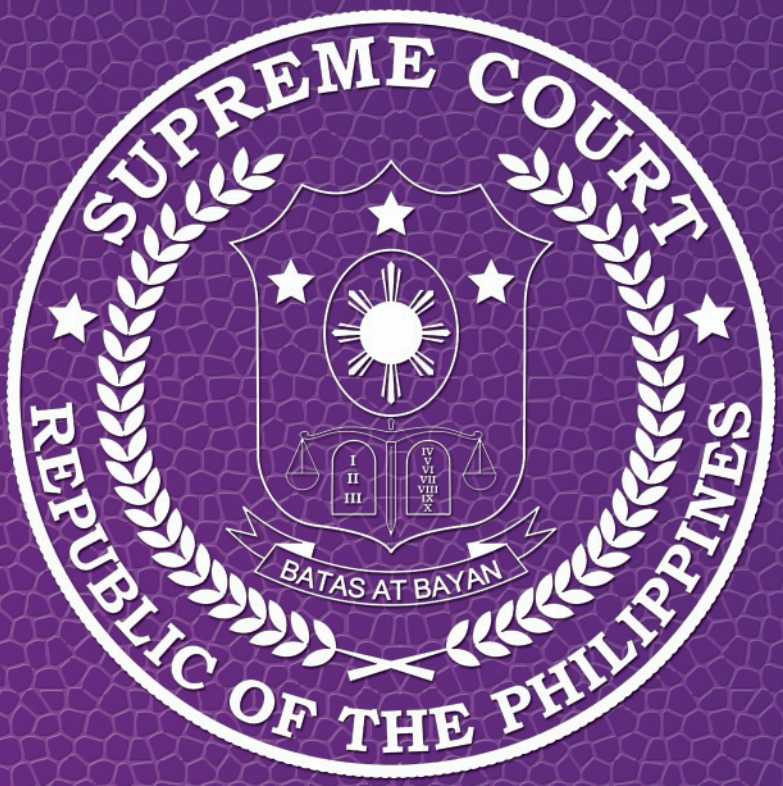

2019

AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE

(A.M. NO. 19-10-20-SC)

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MESSAGE

Rules of procedure are a fundamental part of a judicial system. They act as a vital link that connects the domain of substantive law with that of judicial administration. They ensure that the results of court issuances and processes are valid and legitimate. They guarantee that the application of the law in relation to the rights and liberties of the public is not only accurate but also orderly, timely, and intelligible. In line with this, the Supreme Court of the Philippines has made it Its perennial objective to constantly improve laws on procedure so that the courts may provide effective service to the public.

Upon my assumption into office as the 26th Chief Justice of the Philippines last year, I included in my Ten-Point Program for the Judiciary "the continuous revision and issuance of rules of procedure so as to make the law more responsive and accessible to the needs of court-users, and the conduct by the Philippine Judicial Academy (PHILJA) of more skills-based training for judges and court personnel." This, following what I saw was the need to institutionalize procedural reforms that will simplify and expedite judicial proceedings. Two of the recent actions taken by the Court geared towards this objective of enhancing the efficiency of judicial administration have been the approval of the amendments to the *Rules of Civil Procedure* and the *Rules on Evidence*, both of which took effect on May 1, 2020.

To further enhance the execution and purpose of the amended Rules, the Supreme Court, through the PHILJA, presents this compilation of the primer on the amended *Rules of Civil Procedure* and *Rules on Evidence*, the text of the amended Rules, and a comparative matrix of the old *vis-à-vis* the new procedural rules to assist judges in understanding the key features of the amendments. It is my sincere hope that this publication will be of substantial help in furthering the Court's objective of encouraging the speedy, inexpensive disposition of cases as a means of improving the administration of justice.

DIOSDADO M. PERALTA
Chief Justice

MESSAGE

The Supreme Court has been steadfast in applying the Constitutional right to speedy disposition of cases. It is an embodiment of the oft-repeated rule that "justice delayed is justice denied." Section 5 (5), Article VIII of the 1987 Constitution states that the Supreme Court has the power to promulgate rules concerning pleadings, practice and procedure. Pursuant to such power, the Court promulgated the Rules of Court, which generally govern the resolution of court cases. Due to the passage of time, technological advancements thrived in our society, such as the expansion of the internet and the use of electronic mail. Similarly, new methods for the speedy resolution of cases, such as alternative dispute resolution and effective pre-trial techniques, were developed. Further, the Philippines has acceded to international conventions that simplified the recognition and service of court documents, such as the Apostille Convention and The Hague Service Convention.

