



Republic of the Philippines  
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS  
**CENTRAL OFFICE**  
Manila

097.1 DPWH  
08-14-2019

July 31, 2019

DEPARTMENT MEMORANDUM )

CIRCULAR NO. 56 )  
Series of 2019 )

08.14.19

**FOR / TO : Undersecretaries  
Assistant Secretaries  
Service Directors  
Bureau Directors  
Regional Directors  
Heads of UPMOs  
District Engineers  
This Department**

For information and guidance, attached is a copy of **OFFICE OF THE COURT ADMINISTRATOR CIRCULAR NO. 113-2019, RE: "CLARIFICATION ON EXPROPRIATION CASES, ACQUISITION OF RIGHT-OF-WAY, ISSUANCE OF WRITS OF POSSESSION, AND ENTITLEMENT TO INTEREST PURSUANT TO REPUBLIC ACT NO. 10752"**.

A copy of said Circular may also be downloaded from the **DPWH website: <http://dpwhweb>**. If an office cannot access the DPWH website, a hard copy may be obtained from the Records Management Division, HRAS, upon request.

For dissemination to all concerned.

  
**MARK A. VILLAR**  
Secretary

Encl: OCA Circular No. 113-2019

1.1 ESR/SMAV

Department of Public Works and Highways  
Office of the Secretary



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

**OCA CIRCULAR NO. 113-2019**

- TO : ALL JUDGES AND CLERKS OF COURT OF THE OFFICE OF THE CLERK OF COURT OF THE REGIONAL TRIAL COURTS**
- RE : CLARIFICATION ON EXPROPRIATION CASES, ACQUISITION OF RIGHT-OF-WAY, ISSUANCE OF WRITS OF POSSESSION, AND ENTITLEMENT TO INTEREST PURSUANT TO REPUBLIC ACT NO. 10752**

For consideration is the letter of Hon. Mark A. Villar, Secretary, Department of Public Works and Highways (DPWH), addressed to the Court Administrator, received on 25 June 2019, requesting "the issuance of clarificatory guidelines, for the strict observance and compliance of all courts, on the uniform application of Republic Act No. 10752 (R.A. No. 10752)"<sup>1</sup> otherwise known as "The Right-of-Way Act."<sup>2</sup> Secretary Villar raises three (3) concerns:

1. Proper payee of checks for purposes of issuance of writ of possession;
2. Mandatory issuance of writ of possession upon deposit of checks; and,
3. Entitlement to interest earned by the amount deposited to the court.

On the proper payee of checks for purposes of issuance of writ of possession, the prevailing practice which has been found effective and efficient and thus sanctioned by the Office of the Court Administrator is for the clerk of court, who is the authorized government depository of the court, to receive the deposit and remit the same to the designated depository bank. Thereafter, it is the court which issues the check, payable

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<sup>1</sup> Undated Letter.

<sup>2</sup> Republic Act No. 10752 (2016), Sec. 1.

to the owner of the property upon issuance of an Order of Expropriation in accordance with the last paragraph of Section 6, R.A. No. 10752.

The implementing agencies are thus directed to indicate as payee the Office of the Clerk of Court for multiple-sala courts, or the court itself for single-sala courts, using the following format:

For multiple-sala courts:

“Office of the Clerk of Court, Regional Trial Court, (Area)”

For single-sala courts:

“Regional Trial Court, (Area)”

On the mandatory issuance of writ of possession upon payment of the deposit, the pertinent portions of Section 6, R.A. No. 10752, are clear:

Whenever it is necessary to acquire real property for the right-of-way site or location for any national government infrastructure through expropriation, the appropriate implementing agency, through the Office of the Solicitor General, the Office of the Government Corporate Counsel, or their deputized government or private legal counsel, shall immediately initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint or at any time thereafter, and after due notice to the defendant, the implementing agency shall immediately deposit to the court in favor of the owner the amount equivalent to the sum of:

(1) One hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR) issued not more than three (3) years prior to the filing of the expropriation complaint

x x x

If within seven (7) working days after the deposit to the court of the amount equivalent to the sum under subparagraphs (a)(1) to (a)(3) of this section, the court has not issued to the implementing agency a writ of possession for the affected property, the counsel of the implementing agency shall immediately seek from the court the issuance of the writ of possession.

The court shall release the amount to the person adjudged in the same expropriation proceeding as entitled thereto.

*Municipality of Cordova v. Pathfinder Development Corporation*<sup>3</sup> emphasizes the mandatory issuance of the writ of possession upon the receipt of the required deposit. "No hearing is actually required for the issuance of a writ of possession, which demands only two (2) requirements: (a) the sufficiency in form and substance of the complaint; and, (b) the required provisional deposit x x x x Upon compliance with these requirements, the petitioner in an expropriation case is entitled to a writ of possession as a matter of right and the issuance of the writ becomes ministerial."<sup>4</sup> (Emphasis supplied.)

