

BAGUIO MARKET VENDORS MULTI-PURPOSE COOPERATIVE (BAMARVEMPCO), REPRESENTED BY RECTO INSO, OPERATIONS MANAGER, PETITIONER, VS. HON. ILUMINADA CABATO-CORTES, EXECUTIVE JUDGE, REGI...

G.R. No. 165922. February 26, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

For review[1] are the Orders[2] of the Executive Judge of the Regional Trial Court of Baguio City finding petitioner Baguio Market Vendors Multi-Purpose Cooperative liable for payment of foreclosure fees.

The Facts

Petitioner Baguio Market Vendors Multi-Purpose Cooperative (petitioner) is a credit cooperative organized under Republic Act No. 6938 (RA 6938), or the Cooperative Code of the Philippines.[3] Article 62(6) of RA 6938 exempts cooperatives:

from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under this 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.[4]

In 2004, petitioner, as mortgagee, filed with the Clerk of Court of the Regional Trial Court of Baguio City (trial court) a petition to extrajudicially foreclose a mortgage under Act 3135, as amended.[5] Under Section 7(c) of Rule 141, as amended,[6] petitions for extrajudicial foreclosure are subject to legal fees based on the value of the mortgagee's claim. Invoking Article 62 (6) of RA 6938, petitioner sought exemption from payment of the fees.

The Ruling of the Trial Court

In an Order dated 30 August 2004, Judge Iuminada Cabato-Cortes (respondent), Executive Judge of the trial court, denied the request for exemption, citing Section 22 of Rule 141 of the Rules of Court, as amended, exempting from the Rule's coverage only the "Republic of the Philippines, its agencies and instrumentalities" and certain suits of local government units.[7]

Petitioner sought reconsideration but respondent denied its motion in the Order dated 6 October 2004. This time, respondent reasoned that petitioner's reliance on Article 62(6) of RA 6938 is misplaced because the fees collected under Rule 141 are not "fees payable to the Philippine Government" as they do not accrue to the National Treasury but to a special fund[8] under the Court's control.[9]

Hence, this petition.

Petitioner maintains that the case calls for nothing more than a simple application of Article 62(6) of RA 6938.

The Office of the Solicitor General (OSG), in its Manifestation (in lieu of Comment), joins causes with petitioner. The OSG submits that as the substantive rule, Article 62(6) of RA 6938 prevails over Section 22 of Rule 141, a judicial rule of procedure. The OSG also takes issue with respondent's finding that the legal fees collected under Rule 141 are not "fees payable to the Philippine Government" as the judiciary forms part of the Philippine government, as defined under the Revised Administrative Code.[10]

Although not a party to this suit, we required the Court's Office of the Chief Attorney (OCAT) to comment on the petition, involving as it does, issues relating to the Court's power to promulgate judicial rules. In its compliance, the OCAT recommends the denial of the petition, opining that Section 22, Rule 141, as amended, prevails over Article 62(6) of RA 6938 because (1) the power to impose judicial fees is eminently judicial and (2) the 1987 Constitution insulated the Court's rule-making powers from Congress' interference by omitting in the 1987 Constitution the provision in the 1973 Constitution allowing Congress to alter judicial rules. The OCAT called attention to the Court's previous denial of a request by a cooperative group for the issuance of "guidelines" to implement cooperatives' fees exemption under Article 62(6) of RA 6938.[11] Lastly, the OCAT recommends the amendment of Section 22, Rule 141 to make explicit the non-exemption of cooperatives from the payment of legal fees.

The Issue

The question is whether petitioner's application for extrajudicial foreclosure is exempt from legal fees under Article 62(6) of RA 6938.

The Ruling of the Court

We hold that Article 62(6) of RA 6938 does not apply to petitioner's foreclosure proceeding.

Petitions for Extrajudicial Foreclosure

Outside of the Ambit of Article 62(6) of RA 6938

The scope of the legal fees exemption Article 62(6) of RA 6938 grants to cooperatives is limited to two types of actions, namely: (1) actions brought under RA 6938; and (2) actions brought by the Cooperative Development Authority to enforce the payment of obligations contracted in favor of cooperatives. By simple deduction, it is immediately apparent that Article 62(6) of RA 6938 is no authority for petitioner to claim exemption from the payment of legal fees in this proceeding because first, the fees imposable on petitioner do not pertain to an action brought under RA 6938 but to a petition for extrajudicial foreclosure of mortgage under Act 3135. Second, petitioner is not the Cooperative Development Authority which can claim exemption only in actions to enforce payments of obligations on behalf of cooperatives.