Over the years, the Supreme Court, under the auspices of its development partners, has sent judges, justices, and court officials to different jurisdiction on study visits to acquire information and knowledge on how to address court docket congestion, reduce trial delays, and improve court management. Equally important are the comments and suggestions of stakeholders within and outside the judiciary on the speedy and efficient disposition of cases. The knowledge acquired and information accumulated are now reflected in the 2019 Revised Rules of Civil Procedure and 2019 Revised Rules on Evidence.

The 2019 Revised Rules on Evidence and 2019 Revised Rules of Civil Procedure were approved by the Supreme Court *En Banc* on October 8, 2019 and October 15, 2019, respectively, and became effective on May 1, 2020. The successful implementation of these Rules is one of the Ten-Point Program of Chief Justice Diosdado M. Peralta. Through skills-based training programs under the direction of the Philippine Judicial Academy, Chief Justice Peralta rightfully believes that these Rules effectively address the problem of court delays.

The members of the Subcommittees on the Revision of the 1997 Rules of Civil Procedure and Rules on Evidence and the Committee on the Revision of the Rules of Court, when these Proposed Rules were formulated, drafted, and eventually approved, were always guided by the principle that an effective court system should never become stale; it must adapt with the changing times, apply the effective methods of dispute resolution, and there must be continuous training of judges, lawyers and litigants on core values of speedy resolution of cases. With the implementation of the 2019 Revised Rules of Civil Procedure and 2019 Revised Rules on Evidence, it is my fervent belief that the search for truth in court litigations will be progressive, modernized, prompt, fair, and just.

ALEXANDER G. GESMUNDO
Associate Justice
Member, Committee on the Revision of the Rules of Court
Vice Chair, Subcommittee on the Revision of the 1997 Rules of Civil Procedure

MESSAGE

It is indeed an honor for PHILJA to take part in the media launch for the **2019 Amendments to the Rules of Civil Procedure** and the **Revised Rules on Evidence**, through the production of books compiling the primer, amended texts and comparative matrices of the old and new Rules, and I wish to extend my gratitude to the Chief Justice for entrusting PHILJA with this task.

The 2019 Amendments to the Rules of Civil Procedure and Revised Rules on Evidence, which took effect last May 1, 2020, are manifestations of the Supreme Court's commitment constantly to find ways of improving the efficiency of our courts, by promulgating rules that not only simplify and expedite court proceedings but also adapt to the needs of the changing world.

It is our hope that the books, in both printed and digital versions, will provide the end users an easy reference and better understanding of the changes brought about by the amendments.

ADOLFO S. AZCUNA
PHILJA Chancellor

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Primer on the 2019 Amendments to the 1997 Rules of Civil Procedure

Primer on the 2019 Amendments to the 1997 Rules of Civil Procedure

How long did the process of amendment take? Who initiated this?

In January 2019 during the term of Chief Justice Lucas P. Bersamin, the Committee on the Revision of the Rules of Court, also known as the Mother Rule Committee, was reorganized. Then Associate Justice, now Chief Justice, Diosdado M. Peralta, was the Working Chairperson of the Mother Rule Committee. A Subcommittee was created to study the existing rules and submit amendment proposals to the Mother Rule Committee. The Subcommittee was likewise chaired by then Associate Justice Peralta, and composed of the following members: SC Associate Justice Alexander G. Gesmundo (Vice Chairperson), SC Associate Justice Francis H. Jardeleza, SC Associate Justice Alfredo Benjamin S. Caguioa, Court Administrator Jose Midas P. Marquez, CA Associate Justices Fernanda Lampas Peralta and Maria Filomena D. Singh, retired CA Justice Magdangal M. De Leon, Regional Trial Court Judge Jose Lorenzo R. Dela Rosa, Metropolitan Trial Court Judge Niño Delvin E. Embuscado, and Attys. Ramon S. Esguerra and Tranquil Gervacio S. Salvador III, among others. The Subcommittee's work was then submitted to the Mother Rule Committee.

