

ADMINISTRATIVE CIRCULAR NO. 111-2007, November 13, 2007

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TO

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ALL JUDGES AND CLERKS OF COURT OF THE FIRST AND SECOND LEVEL COURTS

SUBJECT

:

CLARIFICATION RELATIVE TO THE NEW RULE ON LEGAL FEES INVOLVING SHERIFF'S COMMISSIONS

The Court En Banc acting on the letter dated 24 July 2007 of Atty. Enrico M. Lainez seeking clarification relative to the New Rule on Legal Fees Involving Sheriff's Commissions has issued a Resolution dated 2 October 2007 in A.M. No. 07-8-392-RTC, to wit:

"In a letter dated July 24, 2007 addressed to the Office of the Court Administrator (OCA), Atty. Enrico M. Lainez sought clarification on whether the new rule on legal fees[1] repealed the provision in the Procedure in Extrajudicial Foreclosure of Mortgage[2] with respect to the maximum amount of P100,00 of the Rules of Court in cases involving extrajudicial foreclosure of mortgage.

Atty. Lainez stated that his client has pending petitions for extrajudicial foreclosure in the Regional Trial Courts (RTCs) of Manila and Cabanatuan City. The clerks of court of the said RTCs computed the sheriff's fees under the new schedule that it superseded the Procedure in Extrajudicial foreclosure of Mortgage imposing a maximum cap of P100,00 on sheriff's fees. Atty Lainez believes otherwise.

In a memorandum dated August 7, 2007, the OCA submitted Atty. Lainez' letter for the Court's consideration. It stated that it had been receiving numerous queries on whether the limit on sheriff's fees in extrajudicial foreclosure of mortgage had been repealed by the new rates of legal fees. These queries spawned various interpretations leading to confusion and even disagreements in the computation of the sheriff's fees.

The Rule on Legal Fees, Rule 141, was revised on July 20, 2004 precisely to provide funds for the payment of the special allowances granted under RA 9227. It was pointed out during the deliberations of the Committee headed by then Court Administrator the funds for the Judiciary Development Fund substantially 99-10-05-0 was approved prescribing the ceiling of P100,000 as extrajudicial foreclosures. The Committee thus approved the removal of the ceiling of P100,000 to enable the Supreme Court to raise funds for the special allowances for the judiciary. When the Revised Rule of Legal Fees was approved per the En banc resolution dated July 20, 2004 in A.M. No. 04-2-04-SC entitled 2004," it effectively repealed A.M. No. 99-10-05-0 dated January 30, 2001, specifically the cap of P100,000.

Incidentally, it has to be clarified that the fees for the services of sheriffs in extrajudicial foreclosures are not payable to the sheriffs but to the clerk of court as said funds belong to the judiciary and not to the sheriffs. Said fees from part of the Judiciary Development Fund and the fund for the special allowances under RA 9227.

WHEREFORE, the Court declares that the En Banc resolution dated July 20, 2004 in A.M. 04-2-04-SC entitled "Revision of Rule 141, Revised Rules of Court" which became effective August 16, 2004 has repealed the P100,000 cap for the payment of the sheriff's fees provided in A.M. No. 99-10-05-0 dated January 30, 2001.

SO ORDERED."

For the information and guidance of all concerned.

November 13, 2007

(Sgd)REYNATO S. PUNO

Chief Justice

[1]Revised Rule on Legal Fees per En banc resolution dated July 20, 2004 in A.M. No. 04-2-04 SC entitled "Revision of Rule 141, Revised Rules of Court"; effective August 16, 2004.

[2]En Banc resolution dated January 30, 2001 in A.M. No. 99-10-05-0 entitled "Re: Procedure in Extrajudicial Foreclosure of Mortgage"; effective March 1, 2001.

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