

**[DAR ADMINISTRATIVE ORDER NO. 01, S. 2000,
May 31, 2000]**

**REVISED RULES AND REGULATIONS ON THE ACQUISITION OF
AGRICULTURAL LANDS SUBJECT OF MORTGAGE OR
FORECLOSURE**

Pursuant to Section 49 of Republic Act (RA) No. 6657, otherwise known as the "Comprehensive Agrarian Reform Law of 1988", and Section 7, Chapter 2, Book IV of Executive Order No. 292, otherwise known as "The Revised Administrative Code of 1987", the rules and regulations on the acquisition of private agricultural lands subject of mortgage or foreclosure are hereby revised as follows:

SECTION 1. Rationale. — Section 25 of Republic Act No. 337, otherwise known as "The General Banking Act", provides that acquired assets and mortgaged properties foreclosed by banks shall be disposed of within a period of five (5) years after foreclosure. Further, Section 71 of RA 6657 provides that "(b)anks and other financial institutions allowed by law to hold mortgage rights or security interests in agricultural lands to secure loans and other obligations of borrowers may acquire title to these mortgaged properties, regardless of area, subject to existing laws on compulsory transfer of foreclosed assets and acquisition as prescribed under Section 16 of this Act." Furthermore, Section 72 (b) of RA 6657 provides that "(m)ortgages and other claims registered with the Register of Deeds (ROD) shall be assumed by the government up to an amount equivalent to the landowner's compensation value as provided in this Act."

SECTION 2. Definition of Terms. — As used in this Order, the terms enumerated are defined as follows:

- a) Banks include banking institutions, commercial banks, savings banks, mortgage banks, trust companies, building and loan associations, branches and agencies in the Philippines of foreign banks, and all other corporations, companies, partnerships and associations performing banking functions in the Philippines. (*Section 22, Act No. 335*).
- b) Mortgage is an accessory contract whereby the debtor (or a third person) guarantees the performance of the principal obligation by subjecting real property or real rights as security in case of non-fulfillment of said obligation within the period agreed upon.
- c) Mortgagor is one who, having all or some title to property, by written instrument, pledges that property for some particular purpose such as security for a debt.

- d) Mortgagee refers to banks, financial institutions and other persons whether natural or juridical, holding registered mortgage rights over said lands.
- e) Foreclosure is the procedure by which the mortgaged property is sold on default of the mortgagor in satisfaction of the mortgage debt. It denotes the procedure adopted by the mortgagee to terminate the rights of the mortgagor on the property and includes the sale itself. (*Development Bank of the Phils. vs. Zaragoza*, 84 SCRA 668 [1978]).
- f) Redemption is a transaction by which the mortgagor reacquires or buys back the property which may have passed under the mortgage or divests the property of the lien which he may have created.
- g) Right of Redemption is the right of the mortgagor to redeem the mortgaged property within a certain period after it was sold for the satisfaction of the mortgage debt.

Where the mortgagee is a bank, the right of redemption exists in both judicial and extra-judicial foreclosure. In such case, the mortgagor or his successor-in-interest may exercise his right of redemption within one year from the date of the registration of the certificate of sale. (*Section 78, RA 337; Rosario vs. Tayug Rural Bank*, 22 SCRA 1220 [1968]). However, when a land covered by homestead or free patent mortgaged with a rural bank is foreclosed, the homesteader or free patent holder, as well as his heirs, shall have the right to redeem the same within one (1) year from the date of foreclosure in the case of land not covered by a Torrens Title or one (1) year from the date of registration of the foreclosure in the case of land covered by a Torrens Title (Section 6, par. 3, RA 7353, otherwise known as, "*The Rural Banking Act of 1992*").

Where the mortgagee is other than a bank, the right of redemption exists only in extra-judicial foreclosure. In such case, the debtor, his successor 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 within the term of one year from the date of registration of the certificate of sale with the appropriate Register of Deeds (Section 6, Act No. 3135, otherwise known as "An Act to Regulate the Sale of Property Under Special Powers Inserted In Or Annexed to Real Estate Mortgages; *Reyes vs. Noblejas*, GR No. 1-23691. November 25, 1967).

- h) Equity of Redemption refers to the right of the mortgagor to redeem the mortgaged property after his default in the performance of the conditions of the mortgage but before the sale of the mortgaged property or confirmation of the sale. (*Top Rate International Services, Inc. vs. Intermediate Appellate Court*, 142 SCRA 467 [1986]).

Equity of redemption exists in judicial foreclosure, except where the mortgagee is a bank. The equity of redemption may be exercised by the mortgage debtor, the second mortgagee, the subsequent attaching creditor or purchaser, within a period not less than ninety (90) days nor more than one hundred twenty (120) days from the entry of judgment of

foreclosure and even thereafter, provided he does so before the foreclosure sale is confirmed by the court, (*Sections 2 & 3, Rule 68, Revised Rules of Court*).

SECTION 3. Coverage. — These rules shall cover all agricultural lands subject of mortgage or foreclosure. They shall not apply to cases where the mortgagee is already the registered owner of the property at the start of the acquisition proceedings. In such cases, the procedures provided in DAR Administrative Order No. 2 (1996), as amended, shall govern.

