

OCA CIRCULAR NO. 25-2007, March 05, 2007

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TO:

ALL JUDGES AND CLERKS OF COURT OF THE REGIONAL TRIAL COURTS

SUBJECT:

PROCEDURE IN EXTRAJUDICIAL OR JUDICIAL FORECLOSURE OF REAL ESTATE MORTGAGES

The Supreme Court En Banc, acting on the recommendation of the Committee on Revision of the Rules of Court, in its Resolution dated February 20, 2007 in A.M. No. 99-10-05-0 Resolved to adopt the following additional rules with respect to Extrajudicial or Judicial Foreclosure of Real Estate Mortgages:

(1) No temporary restraining order or writ of preliminary injunction against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the loan secured by the mortgage has been paid or is not delinquent unless the application is verified and supported by evidence of payment.

(2) No temporary restraining order or writ of preliminary injunction against the extrajudicial foreclosure of real estate mortgage shall be issued on the allegation that the interest on the loan is unconscionable, unless the debtor pays the mortgagee at least twelve percent per annum interest on the principal obligation as stated in the application for foreclosure sale, which shall be updated monthly while the case is pending.

(3) Where a writ of preliminary injunction has been issued against a foreclosure of mortgage, the disposition of the case shall be speedily resolved. To this end, the court concerned shall submit to the Supreme Court, through the Office of the Court Administrator, quarterly reports on the progress of the cases involving ten million pesos and above.

(4) All requirements and restrictions prescribed for the issuance of a temporary restraining order/writ of preliminary injunction, such as the posting of a bond, which shall be equal to the amount of the outstanding debt, and the time limitation for its effectivity, shall apply as well to a status quo order.

Upon effectivity of these additional rules, all rules, resolutions, orders and circulars of this Court, which are inconsistent therewith, are hereby repealed or modified accordingly.

These additional Rules in the Procedure in Extrajudicial or Judicial Foreclosure of Real Estate Mortgages shall take effect on March 10, 2007 following their publication in a newspaper of general circulation, not later than February 28, 2007.

The above resolution was published in February 27, 2007 issued in the Manila Bulletin.

For strict information and guidance.

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CHRISTOPER O. LOCK

Court Administrator

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