

SC CIRCULAR NO. 1-2000, January 03, 2000

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TO:

ALL EXECUTIVE JUDGES AND CLERKS OF COURTS OF THE REGIONAL TRIAL COURTS

SUBJECT:

PROCEDURE IN EXTRA-JUDICIAL FORECLOSURE OF MORTGAGE

For the information and guidance of all concerned, quoted hereunder is the Resolution of the Court En Bane dated December 14, 1999 in Administrative Matter No. 99-10-05-0 Re: Procedure in Extra-Judicial Foreclosure of Mortgage.

"AM. No. 99-10-05-0 Re: Procedure in Extra-Judicial Foreclosure of Mortgage.

"In line with the responsibility of an Executive Judge under Administrative Order No. 6, dated June 30, 1975, for the management of courts within his administrative area, included in which is the task of supervising directly the work of the Clerk of Court, who is also the Ex-Officio Sheriff, and his staff, and the issuance of commissions to notaries public and enforcement of their duties under the law, the following procedures are hereby prescribed in extrajudicial foreclosure of mortgages:

"1. All applications for extra-judicial foreclosure of mortgage whether under the direction of the sheriff or a notary public, pursuant to Act 3135, as amended by Act 4118, and Act 1508, as amended, shall be filed with the Executive Judge, through the Cleric of Court who is also the Ex-Officio Sheriff.

"2. Upon receipt of an application for extra-judicial foreclosure of mortgage, it shall be the duty of the Clerk of Court to:

- a) receive and docket said application and to stamp thereon the corresponding file number, date and time of filing;
- b) collect the filing fees therefor and issue the corresponding official receipt;
- c) examine, in case of real estate mortgage foreclosure, whether the applicant has complied with all the requirements before the public auction is conducted under the direction of the sheriff or a notary public, pursuant to Sec.4 of Act 3135, as amended;
- d) sign and issue the certificate of sale, subject to the approval of the Executive Judge, or in his absence, the Vice-Executive Judge; and
- e) after the certificate of sale has been issued to the highest bidder, keep the complete records, while awaiting any redemption within a period of one (1) year from date of registration of the certificate of sale with the Register of Deeds concerned, after which the records shall be archived.

"Where the application concerns the extrajudicial foreclosure of mortgages of real estates and/or chattels in different locations covering one indebtedness, only one filing fee corresponding to such indebtedness shall be collected. The collecting Clerk of Court shall, apart from the official receipt of the fees, issue a certificate of payment indicating the amount of indebtedness, the filing fees collected, the mortgages sought to be foreclosed, the real estates and/or chattels mortgaged and their respective locations, which certificate shall serve the purpose of having the application docketed with the Clerks of Court of the places where the other properties are located and of allowing the extrajudicial foreclosures to proceed thereat.

"3. The notices of auction sale in extrajudicial foreclosure for publication by the sheriff or by a notary public shall be published in a newspaper of general circulation pursuant to Section 1, Presidential Decree No. [1079], dated January 26, 1977, and non-compliance therewith shall constitute a violation of Section 6 thereof.

"4. The Executive Judge shall, with the assistance of the Clerk of Court, raffle applications for extrajudicial foreclosure of mortgage under the direction of the sheriff among all sheriffs, including those assigned to the Office of the Clerk of Court and Sheriffs IV assigned in the branches.

"5. No auction sale shall be held unless there are at least two (2) participating bidders, otherwise the sale shall be postponed to another date. If on the new date set for the sale there shall not be at least two bidders, the sale shall then proceed. The names of the bidders shall be reported by the sheriff or the notary public who conducted the sale to the Clerk of Court before the issuance of the certificate of sale.

"This Resolution amends or modifies accordingly Administrative Order No. 3 issued by then Chief Justice Enrique M. Fernando on 19 October 1984 and Administrative Circular No. 3-98 issued by [then] Chief Justice Andres R. Narvasa on 5 February 1998.

"The Court Administrator may issue the necessary guidelines for the effective enforcement of this Resolution.

"The Clerk of Court shall cause the publication of this Resolution in a newspaper of general circulation not later than 27 December 1999 and furnish copies thereof to the Integrated Bar of the Philippines.

"This Resolution shall take effect on the fifteenth day of January of the year 2000.

"Enacted this 14th day of December 1999 in the City of Manila."

January 3, 2000.

(Sgd.) ALFREDO L. BENIPAYO

Court Administrator

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