OCA Circular No. 232-2015,<sup>5</sup> which was issued to clarify R.A. No. 8974,<sup>6</sup> still finds application despite the express repeal of the said law by R.A. No. 10752, as it enjoined all courts to "eschew delay and strictly comply with Section 4, R.A. No. 8974, as explained by existing jurisprudence."<sup>7</sup> *Republic of the Philippines v. Spouses Agustin and Imelda Cancio*<sup>8</sup> is enlightening:

There is therefore no need yet to determine with reasonable certainty the final amount of just compensation in resolving the issue of a writ of possession. In fact, it is the ministerial duty of the trial court to issue the writ upon compliance with the requirements x x x x No hearing is required and the court cannot exercise its discretion in order to arrive at the amount of the provisional value of the property to be expropriated as the legislature has already fixed the amount under the aforementioned provision of the law.<sup>9</sup> (Emphasis supplied.)

There is likewise nothing in the law, rules, or existing jurisprudence which states that a court order is necessary before the clerk of court can accept the deposit of the implementing agency. Hence, no court order is necessary. Clerks of court must accept the deposit "upon the filing of the complaint or at any time thereafter, and after due notice to the defendant."<sup>10</sup>

Petitions and defenses alleging change in ownership of the property at issue likewise do not detract from the court's ministerial duty to issue the writ of possession upon compliance of the implementing agency with the Guidelines. In *Ramos v. Philippine Tourism Authority*,<sup>11</sup> the Court held

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<sup>3</sup> *Municipality of Cordova v. Pathfinder Development Corporation*, G.R. No. 205544, 29 June 2016.

<sup>4</sup> *Id.*

<sup>5</sup> *Application of Republic Act No. 8974*, OCA Circular No. 232-2015, 15 October 2015.

<sup>6</sup> *An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and for Other Purposes*, Republic Act No. 8974 (2000).

<sup>7</sup> *Id.*

<sup>8</sup> *Republic of the Philippines v. Spouses Agustin and Imelda Cancio*, G.R. No. 170147, 30 January 2009.

<sup>9</sup> *Id.*

<sup>10</sup> R.A. No. 10752, Sec. 6.

<sup>11</sup> *Ramos v. Philippine Tourism Authority*, G.R. Nos. 52449-50, 9 June 1980.

that "expropriation proceeding is in the nature of one that is *quasi in rem*, wherein the fact that the owner of the property is made a party is not essentially indispensable insofar as it concerns the immediate taking of possession of the property and the preliminary determination of its value, including the amount to be deposited." "An action *quasi in rem* names a person as defendant, but its object is to subject that person's interest in a property to a corresponding lien or obligation."<sup>12</sup> As such, in a proceeding *quasi in rem*, "jurisdiction over the person of the defendant is not a prerequisite to confer jurisdiction on the court, provided that the latter has jurisdiction over the *res*."<sup>13</sup>

In fine, pursuant to R.A. No. 10752, and as explained by caselaw, all Regional Trial Court Judges are required to issue the writ of possession within seven (7) working days from the receipt of the implementing agency's deposit to the court of one hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the BIR.

On the entitlement to interest earned by the amount deposited to court, the case of *Republic v. Holy Trinity Realty Development Corporation*<sup>14</sup> is instructive:

Notwithstanding that the amount was deposited under the DPWH account, ownership over the deposit transferred by operation of law to the [HTRDC] and whatever interest, considered as civil fruits, accruing to the amount of Php22,968,000.00 should properly pertain to [HTRDC] as the lawful owner of the principal amount deposited following the principle of accession. Bank interest[s] partake the nature of civil fruits under Art. 442 of the New Civil Code. And since these are considered fruits, ownership thereof should be due to the owner of the principal. Undoubtedly, being an attribute of ownership, the [HTRDC's] right over the fruits (*jus fruendi*), that is the bank interests, must be respected.<sup>15</sup>

Premises considered, all Regional Trial Court Judges and Clerks of Court of the Office of the Clerk of Court are hereby **ORDERED** to strictly comply with the following:

1. Ministerial acceptance of the deposit of the implementing agency in right-of-way cases pursuant to R.A. No. 10752, without need of a court order, issued for the account of the Office of the Clerk of Court for multiple-sala courts, or the court itself for single-sala courts, following this format:

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<sup>12</sup> *Ramos v. Ramos*, G.R. No. 144294, 11 March 2003.

<sup>13</sup> *Alba v. Court of Appeals*, G.R. No. 164041, 29 July 2005.

<sup>14</sup> *Republic v. Holy Trinity Realty Development Corporation*, G.R. No. 172410, 4 April 2008.

<sup>15</sup> *Id.*

For multiple-sala courts:

**"Office of the Clerk of Court, Regional Trial Court, (Area)"**

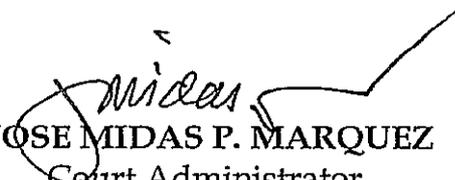
For single-sala courts:

**"Regional Trial Court, (Area)"**

2. Ministerial and immediate issuance of the writ of possession within seven (7) working days upon the deposit to the court of the amount equivalent to the sum of one hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the BIR issued not more than three (3) years prior to the filing of the expropriation complaint; and,
3. Release of the interest earned in the deposited amount to the account of the owner of the expropriated property, as adjudged by the court.

For strict compliance.

16 July 2019

  
JOSE MIDAS P. MARQUEZ  
Court Administrator