



Supreme Court of the Philippines
Philippine Judicial Academy



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Guidelines for the Forfeiture of Real Property Bonds and Disposal of the Forfeited Real Property

I. GENERAL STATEMENTS

A. Definition of Terms:

1. "Property Bond" is an undertaking constituted as lien on the real property given as security for the amount of the bail required of an accused. It secures the conditional release of an accused.
2. "Bondsman" or "Surety" refers to a property owner who offers his/her property as bond for the conditional release of an accused in a criminal case.
3. "Committee" refers to the Committee on Disposal of Forfeited Real Property Bonds.

II. COVERAGE

These guidelines shall cover all real property bonds posted to secure the conditional release of an accused and which have been duly forfeited by the courts.

III. PROCEDURE

A. General Requirements/Responsibilities

1. *Annotation of Lien.* – The lien over a property posted as bond should be annotated on the title, if the property is registered. If unregistered, annotation shall be made in the Registration Book of the Registry of Deeds for the province or city where the land lies, and on the corresponding tax declaration. (*Sec. 11, Rule 114, Revised Rules of Criminal Procedure.*)
2. *Qualifications of sureties in property bond.* – The owner of the real property given as security for the amount of bail must be a resident owner of real estate within the Philippines. His real estate must be worth at least the amount of the undertaking, provided that the combined amount must be equivalent to the whole amount of the bail demanded. Every surety must be worth the amount specified in his own undertaking over and above all just debts, obligations and properties exempt from execution. (*Sec. 12, Rule 114, Revised Rules of Criminal Procedure.*)
3. *Duty of judge before approving property bonds* – Every surety shall justify by affidavit taken before the judge that he possesses the qualifications prescribed in the preceding section. He shall describe the property given as security, stating the nature of his title, its encumbrances, the number and amount of other bails entered into by him and still undischarged, and his other liabilities. The court may examine the sureties upon oath concerning their sufficiency in such manner as it may deem proper. No bail shall be approved unless the surety is qualified. (*Sec. 13, Rule 114, Revised Rules of Criminal Procedure.*)

The judge shall cause the verification of the title offered as property bond with the Register of Deeds of the place where the property is registered. If the title is found to be spurious, the application for bail should be automatically denied. He should then refer the matter to the Office of the City Prosecutor having jurisdiction thereon for investigation.

B. When Property Bond Forfeited

1. *Forfeiture of Property Bond.* – When the presence of the accused is required by the Court or the Revised Rules on Criminal Procedure, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their accused and to show cause why no judgment should be rendered against them for the amount of their undertaking. The period of thirty (30) days shall start to run from the time the bondsman/men received the order of the judge requiring him/them to produce the accused. Within the said period, the bondsmen must:
 - (a) Produce the body of the accused or give the reason for his non-production; and
 - (b) Explain why the accused did not appear before the court when first required to do so.

Failing in these requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted. (*Sec. 21, supra, with amendments.*) The bondsmen shall have sixty (60) days from their receipt of the judgment within which to pay the amount he/they justified.

2. *Report of forfeited property bonds.* - The Court shall furnish the Committee with a copy of all its Orders confiscating property bonds. A report of all confiscated property bonds shall be filed with the Office of the Committee Chairman at the end of each quarter.

C. Procedure to be Followed in the Disposal of Forfeited Property Bond

1. *Disposal of real property bond if the value of the property is not more than Fifty Thousand Pesos (P50,000).* - If the bondsmen fail to pay the amount of the bail within sixty (60) days as provided above, the real property bond the value of which is not more than P50,000, shall be sold at public auction in accordance with the following procedure:
 - (a) The Clerk of Court and *Ex Officio* Sheriff or any of his/her deputies shall set a date for the auction sale of the forfeited property. A written notice of such sale shall be given to the property owner/s at least twenty (20) days before the date of the auction sale. A copy of the notice of sale shall likewise be furnished the occupant of the property for the same period.
 - (b) Copies of the notice shall also be posted for sixty (60) days in there (3) conspicuous public places in the city or municipality where the property is located, preferably in conspicuous areas of the municipal or city hall, post office, and public market. It shall likewise be posted on the property itself for the same period.
 - (c) The notice of sale shall state the exact date, place and time of the auction sale. The sale shall be conducted in the Office of the Clerk of Court of the Regional Trial Court or First Level Court that issued the order forfeiting the property and shall be held not earlier than nine o'clock in the morning and not later than two o'clock in the afternoon.
2. *Publication required if the property owner/bondsman can no longer be found.* - In the event that the property owner/bondsman is no longer residing at the address given to the court and can no longer be found notwithstanding the exercise of due diligence to locate him, the notice of auction sale shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the province or city where the forfeited property is located. Publication shall be made in accordance with applicable laws and Supreme Court issuances.
3. *Procedure to be followed in the disposal of forfeited real property bond if the value of the property is more than P50,000.00.* - If the bondsmen fail to pay the amount of the bail within sixty (60) days as provided above, the real property bond the value of which is more than P50,000.00, shall be sold in accordance with the following procedure, to wit:
 - (a) Sale of the property shall be conducted through public auction. For this purpose, a written notice of sale shall be given to the property owner/s as well as the occupants thereof at least twenty (20) days before the date of the auction.
 - (b) The notice of sale shall also be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the province or city where the property is located. Publication shall be made in accordance with applicable Supreme Court issuances
 - (c) Copies of the notice of sale shall also be posted for sixty (60) days in three (3) conspicuous public places in the city or municipality where the property is located preferably in conspicuous areas of municipal or city hall ,post office, and public market. A copy of the notice of sale shall also be posted on the property itself for the same period.
 - (d) The notice of sale shall state the exact date, place and time of the auction sale. The sale shall be conducted in the Office of the Clerk of Court of the Regional Trial Court or First Level Court that issued the order forfeiting the property. The auction sale shall be held not earlier than nine o'clock in the morning and not later than two o'clock in the afternoon.
 - (e) The notice shall also include another date during which a second action sale may be conducted in the event of a failure of bidding during the first auction sale. The second date shall not be later than thirty (30) days from the date of the first auction sale.