The Mother Rule Committee reviewed, deliberated on and finalized the proposed amendments to the *Revised Rules on Evidence* and to the *1997 Rules of Civil Procedure*. The exhaustive study and review of proposed amendments were done within eight (8) months, from the time the Mother Rule Committee initially met on February 14, 2019 up to the approval of the proposed amendments by the Court *En Banc* on October 8 and 15, 2019.

What are the significant changes?

The amendments to the *1997 Rules of Civil Procedure* present a multi-faceted adjustment to the rules, with the goal of improving the flow of court proceedings and avoiding delays. For parties, the requirements to institute an action were modified such that the complaint must now include evidentiary matters, *i.e.*, judicial affidavits and copies of documents. Several motions, which are susceptible to dilatory abuse, are now prohibited or considered non-litigious, while litigious motions may be heard at the judge's discretion. The provision on the hearing of motions was deleted. The entire Rule 16 on motion to dismiss was also deleted, as most of its provisions were incorporated in other rules. New provisions on the presumptive service of pleadings and other papers, substituted service of summons, and service and filing through accredited courier, email and other electronic means have been introduced to prevent delay in court proceedings. The provision on extraterritorial service has been amended to include modes of service as provided for in international conventions to which the Philippines is a party, *i.e.*, Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, commonly known as The Hague Service Convention. The amendments also require judges to be more engaged as they take on a more proactive role in assessing the merits of cases and the progress of proceedings in general.

The practice of having a preliminary conference before the branch clerk of court was done away with, and pre-trial shall be immediately conducted by the judge. Pre-trial now needs to be concluded before the case is referred to Court-Annexed Mediation (CAM), but only (1) if there is a genuine issue involved; (2) if the answer tenders an issue; or (3) if the answer does not admit the material allegations in the adverse party's pleadings. If the CAM fails, Judicial Dispute Resolution may be availed of only if the judge of the court to which the case was originally raffled is convinced that settlement is still possible. The initial presentation of evidence shall take place no later than thirty (30) calendar days after termination of the pre-trial. The continuous trial of civil cases is adopted, whereby the plaintiff and the defendant are given ninety (90) calendar days each to present evidence, which one hundred eighty (180)-calendar day period may be extended to ten (10) months or three hundred (300) calendar days if there is a third (fourth, etc.)-party claim, counterclaim or cross-claim. Judgment shall be rendered within ninety (90) calendar days from the submission of the case for resolution, with or without memoranda.

Conversely, if there is no genuine issue, or if the answer fails to tender an issue, or if the answer admits of the said material allegations, the court may *motu proprio* submit the case for judgment on the pleadings or summary judgment, without prejudice to the party moving for such relief. Such judgment must be rendered within ninety (90) calendar days from termination of the pre-trial, with or without the submission of memoranda. Any action of the court on the motion for summary judgment or the motion for judgment on the pleadings shall not be subject of an appeal, certiorari, prohibition or mandamus. The order denying the demurrer to evidence shall likewise not be subject of an appeal, certiorari, prohibition or mandamus before judgment.

How would this help the public and the administration of justice?

The amendments are designed to benefit the public since they address head-on the twin problems of docket congestion and delays. Speedier proceedings will help in managing the heavy dockets of our courts since cases will be resolved much quicker. With the amendments, frivolous or baseless actions will be lessened, if not eliminated. The public and the ends of justice will surely be served by a more efficient judiciary.

Did we base it from other rules in other jurisdictions?

In coming up with the amendments, the rules and procedures in other jurisdictions were considered, but always within the context of our legal system. The speedy pre-trial proceedings incorporated in the amendments to the *1997 Rules of Civil Procedure* were borrowed from the US and other European countries. However, these were always seen and considered from the lenses of the Philippine courts. Ultimately, foreign rules were incorporated based on the potential value they may have on our jurisdiction.

Why did we have to amend or draft new rules?

The continuous improvement of our court proceedings, which will eventually translate into a more responsive judiciary for our people, is a constant concern for the Court. The Court has the exclusive power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading,

practice, and procedure in all courts. With such power comes the duty to ensure that the rules are responsive to the needs of all court users and stakeholders, adapt to technological advancements, and properly address problems that may come up.

