

SC ADMINISTRATIVE CIRCULAR NO. 3-98, February 05, 1998

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T O : ALL JUDGES, CLERKS OF COURT AND SHERIFFS OF THE REGIONAL TRIAL COURTS

SUBJECT

: (A) RAFFLE OF EXTRAJUDICIAL FORECLOSURE OF MORTGAGE CASES AMONG SHERIFFS, AND
(B) SUPPLEMENT TO AND CLARIFICATION OF THE PROCEDURE IN EXTRAJUDICIAL FORECLOSURE OF MORTGAGES IN DIFFERENT LOCATIONS COVERING ONE INDEBTEDNESS

(A) Raffle of Extrajudicial Foreclosure of Mortgage Cases

We have received numerous queries from clerks of courts and sheriffs whether the executive judge can include sheriffs, assigned in the different branches (now designated as sheriffs IV) in the raffle of extrajudicial foreclosure of mortgage sales under ACT 3135, as amended, without violating Administrative Order No. 3 dated October 19, 1984.

We have studied the matter thoroughly. For clarity and uniformity of implementation; for equality of distribution of workload among sheriffs especially with the creation of more special courts; and to minimize fraternization between sheriffs and applicant-mortgagees, paragraph 4 of the aforesaid Administrative Order No. 3 is amended as follows:

4. The Executive Judge shall, with the assistance of the Clerk of Court and Ex-Oficio Sheriff, raffle extra-judicial foreclosure sales cases among all sheriffs including those assigned to the Office of the Clerk of Court, AND sheriffs IV assigned in the branches.

We likewise reiterate the following instructions:

- The Executive Judge shall supervise the raffle with the assistance of the Clerk of Court. A sheriff to whom the case has been raffled shall be excluded in the succeeding raffles and shall participate again only after all other sheriffs shall have been raffled a case each.
- No written request/petition for extra-judicial foreclosure of mortgages, real or chattel, shall be acted upon by the Clerk of Court, as Ex-Oficio 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.
- 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 (1) 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.
- The implementing sheriff shall submit to the Clerk of Court a quarterly report to include all foreclosure sales he

has conducted, dates of the auction sales, descriptions of the properties, sale prices, names of the highest bidders, numbers of the official receipts issued for the fees paid, and amounts paid. The Clerk of Court shall certify the report and submit the same to the Financial Management Office, Office of the Court Administrator within fifteen (15) days after the end of each quarter.

- The Clerk of Court, as ex-officio Sheriff, shall supervise the work of the implementing sheriffs in connection with extrajudicial foreclosures.

(B) Payment of Fees in Cases Where One Indebtedness is Secured by Mortgages in Different Locations

Pursuant to the provisions of Sec. 7 (c), Rule 141 that the amount of the indebtedness or the mortgagee's claim determines the amount of the filing fees, the following is hereby added as supplement to Paragraph 2 of the procedure outlined in Administrative Order No. 3 of October 19, 1984.

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.

This order shall take effect on this date and shall continue until further orders from this court. All other instructions not in conflict with the amendments in this order shall continue to be in effect. Any administrative problem that may arise in the implementation or interpretation of the above shall be brought to the attention of the Court Administrator.

February 5, 1998.

(Sgd.) ANDRES R. NARVASA

Chief Justice

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