D. Procedure in Case of Failure of Bidding

There is failure of bidding when there is no bidder for the real property sold at public auction, or the highest bid is for an amount lower than the required minimum bid.

1. *Failure of bidding if the value of the property is not more than P50,000.00.* - In case of failure of bidding of the property the value of which is not more than P50,000.00, the sale shall be rescheduled and held within thirty (30) days from the date of the first auction sale. A written notice of the sale shall be given to the owner/s of the property as well as the occupants thereof at least three (3) days before the date of the second auction sale. Copies of the notice shall also be posted for a period of ten (10) days before the second auction sale in three (3) conspicuous public places in the city or municipality where the property is located, preferably in the places cited in the previous sections. A notice shall likewise be posted on the property itself for the same period.
2. *Failure of bidding if the value of the property is more than P50,000.00.* - If the property the value of which is more than P50,000.00 is not disposed during the auction sale, a second auction sale shall be held on the dates indicated in the published notice of sale. A written notice of the second sale be given to the property owner/s as well as the occupants thereof at least three (3) days before the date of the second auction sale. Copies shall also be posted for ten (10) days before the auction sale in three (3) conspicuous public places in the city or municipality where the property is located and on the property itself.

E. Procedure in Case of Failure to Dispose of Forfeited Property After Holding the Second Auction Sale.

1. *In case of failure to dispose of the property after the second auction sale.* – Where there is no bidder for the real property twice exposed for public auction, or the highest bid is for an amount lower than the required minimum bid, the officer conducting the sale shall declare a failure of bidding or auction sale and shall make a return of his proceedings to the court within three (3) days from the date of the failed auction sale.
2. *Duty of Court upon receipt of the return reporting the failed auction sale.* – Upon receipt of the return above mentioned, the Court shall immediately issue an order directing the Register of Deeds where the property is located to transfer without cost the title of the forfeited property to the Government in the name of the Supreme Court of the Philippines and issue the corresponding title. Within five (5) days from the issuance of the Order, the Court shall submit a report covering all real properties the title to which have been transferred to the Supreme Court.

The Court that forfeited the property shall transmit the title to the Committee on Disposal of Real Property Bonds in the Supreme Court for safekeeping immediately upon its issuance.

F. Duties of the Committee on Disposal of Forfeited Real Property Bonds.

1. *Monitor the forfeiture of real property bonds and disposal of the property involved.* – The Committee shall monitor the due forfeiture or real property bonds and disposal of the property involved. The Chairman may direct any member of the Committee to conduct an audit to ascertain that forfeited properties are disposed of in accordance with these rules.
2. *Take Custody of Title to Forfeited Real Properties.* – The Chairman of the Committee on Disposal of Real Property Bonds shall act as custodian of the titles to real properties that have been forfeited in favor of the Government in the name of the Supreme Court of the Philippines. He shall make a quarterly report of all such titled properties to the Chief Justice and the Court Administrator.
3. *Evaluate and recommend appropriate action over confiscated properties.* – Immediately upon its receipt of the lower court's report covering all real properties the title to which have been transferred to the Supreme Court of the Philippines, the Committee shall recommend to the Court the appropriate action for their disposal.

The Committee shall determine the appropriate mode of disposal of the forfeited real properties and recommend to the Court, through the Chief Justice, its implementation. The Committee may also recommend that the forfeited real property be considered for use in the Judiciary as a site for a Hall of Justice, or for the construction of a warehouse for storing court records and other properties in *custodia legis* capable of manual delivery, unserviceable properties not yet disposed of, and any other governmental purpose, or be transferred to another government agency or entity.

G. Proceeds of the Sale

Proceeds of the sale of forfeited property – The proceeds of the sale of the forfeited property, either through public auction or negotiation when applicable shall accrue to the Judiciary Development Fund in accordance with Supreme Court En Banc Resolution in A.M. No. 99-8-01-SC.

