authority of the Court to levy, assess and collect fees, including legal fees. Moreover, legal fees under Rule 141 have two basic components, the Judiciary Development Fund (JDF) and the Special Allowance for the Judiciary Fund (SAJF). The laws which established the JDF and the SAJF expressly declare the identical purpose of these funds to guarantee the independence of the Judiciary as mandated by the Constitution and public policy. Legal fees therefore do not only constitute a vital source of the Court's financial resources but also comprise an essential element of the court's fiscal independence. Any exemption from the payment of legal fees granted by Congress to government-owned or controlled corporations and local government units will necessarily reduce the JDF and the SAJF. Undoubtedly* such situation is constitutionally infirm for it impairs the Court's guaranteed fiscal autonomy and erodes its independence."[Emphasis underlined]] that it claims in this case, pertains to it and not to its members. Indeed, even the GSIS acknowledges that, in claiming exemption from the payment of legal fees, it is not asking that rules be made to enforce the right to social security of its members but that the Court recognize the alleged right of the GSIS "to seek relief from the courts of justice sans payment of legal fees".

However, the alleged right of the GSIS does not exist. The payment of legal fees does not take away the capacity of the GSIS to sue. It simply operates as a means by which that capacity may be implemented.

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Congress could not have carved out an exemption for the GSIS from the payment of legal fees without transgressing another equally important institutional safeguard of the Court's independence - fiscal autonomy. Fiscal autonomy recognizes the power and authority of the Court to levy, assess and collect fees, including legal fees. Moreover, legal fees under Rule 141 have two basic components, the Judiciary Development Fund (JDF) and the Special Allowance for the Judiciary Fund (SAJF). The laws which established the JDF and the SAJF expressly declare the identical purpose of these funds to guarantee the independence of the Judiciary as mandated by the Constitution and public policy. Legal fees therefore do not only constitute a vital source of the Court's financial resources but also comprise an essential element of the court's fiscal independence. Any exemption from the payment of legal fees granted by Congress to government-owned or controlled corporations and local government units will necessarily reduce the JDF and the SAJF. Undoubtedly, such situation is constitutionally infirm for it impairs the Court's guaranteed fiscal autonomy and erodes its independence."[Emphasis underlined]]

Henceforth, for strict compliance of all concerned is the dispositive portion of the abovementioned resolution of the Supreme Court En Baric dated February 11, 2010 in the A.M. No. 08-2-01-0 which states that:

"WHEREFORE, the petition of the Government Service Insurance System for recognition of its exemption from the payment of legal fees imposed under Section 22 of Rule 141 of the Rules of Court on government-owned or controlled corporations and local government units is hereby DENIED."

February 25, 2010

(SGD.)JOSE MIDAS P. MARQUEZ
Court Administrator

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