Do the amendments draw from the success of other changes in the rules of procedure? (such as the Rule on Small Claims Cases and the Revised Guidelines for Continuous Trial in Criminal Cases)

Yes. The experiences and lessons learned in the implementation and success of the other rules were considered when the amendments to the *Revised Rules on Evidence* and the *1997 Rules of Civil Procedure* were drafted. Relevant statistical data, as well as anecdotal and experiential information, were discussed to properly frame the drafting of the new amendments.

Any message to lawyers, judges, litigants in light of these changes? (if we were to look back at the Continuous Trial, there were a lot of resistance and complaints)

All of us are stakeholders in our Justice system. The amendments are not meant to inconvenience anyone nor were they introduced merely for the sake of change. Rather, they were devised to improve the administration of justice and promote the just, speedy and inexpensive disposition of cases. Neither are the changes skewed in favor of any one stakeholder, as they were formulated with the interests of all stakeholders in mind. There will definitely be an adjustment period, but rest assured that the amendments will address more problems rather than create new ones. We encourage everyone's sincere participation and ask for your support in following the rules in order for these changes to succeed.

Can we expect more amendments or new rules from the Peralta Court?

Yes. The study of the rules is an ongoing endeavor and their amendment a work in progress. The rules will be studied as needed, and changes thereto carefully crafted. The implementation of duly approved revised Rules of Court and their continuous revision is part of Chief Justice Peralta's Ten-Point Program for the Judiciary. Subcommittees have been recently reorganized to study and propose amendments to the *Revised Rules on Criminal Procedure* and the *Revised Rules of Procedure for Intellectual Property Rights Cases.* Remote testimony is now under pilot testing and, lately, the *Rules of Procedure for Admiralty Cases* has just been implemented last January 1, 2020.

Are the amendments easy to understand and implement?

After the lapse of an expected adjustment period, it is hoped that the amendments will be easier to understand and implement, as these are meant to simplify and expedite proceedings. At any rate, the Court, through the Philippine Judicial Academy, will conduct the necessary trainings or seminars to familiarize judges, lawyers and the public in general with the changes in the Rules, as was done when the *Revised Guidelines for Continuous Trial in Criminal Cases* was adopted on April 25, 2017.

2

Laws on the Supreme Court

A. Act No. 136 (June 11, 1901)
An Act Providing for the Organization of Courts in the Philippine Islands

B. Republic Act No. 296 (June 17, 1948)
Judiciary Act of 1948

C. Batas Pambansa Blg. 129 (August 14, 1981)
The Judiciary Reorganization Act of 1980

D. The Supreme Court under the 1987 Constitution

Act No. 136 (June 11, 1901)
An Act Providing for the Organization of Courts in the Philippine Islands

CHAPTER I
General Provisions

Section 1. *Courts of justice to be maintained in every province.* – Courts of justice shall be maintained in every province in the Philippine Islands in which civil government shall be established; which courts shall be open for the trial of all causes proper for their cognizance, and justice shall be therein impartially administered without corruption or unnecessary delay.

Section 2. *Constitution of judiciary.* – The judicial power of the Government of the Philippine Islands shall be vested in a Supreme Court, Courts of First Instance, and courts of justices of the peace, together with such special jurisdictions of municipal courts, and other special tribunals as now are or hereafter may be authorized by law. The two courts first named shall be courts of record.

Section 3. *Qualifications of judges, and so forth.* – In order to be eligible to the office of Chief Justice of the Supreme Court, or judge of the Supreme Court, or judge of a Court of First Instance, or Attorney-General, a person must:

1. Be more than thirty years of age;
2. Be a citizen of the United States or a native of the Philippine Islands, or have acquired, by virtue of the Treaty of Paris, the political rights of a native of the Islands;
3. He must have practiced law, or have been a judge of a court of record, in the United States or the Philippine Islands, or in Spain, or, previous to the date of the ratification of the Treaty of Paris, in any Spanish territory, for a period of five years, or must for a like period have filled any office which requires a legal degree as an indispensable qualification in the Philippine Islands or, previous to the date of the ratification of the Treaty of Paris, in any Spanish territory.

Section 4. *Hours of labor of court employees.* – The hours of labor of all employees in and about the Supreme Court and the Courts of First Instance shall be regulated by [S]ection [O]ne of Act Numbered Eighty, entitled, "An Act regulating the hours of labor, leaves of absence, and transportation of appointees under the Philippine Civil Service," enacted January twenty-sixth, nineteen hundred and one.

