Financial institutions (recovery of finances) Rules, 2018 announced

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KARACHI: The State Bank of Pakistan (SBP) on Thursday notified Financial Institutions (Recovery of Finances) Rules, 2018, asking the banks, Development Financial Institutions (DFIs) and Microfinance Banks for necessary action.

A circular BPRD 15 of 2018 stated, "in exercise of the powers conferred by section 25 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, the federal government has notified the Financial Institutions (Recovery of Finances) Rules, 2018".

The rules described the procedure for sale of mortgaged property, valuation of mortgaged property, bidding process and some other financial matters.

According to Financial Institutions (Recovery of Finances) Rules, 2018 before sending the first notice to the mortgagor, the financial institution will forward the case to a chartered accountant firm to determine the outstanding mortgage money. In case of more than one mortgagees of the mortgaged property, the financial institution will also request these mortgagees to submit their respective claims for outstanding mortgage money to the chartered accountant firm so nominated or appointed by the financial institution along with complete documents to support their claims.

The fee of the chartered accountant firm will be initially borne by the financial institution which may subsequently be adjusted and considered as the expenses for the sale of the mortgaged property. In case of claims by more than one mortgagees of the mortgaged property, the fee of the chartered accountant firm will be shared by the mortgagees on a pro rata basis.

For valuation of mortgaged property, the financial institution will hire three valuers from the approved list of professional valuers maintained by the Pakistan Banks Association. Within fifteen days of their appointment the valuers will independently evaluate the mortgaged property and determine its forced sale value.

The highest among the three values determined by the valuers will be considered as the reserve price under clause (d) of sub-section (1) of section 15 of the Ordinance and if the valuation on the basis of which the reserve price is specified is older than six months at the time of publication of the notice, the financial institution will get the property evaluated afresh.

After the valuation of the mortgaged property, the financial institution will make a publication and the public auction for the sale of the mortgaged property will take place after fifteen days of the publication of the notice.

In case there are more than one bidder with competitive offers, the financial institution will determine and declare the highest bidder as the successful bidder and if on the bidding day, only one bidder with the offer equal to or more than the reserve price of the mortgaged property comes forward, the financial institution may proceed to sell the mortgaged property to such bidder.

On acceptance of the bid by the financial institution, the successful bidder shall deposit minimum twenty-five percent of the bid amount within two business days of the auction. The rest of the bid amount shall be deposited within fifteen days from the date of the initial deposit. In case of failure of the bidder to deposit the remaining amount within the prescribed time limit, the financial institution shall take the deposited amount as reduction of liability of the borrower and re-initiate the auction proceedings for recovery of the remaining amount.

In case no bid is received, the auction will be cancelled and the entire exercise will be repeated by the financial institution, subject to the condition that if no bid is received in three auctions, the financial institution, at its discretion, may purchase the mortgage property at a price ten percent higher than the reserve price, with due notice to the mortgagor.

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