SECTION 4. Mortgagee Deemed as Landowner. — For purposes of covering the property under the agrarian reform program, the mortgagee shall be considered as the new landowner if before the deposit of just compensation is made:

- a) The mortgagee is the purchaser in the foreclosure sale and the redemption period, as provided by law, has already expired in cases where the right of redemption exists; or
- b) The mortgagee is the purchaser in the foreclosure sale and said foreclosure sale is confirmed by the court in cases where only equity of redemption is provided.

SECTION 5. Mortgagee Deemed as Lien-holder. — The mortgagee shall be considered a lien-holder if on the date the land transfer claim was received by the Land Bank of the Philippines (LBP) from the Department of Agrarian Reform (DAR):

- a) The mortgage debt is not yet due and demandable; or
- b) The mortgage debt is already due and demandable but the mortgagee has not foreclosed on the property; or
- c) The mortgage has already been foreclosed but the period to exercise the right of redemption, in cases provided by law, has not yet expired; or the foreclosure sale has not yet been confirmed by the court in cases where there is only equity of redemption.

SECTION 6. Consolidation of Mortgagee's Title. The mortgagee may proceed to effect the cancellation of the mortgagor's certificate of title and the issuance of a new one in his or its name in accordance with Section 63 of PD No. 1529, or the "Property Registration Decree", upon the expiration of the redemption period or upon confirmation by the court of the foreclosure sale, as the case may be.

If the mortgagee fails to cause the issuance of a certificate of title in his or its name within thirty (30) days from receipt of the notice of land valuation and acquisition, the procedure for the transfer of title in the name of the Republic of the Philippines shall be followed in accordance with DAR AO 2 (1996). The Provincial Agrarian Reform Office shall furnish the Register of Deeds (ROD) all supporting documents to effect the

consolidation of title in the name of the mortgagee as provided in Section 63 of PD 1529, as follows:

- a) Where there is only equity of redemption, a certified copy of the final order of the court confirming the sale;
- b) In cases where the right of redemption exists:
 - 1) In judicial foreclosure, the final deed of sale executed by the sheriff in favor of the mortgagee;
 - 2) In extra-judicial foreclosure, either a final deed of sale executed by the person authorized by virtue of the power of attorney embodied in the deed of mortgage, or an affidavit of the mortgagee attesting to the fact of non-redemption. In case the latter requirement is not executed by the mortgagee, an affidavit executed by the Provincial Agrarian Reform Officer (PARO) attesting to the fact of the mortgagee's failure to execute such affidavit of non-redemption shall be sufficient.

After the submission of said supporting documents, in addition to those required in ordinary acquisition proceedings under AO 2 (1996), and after the corresponding annotations of the consolidation of ownership and of the transfer of the property to the Republic of the Philippines on the mortgagor's title, the mortgagor's title shall be cancelled and a new one issued in the name of the Republic of the Philippines, without the need of issuing a certificate of title in the name of the mortgagee.

SECTION 7. Payment of Taxes, Penalties, Fines, Registration Fees and Other Impositions. All taxes, penalties, fines, registration fees and other impositions required to be paid by the mortgagor and the mortgagee before title can be registered in the name of the Republic of the Philippines shall be deducted from the proceeds of the land transfer claim and paid by the LBP if the mortgagee fails to pay such fees within fifteen (15) days after due notice and demand either through personal service or registered mail by the PARO. Upon failure of the mortgagee/landowner to pay said fees within the prescribed period, the PARO shall verify whether an order converting, exempting or lifting the coverage or acquisition was issued involving the subject property, and if there is none, he shall direct the LBP to deduct from the proceeds of the land transfer claim the necessary amount and pay the said taxes, penalties, registration fees, fines and other impositions.

SECTION 8. Rights and Privileges of Mortgagee. — The rights and privileges of the mortgagee as new landowner or lien-holder are as follows:

- a) As new landowner, the bank, financial institution, or other concerned person shall be entitled, among others, to:
 - 1) Receive all notices, advices, correspondence, and all other communications from the DAR and/or

LBP, such as, but not limited to, Notice of Coverage, Notice of Land Valuation and Acquisition, Letter-Requirement for Processing and Payment of Claim, etc.;

2) Transact with DAR and/or LBP regarding all aspects of subject land transfer claim, to the exclusion of all other persons;

3) Be named as the recipient of all cash and bond deposits; and

4) Receive all the proceeds of subject land transfer claim, less deductions to which the land may be liable.

b) As lienholder, the bank, financial institution, or other concerned person shall be entitled, among others, to:

1) Receive payment for the obligation of the mortgagor from the land transfer proceeds up to an amount equivalent to the landowner's compensation value; and

2) Receive notices, advices, and all other communications pertaining to the obligation of the landowner-debtor (mortgagor).

SECTION 9. Obligations of Mortgagee. — The obligations of the mortgagee as new landowner or lien-holder are as follows:

a) As new landowner, the mortgagee shall:

1) Comply with all the requirements for processing and payment of the claim such as surrender of the Owner's Duplicate Copy of Title; and

2) Sign all land transfer documents required as a consequence of the processing and payment of the land transfer claim such as: Deed of Assignment, Warranties and Undertaking, Deed of Transfer, Deed of Confirmation of Coverage and Transfer, etc.

b) As lienholder, the mortgagee shall:

1) Issue a release of mortgage, or execute a deed of redemption, and deliver the Owner's Duplicate Copy of Title after payment of the value of the lien; and

2) Sign all other documents necessary to effect the cancellation of the mortgage.