Section 5. *Leaves of absence.* – All leaves of absence of the judges of the Supreme Court, the Attorney-General, Solicitor-General, and Assistant Attorney-General, clerk, and other subordinates of the Supreme Court, and judges of Courts of First Instance, shall be granted by the Chief Justice.

Leaves of absence of clerks and other subordinates, officials or employees of Courts of First Instance shall be granted by the judge of the Court of First Instance, for each province within his judicial district. The Chief Justice shall determine his own leave of absence, but his leave of absence and that of all the other officials and employees in this Act named shall be governed by [S]ections [T]wo and [T]hree of Act Numbered Eighty, above referred to.

Section 6. *Transportation of judges, and salary while traveling.* – A person residing in the United States who is appointed judge of the Supreme Court, or judge of the Court of First Instance of the Philippine Islands, shall be paid the traveling expenses of himself and family from his place of residence to Manila, if he shall come by the steamer and route directed by the Chief Executive of the Islands. He shall be allowed one-half salary from the date of leaving home to come to Manila, and full salary from the date of his arrival in the Islands, provided that he proceeds directly to the Islands. Otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey from his place of residence to Manila. If he has been employed as judge in the Philippine Islands for three years or more he shall, if he so requests, upon his retirement from the service, be furnished with transportation for himself and family from Manila to his place of residence, and be allowed half salary for thirty days, in addition to full salary for the period for which he may be entitled as leave of absence, under the provisions of this Act, and of said Act Numbered Eighty.

Section 7. *Official oath of judicial officers.* – The judges and justices of the several courts shall, before they proceed to execute the duties of their respective offices, take and subscribe to the following oath or affirmation, to wit:

> "I, _____, solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____, according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands. And that I recognize and accept the supreme authority of the United States of America in these Islands, and will maintain true faith and allegiance thereto; that I impose upon myself this obligation voluntarily, without mental reservation or purpose of evasion; so help me God." (The last four words to be stricken out in case of affirmation.)
>
> "(Signature) _____
>
> "Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19___."

The oath may be administered by any member of the Philippine Commission, or by any judge or justice of the peace duly qualified to act, and shall be filed with the clerk of court in which the official taking the oath presides, and be by him recorded in the records of the court.

CHAPTER II

Supreme Court

Section 8. *Supreme Court.* – The Supreme Court shall consist of a Chief Justice and six associate judges, any five of whom when convened shall form a quorum, and may transact any of the business of the court; but in the absence of a quorum the member or members present may adjourn the court from time to time with the same effect as if all were present. The concurrence of at least four members of the court shall be necessary to pronounce a judgment. They shall be appointed by the Commission, and shall hold office during its pleasure. The word "Judges" or "Judges of the Supreme Court," when used in this Act, shall include the Chief Justice.

Section 9. *Salaries of the judges of the Supreme Court.* – The annual salary of the Chief Justice shall be seven thousand five hundred dollars, and of the associate judges seven thousand dollars, all payable monthly.

Section 10. *The Supreme Court to sit in banc.* – The Supreme Court shall sit *in banc* as a body composed of all its members, and the Chief Justice shall be the presiding officer thereof. In case of his absence at a session of the court, the judge present next in seniority to the Chief Justice shall preside. The seniority of the associate judges shall be determined by the dates of their respective commissions.

Section 11. *Sessions of the Supreme Court.* – The Supreme Court shall always be open for the transaction of business. It shall hold regular terms for the hearing of causes at Manila, commencing on the second Monday of January and July, and at Iloilo, commencing on the first Monday of November, and at Cebu on the first Monday of December of each year, and special sessions at either of the above-named places at such other times as may be prescribed by the judges thereof. The regular terms at Manila shall each continue for at least four successive months unless all the business of the sessions has been sooner completed. The rooms at other times occupied by the Courts of First Instance at Cebu and Iloilo shall be available for the use of the Supreme Court in its sessions at those cities. Sessions of the court for hearing causes shall be held on five days in each week, when there is business to be transacted, and the sessions shall continue not less than four hours on each day.

Section 12. *Allowance for traveling expenses.* – The judges and officers of the Supreme Court, the Attorney-General, the Solicitor-General, and [A]ssistant [A]ttorney-[G]eneral shall be allowed their actual expenses of travel and subsistence when absent from Manila on the business of the court, or to attend its sessions, upon the certificate of the Chief Justice and the approval of the Auditor.

