

AN ACT TO AMEND ACT NUMBERED THIRTY-ONE HUNDRED AND THIRTY-FIVE, ENTITLED "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MOR..."

Acts No. 4118, December 07, 1933

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Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Section six of Act Numbered Thirty-one hundred and thirty-five, entitled "An Act to regulate the sale of property under special powers inserted in or annexed to real-estate mortgages," is hereby amended to read as follows:

"SEC. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale and such redemption shall be governed by the provisions of sections four hundred and sixty-six, inclusive, of the Code of Civil Procedure, in so far as these are not inconsistent with the provisions of this Act."

SEC. 2. The following three sections are hereby inserted after section six of said Act Numbered and Thirty-one hundred and thirty-five.

"SEC. 7. In any sale made under the provisions of this Act, the purchaser may petition the Court of First Instance of the province or place where the property or any part thereof is situated, to give him possession thereof during the redemption period, furnishing in amount equivalent to the use of the property for a period of twelve months, to indemnify the debtor in case it be shown that the sale was made without violating the mortgage or without complying with the requirements of this Act. Such petition shall be made under oath and filed in form of an ex parte motion in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law or under section one hundred and ninety-four of the Administrative Code, or of any other real property encumbered with a mortgage duly registered in of deeds in accordance with any ex case the clerk of the court shall, petition, collect the fees specified in paragraph eleven of section one hundred and fourteen of Act Numbered Four hundred and ninety-six, as amended by Act Numbered Twenty-eight hundred and sixty-six and the court shall, upon approval of the bond, order that a writ of possession issue, addressed to the sheriff of the province in which the property is situated, who shall execute said order immediately.

"SEC. 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession cancelled, specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Numbered Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the

bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal.

"SEC. 9. When the property is redeemed after the purchaser has been given possession, the redeemer shall be entitled to deduct from the price of redemption any rentals that said purchaser may have collected in case the property or any part thereof was rented; if the purchaser occupied the property as his own dwelling, it being town property or used it gainfully, it being rural property, the redeemer may deduct from the price the interest of one per centum per month provided for in section four hundred and sixty-five of the Code of Civil Procedure."

SEC. 3. The number of the present section seven of said Act Numbered Thirty-one hundred and thirty-five is hereby changed, making it section ten.

SEC. 4. This Act shall take effect on its approval.

Approved, December 7, 1933.

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