

OCA CIRCULAR NO. 93-2004, August 04, 2004

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TO:

ALL JUDGES, CLERKS OF COURT AND COURT PERSONNEL OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS

SUBJECT:

REMINDER ON THE STRICT OBSERVANCE OF ADMINISTRATIVE CIRCULAR NO. 3-98 (Re: Payment of Docket and Filing Fees in . Extrajudicial Foreclosure); SECTION 21 RULE 141 OF THE RULES OF COURT; SECTION 3 PRESIDENTIAL DECREE NO. 385; and ADMINISTRATIVE CIRCULAR NO. 07-99 (Re: Exercise of Utmost Caution, Prudence, and Judiciousness in Issuance of Temporary Restraining Orders and Writs of Preliminary Injunctions)

Pursuant to the Resolution of the Third Division of the Supreme 'Court dated 05 April 2004 and to give notice to the concern raised by the Government Service Insurance System (GSIS) to expedite extrajudicial foreclosure cases filed in court, we wish to remind all concerned to the pertinent provisions of Administrative Circular No. 3-98, to wit:

"2. No written request/petition for extrajudicial foreclosure of mortgages, real or chattel, shall be acted upon by the Clerk of Court, as Ex-Officio Sheriff, without the corresponding filing fee having been paid and the receipt thereof attached to the request/petition as provided for in Sec. 7 (c), of Rule 141 of the Rules of Court.

3. . No certificate of sale shall be issued in favor of the highest bidder until all fees provided for in the aforementioned sections and paragraph 3 of Section 9 (I) of Rule 141 of the Rules of Court shall have been paid. The . sheriff shall attach to the records of the case a certified copy of the Official Receipt of the payment of the fees and shall note the O.R. number in the duplicate of the Certificate of Sale attached to the records of the case."

Moreover, to settle any queries as to the status of exemption from payment of docket and legal fees of government entitles, Section 21, Rule 141 of the Rules of court explicitly provides:

"Sec. 21. Government exempt. - The Republic the Philippines, its agencies and instrumentalities, are exempt from paying the legal fees provided in this rule. Local governments and government-owned or controlled corporations with or without independent charters are not except from paying such fees.

Likewise, to attain the purpose of Presidential Decree No. 385, strict observance should likewise be given to Section 3 thereof:

"SECTION 3. Upon the application for foreclosure of the collateral of delinquent borrowes, whether judicailly or extrajudicially, by any government financial institution, the court and/or officials concerned shall immediately act and give priority to the same and schedule the publication thereof within Five (5) days from

receipt of the application, the auction sale to be held not later than ten (10) days from date of the last publication. The Certificate of Sale must be issued on the date of sale and the same must be registered by the Register of Deeds concerned not later than five (5) days after submission of the Certificate of Sale."

Finally, judges are hereby enjoined to exercise utmost caution, prudence, and judiciousness in Issuance of temporary Restraining Orders and Writs of Preliminary Injunctions mandated by Administrative Circular No. 07-99, taking into account that through the later categorically prohibits courts involving infrastructure and natural resources development projects of, and public utilities operated by the government, it may apply with equal force to foreclosure proceedings initiated by government financial institutions.

For guidance of all concerned.

04 August 2004.

PRESBITERO J. VELASCO, JR.

Court Administrator

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