The Power of the Legislature

vis a vis the Power of the Supreme Court
to Enact Judicial Rules

Our holding above suffices to dispose of this petition. However, the Court En Banc has recently ruled in *Re: Petition for Recognition of the Exemption of the Government Service Insurance System from Payment of Legal Fees*[12] on the issue of legislative exemptions from court fees. We take the opportunity to reiterate our En Banc ruling in *GSIS*.

Until the 1987 Constitution took effect, our two previous constitutions textualized a power sharing scheme

between the legislature and this Court in the enactment of judicial rules. Thus, both the 1935[13] and the 1973[14] Constitutions vested on the Supreme Court the "power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law." However, these constitutions also granted to the legislature the concurrent power to "repeal, alter or supplement" such rules.[15]

The 1987 Constitution textually altered the power-sharing scheme under the previous charters by deleting in Section 5(5) of Article VIII Congress' subsidiary and corrective power.[16] This glaring and fundamental omission led the Court to observe in *Echegaray v. Secretary of Justice*[17] that this Court's power to promulgate judicial rules "is no longer shared by this Court with Congress":

The 1987 Constitution molded an even stronger and more independent judiciary. Among others, it enhanced the rule making power of this Court [under] Section 5(5), Article VIII[18] x x x .

The rule making power of this Court was expanded. This Court for the first time was given the power to promulgate rules concerning the protection and enforcement of constitutional rights. The Court was also granted for the first time the power to disapprove rules of procedure of special courts and quasi-judicial bodies. But most importantly, the 1987 Constitution took away the power of Congress to repeal, alter, or supplement rules concerning pleading, practice and procedure. In fine, the power to promulgate rules of pleading, practice and procedure is no longer shared by this Court with Congress, more so with the Executive. x x x x (Italicization in the original; boldfacing supplied)

Any lingering doubt on the import of the textual evolution of Section 5(5) should be put to rest with our recent *En Banc* ruling denying a request by the Government Service Insurance System (GSIS) for exemption from payment of legal fees based on Section 39 of its Charter, Republic Act No. 8291, exempting GSIS from "all taxes, assessments, fees, charges or dues of all kinds." [19] Reaffirming *Echegaray's* construction of Section 5(5), the Court described its exclusive power to promulgate rules on pleading, practice and procedure as "one of the safeguards of this Court's institutional independence":

[T]he 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.[20] x x x (Emphasis supplied)

WHEREFORE, we DENY the petition. We AFFIRM the Orders dated 30 August 2004 and 6 October 2004 of the Executive Judge of the Regional Trial Court of Baguio City.

Let a copy of this Decision be furnished the Office of the Court Administrator for circulation to all courts.

SO ORDERED.

Brion, Del Castillo, Abad, and Perez, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Dated 30 August 2004 and 6 October 2004.

[3] Effective 27 April 1990, 15 days after its publication in the Official Gazette on 2 April 1990 following Article 130 of RA 6938.

[4] For a comparison of the varying tax treatment of cooperatives created under RA 6938 and cooperatives created under Presidential Decree, see *PHILRECA v. Secretary*, 451 Phil. 683 (2003).

[5] An Act To Regulate the Sale of Property Under Special Powers Inserted In Or Annexed To Real- Estate Mortgages.

[6] Most recently by Administrative Matter No. 04-2-04-SC, effective 16 August 2004.

[7] Section 22 provides: "Government exempt. - The Republic of the Philippines, its agencies and instrumentalities are exempt from paying the legal fees provided in the Rule. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees.

However, all court actions, criminal or civil instituted at the instance of the provincial, city or municipal treasurer or assessor under Sec. 280 of the Local Government Code of 1991 shall be exempt from the payment of court and sheriff's fees."

[8] The Judiciary Development Fund, created under Presidential Decree No. 1949.

[9] Rollo, p. 15.

[10] Executive Order No. 292.

[11] A.M. No. 92-9-408-O, 6 October 1992, Re: Request of the Philippine Federation of Credit Cooperatives, Inc. (Min. Res.)

[12] A.M. No. 08-2-01-0, 11 February 2010 (Res.).

[13] Article VIII, Section 13.

[14] Article X, Section 5(5).

[15] The 1935 Constitution provides: "The Congress shall have the power to repeal, alter or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines." (Section 13, Article VIII). Similarly, the 1973 Constitution provides: "The Supreme Court shall have the following powers: x x x (5) Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the bar, which, however, may be repealed, altered or supplemented by the Batasang Pambansa." (Section 5(5), Article X).

[16] In Re Cunanan, 94 Phil. 534 (1954).

[17] 361 Phil. 73, 88 (1999).

[18] The provision reads in full:

Section 5. The Supreme Court shall have the following powers:

x x x x

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the under-privileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

[19] Supra note 12.

[20] Id. at 13-14.

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