H. Procedure for the Owner's Right to Repurchase of Forfeited Property

1. *If property is sold at public auction.* – If the property is sold at public auction, the owner of the property shall have the right to repurchase the property within a period of one (1) year from the date of the registration of the sale and after paying the amount paid by the highest bidder with legal interest. He shall also pay for all administrative expenses incurred by the court in the forfeiture and sale of the property. However, if the bondsman or property owner fails to redeem the subject property within the required period, the court shall issue an order declaring the forfeiture as absolute and confirming the consolidation of title to the highest bidder.
2. *If title to property is transferred in the name of the Supreme Court due to failure of second auction sale.* – If title to the property is transferred in the name of the Supreme Court due to failure of the second auction sale, the owner of the property shall have the right to repurchase the same within a period of one (1) year from the date of registration thereof in the name of the Supreme Court and after paying the amount of the bail. He shall also pay for all administrative expenses incurred by the court in the forfeiture and sale of the property. However, if the bondsman or property owner fails to redeem the subject property within the required period, the court shall issue an order declaring the forfeiture as absolute and confirming the consolidation of title to the Government, represented by the Supreme Court of the Philippines.

I. Procedure in Case the Bid Price is More than the Amount of Bail Secured

If the Bid price is more than the bail secured by the property. – In the event that the bid price is more than the amount of the bail secured by the property, the amount in excess of the bail shall be delivered to the bondsman/owner of the property after deducting the reasonable administrative expenses incurred by the court in conducting the sale thereof. In the event the bondsman can no longer be located, the amount shall be deposited in the Court's fiduciary account to be held in trust for such bondsman.

J. Mode of Payment

1. *Mode of payment by winning bidder.* – The winning bidder shall pay the bid amount to the cashier of the court conducting the auction sale in cash or through a manager's/cashier's check payable to such court.
2. *Certificate of sale.* – The sheriff who conducted the sale shall immediately issue a certificate of sale upon the winning bidder's payment of the bid amount. If payment is made through a manager's/cashier's check, the Sheriff shall immediately confirm its validity with issuing bank. Thereafter, the court shall issue an order confirming the sale a certified copy of which, together with the certificate of sale, shall be registered in the registry of deeds. The register of

deeds shall not cancel the bondsman/property owner's certificate of title but shall make a brief memorandum regarding the sale at the back of the certificate of title. The second and third paragraphs of Section 7, Rule 68 of the Rules of Court shall be strictly applied.

3. *Applicability of other provisions of the Rules of Court.* – The use of the premises during the one (1) year redemption period shall be in accordance with the provisions of Section 31 and 32, Rule 39.

K. Expenses for Publication

1. *Cash advance to cover expenses for publication of the sale of forfeited property the value of which is more than P50,000.00.* – The Clerk of Court (COC) shall submit to the Financial Management Office (FMO), Office of the Court Administrator a request for cash advance to pay for the publication of a sale of property the value of which exceeds P50,000.00. The request may include the reasonable transportation expenses, which the sheriff expects to incur in posting and delivering notices of the sale and in conducting the sale of the forfeited property. A canvas from three (3) newspapers of general circulation in the place where the property is located stating the cost of publication shall accompany such request. In the event that reasonable transportation expenses have been incurred, the sheriff may request the FMO to reimburse any amount he may have advanced for this purpose. The circular issued by the Court concerning travel allowances and transportation expenses shall govern any claim of transportation expenses for duties or services rendered under these guidelines.
2. *Cash advance to cover transportation expenses in the auction sale of registered property.* – The Clerk of Court may also request the FMO, OCA for cash advance to cover the reasonable transportation expenses that a sheriff is expected to incur in posting and delivering the notices for the sale of the property and in conducting the auction sale of a registered property. A list of the places where he intends to deliver and post the notice of auction sale, and the amount he needs to perform such duties shall accompany the request.
3. *Liquidation of Cash Advance.* – The Clerk of Court shall liquidate the cash advance within thirty (30) days from the receipt of the same. He/she shall attach to his/her liquidation papers three (3) copies of the newspaper that published the notice of auction sale together with the affidavit of publication.

The liquidation of any cash advance obtained under these rules shall be in accordance to the guidelines issued by the Court concerning travel allowances and transportation expenses.

4. *Effect of failure to liquidate the cash advances secured under Letter K, numbers 1 and 2 hereof.* – Failure to liquidate the cash advances secured under letter k, number 1 and 2 hereof shall be a ground for administrative sanctions.

Chancellor, Philippine Judicial Academy

Ameurфина A. Melencio Herrera

Head, Research and Linkages Office

Prof. Sedfrey M. Candelaria

Editors

Dean Eulogia M. Cueva Atty. Orlando B. Cariño

Editorial Assistant

Atty. Amelia T. Guillamun

Staff

Romano A. Zapico
Rodrigo G. Javier
Blythe M. Lumague

The *PHILJA Fax/Electronic Alerts* is issued monthly by the Research and Linkages Office of the Philippine Judicial Academy with offices at the 3rd Floor of the Supreme Court Centennial Building, Taft Avenue, Manila. Tel No. (02)552-9518; Telefax; (02)552-9526 E-mail address: research_philja@yahoo.com

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