

How to get your Cancellation of Real Estate Mortgage — when the bank refuses or lost it

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When a housing or property loan is fully paid, getting the owner's duplicate title back is only half the job. The mortgage the bank annotated on the title stays there until a separate document — the Cancellation, Release, or Discharge of Real Estate Mortgage — is executed by the bank and registered with the Registry of Deeds. Until that instrument is filed, the title still shows an encumbrance, and it cannot be sold, used as collateral again, or transferred to heirs. This guide covers what the document is, how to demand it from a bank that refuses or says it was lost, how the heirs of a deceased borrower obtain it, and how to register it so the title comes out clean. It applies to any BSP-supervised bank — including China Banking Corporation (China Bank), BDO, BPI, Metrobank, Landbank, and rural banks.

1. Know the exact document (the returned title is not enough)

A real estate mortgage is an accessory contract: it exists only to secure the loan, and in law it is extinguished the moment the loan is fully paid (Civil Code Article 2085 and the rules on extinguishment of obligations). But extinguishment in law is not the same as cancellation on the title. Under the Torrens system, the mortgage annotation printed on the certificate of title stays there until a discharge instrument is registered.

That instrument — variously titled Cancellation of Real Estate Mortgage, Release of Real Estate Mortgage, or Discharge of Mortgage — must be executed by the bank (the mortgagee) in a form sufficient in law, then filed with the Registry of Deeds, which annotates the cancellation on the title (PD 1529, Section 62). Getting your owner's duplicate title back at the branch does not do this by itself. Many banks return the title but never hand over the release instrument, and the encumbrance quietly stays on record for years.

[law] Civil Code (RA 386) — Article 2085 (mortgage as accessory contract) — https://law-phil.net/statutes/repacts/ra1949/ra_386_1949.html

[law] PD 1529 (Property Registration Decree) — Section 62 — https://lawphil.net/statutes/presdecs/pd1978/pd_1529_1978.html

2. Confirm full payment and assemble your proof

Before demanding the release, assemble: the official receipt or statement of account showing a zero balance or full settlement; the loan account number; the owner's duplicate certificate of title (the TCT or OCT number); and, if you have it, the original Real Estate Mortgage or promissory note.

If the loan was paid years ago and the receipts are gone, request a Statement of Account or a Certificate of Full Payment from the bank in writing — RA 11765 obliges the bank to keep and disclose these records to the consumer. This paperwork is what makes the demand in Step 3 concrete, and it is exactly what a regulator will look for later.

[law] RA 11765 — Financial Products and Services Consumer Protection Act — <https://www.officialgazette.gov.ph/2022/05/06/re-public-act-no-11765/>

3. Send a written demand to the bank's consumer-assistance unit (FCPAM)

Every BSP-supervised bank is required by RA 11765 to operate a Financial Consumer Protection Assistance Mechanism (FCPAM) — a formal complaints channel, and the mandatory first stop before a regulator will act. Send a dated written demand (email plus registered mail) to the branch that granted the loan and to the bank's consumer-assistance / FCPAM address.

State that the loan is fully paid, whether the owner's duplicate title has been released, and demand execution and release of the Cancellation of Real Estate Mortgage within a stated period — fifteen banking days is reasonable. Keep the demand and the proof of sending: this is the proof of availment that BSP requires before it will escalate.

TIP

A ready-to-use demand letter for this exact request is available at </complaints/request?doc=mortgage-cancellation-demand> — bank-agnostic, it cites Civil Code Article 2085, PD 1529 Section 62, and the bank's RA 11765 obligation. Choose "Fill on screen" to type your details, or "Print blank & write by hand" to print a form with underlines you complete on paper.

[law] RA 11765 — Financial Products and Services Consumer Protection Act — <https://www.officialgazette.gov.ph/2022/05/06/republic-act-no-11765/>

4. If the borrower has died: the heirs' path

The right to the property — and to compel the release — passes to the heirs at the moment of the borrower's death (Civil Code Article 777). The bank will not hand the instrument to just anyone; it will ask the heirs to establish standing.

Prepare the death certificate(s) of the registered owner(s); proof of heirship; and, where the estate is settled among several heirs, an Extrajudicial Settlement of Estate under Rule 74 of the Rules of Court (published once a week for three consecutive weeks in a newspaper of general circulation), plus a Special Power of Attorney if one heir will transact for the others. Ask the bank in writing exactly which documents it requires for release to heirs, so its requirements are on record if you later escalate. Note that transferring the cleaned title to the heirs afterward is a separate step that also requires a BIR electronic Certificate Authorizing Registration (eCAR) for estate tax.

TIP

Cannot afford a lawyer for the estate settlement or the demand? Free legal aid is available. See </legal-help> for the Public Attorney's Office (PAO), IBP legal aid, and law-school clinics organized by region — and </legal-help/eligibility> to check whether you qualify for a free PAO lawyer. You can also generate an Affidavit of Indigency at </complaints/request?doc=affidavit-of-indigency> and a request-for-help letter at </complaints/request?doc=help-request-letter>.

