



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

OCA CIRCULAR No. 50-2024

**TO: EXECUTIVE/PRESIDING JUDGES, CLERKS OF COURT/OFFICERS-IN-CHARGE/ACCOUNTABLE OFFICERS AND SHERIFFS OF THE SECOND LEVEL COURTS**

**SUBJECT: REQUIREMENT OF FEE AND ADDITIONAL DEPOSIT IN EXTRAJUDICIAL FORECLOSURE CASES PURSUANT TO SECTION 10, RULE 141 OF THE RULES**

In the case of *Philippine Savings Bank vs. Josephine Co.*<sup>1</sup> the Honorable Supreme Court required the personal notification of mortgagors prior to public auctions on extrajudicial foreclosure.

Considering that the services of sheriffs, process servers or other persons serving processes shall be utilized, the deposit of the minimum amount of One Thousand Pesos (PHP 1,000.00), provided under Paragraph 2 of Section 10, Rule 141, Rules of Court, as amended, shall be **COLLECTED** from the mortgagee-applicant. In addition, the amount of Two Hundred Pesos (PHP 200.00) per mortgagor shall also be **COLLECTED** upon the filing of the application for extrajudicial foreclosure, in line with Section 10(a), Rule 141, of the Rules of Court. Any excess from the deposit shall be **RETURNED** to the mortgagee-applicant upon the termination of the extrajudicial foreclosure case.

Please be guided, however, of Section 3 of Act No. 3135, as clarified in the case of *Fortune Motors (Phils.) Inc. vs. Metropolitan Bank and Trust Company, et. al.*, G. R. No. 115068, 28 November 1996, which the Honorable Court ruled:

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<sup>1</sup> G.R. No. 232004, promulgated on 06 October 2021 and digitally uploaded on 15 August 2023, which may be accessed at <https://sc.judiciary.gov.ph/wp-content/uploads/2023/08/232004.pdf>. The pertinent portion reads: "Notwithstanding the absence of an express directive under Act No. 3135, principles of due process and the utmost diligence of banks require that mortgagors be personally notified of extrajudicial foreclosures of their mortgages prior to public auctions." (Emphasis ours)

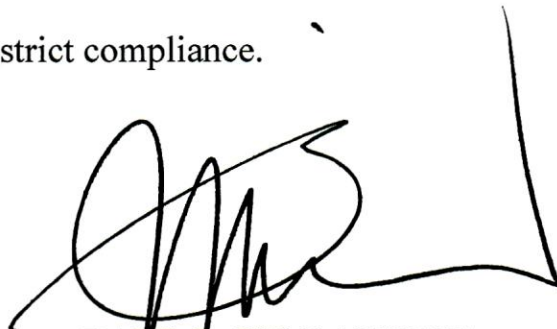
“x x x Act 3135 does not require posting of the notice of sale on the mortgaged property. Section 3 of the said law merely requires that the notice of the sale be posted for not less than twenty days in at least three public places of the municipality or city where the property is situated. The aforementioned places, to wit: the Sheriff's Office, the Assessor's Office and the Register of Deeds are certainly the public places contemplated by law, as these are places where people interested in purchasing real estate congregate.”

Thus, posting of notices where the property is located or in the barangay where the property is situated remains the obligation of the interested party.

All other OCA circulars contrary to this is hereby repealed.

For your information and strict compliance.

21 February 2024



**RAUL B. VILLANUEVA**  
Court Administrator