



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 80 - 2023

**TO : ALL EXECUTIVE JUDGES, CLERKS OF COURTS,
AND SHERIFFS**

**SUBJECT : REQUIREMENTS FOR THE PUBLICATION OF
JUDICIAL NOTICES**

It has come to the attention of this Office that several courts conduct auction sale without the affidavit of publication executed by the publisher. Thus, to remove any cloud of doubt that have a negative impact on the auction process in terms of notice and publication, all Executive Judges are enjoined to ensure that an Affidavit of Publication is filed before proceeding with the auction sale. The absence of Affidavit of Publication means failure to comply with *Section 3 of Act No. 3135 (An Act to Regulate the Sale of Property Under Special Powers Inserted in or Annexed to Real-Estate Mortgages)* and *Section 1 of Presidential Decree No. 1079 (Revising and Consolidating All Laws and Decrees Regulating Publication of Judicial Notices, Advertisements for Public Biddings, Notices of Auction Sales and Other Similar Notices)*, thus:

Act No. 3135 Section 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.

P.D. No. 1079 Section 1. All notices of auction sales in extra-judicial foreclosure of real estate mortgage under Act No. 3135 as amended, judicial notices such as notices of sale on execution of real properties, notices in special proceedings, court orders and summonses and all similar announcements arising from court litigation required by law to be published in a newspaper or periodical of general circulation in particular provinces and/or cities shall be published in newspapers or publications published, edited and circulated in the same city and/or province where the requirement of general circulation applies: Provided, That the province or city where the publication's principal office is located shall be considered the place where it is edited and published: Provided, further, That

in the event there is no newspaper or periodical published in the locality, the same may be published in the newspaper or periodical published, edited and circulated in the nearest city or province: Provided, finally, That no newspaper or periodical which has not been authorized by law to publish and which has not been regularly published for at least one year before the date of publication of the notices or announcements which may be assigned to it shall be qualified to publish the said notice.

Additionally, your attention is also invited to **A.M. No. 99-10-05-0 (Procedure in Extrajudicial Foreclosure of Mortgage)** dated 7 August 2001 which provides that:

3. The notice 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. 1709, dated January 26, 1977, and non-compliance therewith shall constitute a violation of Section 6 thereof.

All told, an affidavit of publication constitutes prima facie evidence of compliance with the requisite publication.¹ As such, this Office **DIRECTS** all Executive Judges, Clerks of Court, and Sheriffs to strictly act in accordance with the rules on publication under pain of being subjected to **Section 6 of P.D. 1079, thus:**

Section 6. Violation of any provision of this Decree shall be punished by a fine or [sic] not less than five thousand pesos (P5,000.00) nor more than twenty thousand pesos (P20,000.00) and imprisonment for not less than (6) months nor more than two (2) years. The offending **executive judge or court personnel shall be perpetually disqualified from holding any public office in the government.**

For strict compliance.

22 February 2023



RAUL B. VILLANUEVA
Court Administrator

¹ Sadang v. GSIS, 18 SCRA 491