[law] Civil Code (RA 386) — Article 777 (succession transmitted at death) — https://lawphil.net/statutes/repacts/ra1949/ra_386_1949.html

5. Escalate to BSP if the bank refuses or stalls

If the bank does not release the instrument within your stated period, escalate to the BSP Consumer Assistance Mechanism (CAM). A bank's failure to release a discharge after full payment is a consumer-protection matter under RA 11765.

BSP-CAM is a second-level recourse: you must show you first raised it with the bank's FCPAM (Step 3). File through the BSP Online Buddy (BOB) chatbot — the robot icon on bsp.gov.ph or the Message button on the BSP official Facebook page — and continue until you receive a reference number in the format BSPCMS-2026-ABC1234. If you cannot use BOB, email a completed Consumer Assistance (CIR) form to consumeraffairs@bsp.gov.ph with your proof that you already contacted the bank. BSP-CAM mediates; it does not itself cancel the annotation, but it is the fastest lever to make an unresponsive bank act.

BE CAREFUL

Filing at BSP before you have contacted the bank's FCPAM gets you the standard auto-reply and no case number. Do Step 3 first and keep the proof, then file with BSP.

TIP

Losing track of where you are? The escalation tracker at </escalate/tracker> keeps your place across the whole ladder — records the date you sent the demand, computes the 15-banking-day deadline, stores your BSPCMS-2026 case number, and links each step (BSP mediation, BSP adjudication, and a §108 court petition) to the right tool.

[law] RA 11765 — Financial Products and Services Consumer Protection Act — <https://www.officialgazette.gov.ph/2022/05/06/re-public-act-no-11765/>

[agency] BSP Consumer Assistance Mechanism (BOB / consumeraffairs@bsp.gov.ph) — <https://www.bsp.gov.ph/SitePages/Default.aspx>

6. Register the cancellation at the Registry of Deeds

Once the bank executes the Cancellation / Release of Real Estate Mortgage (a notarized instrument), bring it together with the owner's duplicate certificate of title to the Registry of Deeds where the property is registered. Under PD 1529 Section 62, the Register of Deeds makes the memorandum of cancellation on the certificate of title upon presentation of the discharge instrument.

Pay the registration fee, then request a certified true copy of the updated title and confirm the mortgage annotation now carries a cancellation memorandum. Only after this is the title clean — free to be sold, mortgaged again, or transferred to heirs.

[law] PD 1529 (Property Registration Decree) — Section 62 — https://lawphil.net/statutes/presdecs/pd1978/pd_1529_1978.html

ACTION CHECKLIST

- Identify the exact document: Cancellation / Release / Discharge of Real Estate Mortgage.
- Gather proof of full payment, the loan account number, and the title (TCT/OCT) number.
- Send a dated written demand to the bank's branch and FCPAM; keep proof of sending.
- If the borrower has died, prepare death certificates, proof of heirship, and (where needed) an Extrajudicial Settlement and SPA.
- Give the bank fifteen banking days to release the instrument.

[] If it refuses, file with BSP through BOB until you get a BSPCMS-2026 reference number.

[] Register the release at the Registry of Deeds and get a certified true copy of the clean title.

FREQUENTLY ASKED QUESTIONS

The bank already returned our title — why is there still a mortgage on it?

Returning the owner's duplicate title and cancelling the mortgage are two different acts. The annotation stays on the certificate until the bank's Cancellation / Release of Real Estate Mortgage is registered under PD 1529 Section 62. Ask the bank specifically for that instrument, not just for the title.

The bank says it lost the cancellation or can't find the records — what now?

The bank can execute a fresh release instrument; the loss of its own copy does not extinguish its obligation. Put the request in writing to its FCPAM, and if it still refuses, escalate to BSP-CAM. Keep every reply as evidence.

Does this apply to China Bank specifically?

Yes. China Banking Corporation is a BSP-supervised universal bank, so the RA 11765 FCPAM obligation and the BSP-CAM escalation path both apply, and the Registry of Deeds step under PD 1529 Section 62 is the same as for any other bank.

The borrowers (our parents) have died. Can we still get the cancellation?

Yes. Succession rights pass to the heirs at the moment of death (Civil Code Article 777). The bank will require proof of heirship — typically the death certificates and an Extrajudicial Settlement under Rule 74 — before releasing the instrument to heirs.

Will BSP cancel the mortgage for us?

No. BSP mediates and pressures the bank to act; the actual cancellation is registered at the Registry of Deeds under PD 1529 Section 62 once the bank issues the release instrument.

REFERENCES

[law] Civil Code (RA 386) — Articles 777 and 2085 — https://lawphil.net/statutes/repacts/ra1949/ra_386_1949.html

[law] PD 1529 (Property Registration Decree) — Section 62 — https://lawphil.net/statutes/presdecs/pd1978/pd_1529_1978.html

[law] RA 11765 — Financial Products and Services Consumer Protection Act — <https://www.officialgazette.gov.ph/2022/05/06/re-public-act-no-11765/>

[circular] BSP Circular 1169 (2023) — CAM, mediation, and adjudication rules — <https://www.bsp.gov.ph/Regulations/Is-suances/2023/1169.pdf>

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