Section 13. *Where actions shall be heard.* – All actions coming into the Supreme Court from Courts of First Instance situated in the Islands of Luzon, Mindoro, Marinduque, and Paragua, shall be heard at Manila. Those coming into the Supreme Court from Courts of First Instance situated in the Islands of Romblon, Panay, Masbate, and Negros, the Sulu Archipelago, and the south half of Mindanao, shall be heard at Iloilo. Those coming from the Islands of Cebu, Bohol, Samar, Leyte, and the north half of Mindanao, shall be heard at Cebu. Original actions in the Supreme Court shall be filed in Manila, but may be heard at Iloilo or Cebu, if the court shall so order.

Section 14. *Transferring of hearings.* – Whenever the public good, or the convenience of individuals, or the necessity for speedy hearings, requires that any action, or any number of actions, which would by the terms of this Act be properly triable at either one of said places, should be heard at another of them, the Supreme Court may order such action or actions to be heard at either Manila, Cebu, or Iloilo, as it finds most expedient, and with the same effect as though such actions or actions had been heard at the place provided in the preceding section.

Section 15. *Decisions to be in writing.* – In the determination of causes, all decisions of the Supreme Court shall be given in writing, signed by the judges concurring in the decision, and the grounds of the decision shall be stated as briefly as may be consistent with clearness.

Section 16. *Jurisdiction of the Supreme Court.* – The jurisdiction of the Supreme Court shall be of two kinds:

1. Original; and
2. Appellate.

Section 17. *Its original jurisdiction.* – The Supreme Court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, habeas corpus, and quo warranto in the cases and in the manner prescribed in the Code of Civil Procedure, and to hear and determine controversies thus brought before it, and in other cases provided by law.

Section 18. *Its appellate jurisdiction.* – The Supreme Court shall have appellate jurisdiction of all actions and special proceedings properly brought to it from Courts of First Instance, and from other tribunals from whose judgment the law shall specially provide an appeal to the Supreme Court.

Section 19. *Power to issue all necessary auxiliary writs.* – The Supreme Court shall have power to issue writs of certiorari and all other auxiliary writs and process necessary to the complete exercise of its original or appellate jurisdiction.

Section 20. *The clerk and his assistants.* – The Commission shall appoint a clerk, who shall be the recording officer and interpreter and translator of the Court, and perform such duties as are prescribed in the Code of Civil Procedure. He shall receive a salary at the rate of three thousand dollars per year, and all fees charged by him for his own services or those of his assistants shall belong to the Government. He may be at any time removed by the judges of the Supreme Court, and his successor may be appointed by them from a list of eligibles provided by the Civil Service Board under the rules of the Civil Service Act. He may employ such deputies and assistants as the majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, all with the approval of the Chief Executive. The selection of such assistants shall be made in accordance with the provisions of the Civil Service Act.

Section 21. *Clerk's bond.* – Before entering upon the performance of his duties the clerk of the Supreme Court shall execute a bond to the Government of the Philippine Islands in the penal sum of ten thousand dollars, with sufficient surety, to be approved by the Insular Treasurer, conditioned for the faithful performance of his duties and for the payment to those entitled thereto of all sums of money that shall come into his hands or into those of his deputies and assistants by virtue of his office. The bond shall be recorded in the books of the Insular Treasurer and be retained in his office, and shall be available for any party in interest. The clerk may require of his deputies and assistants a sufficient bond to indemnify him against the malfeasance or nonfeasance of such deputies or assistants.

Section 22. *Governor of province to be officer of court.*– The officer of the Supreme Court to serve its process and enforce good order in and about the court room shall be the governor, or his deputy, of the province in which the court is held, when the court is in session at Cebu or Iloilo. At other times its officer shall be the sheriff of the city of Manila, as hereinafter provided.

Section 23. *Governor to execute an official bond.* – The governor of the province shall, before being qualified to perform the duties of officer of any court, execute a bond, with sufficient sureties, to the Government of the Philippine Islands, in the penal sum of ten thousand dollars, to be approved by the provincial treasurer, conditioned for the faithful performance of the duties of himself and his deputies as officer of the court, and the payment of all sums of money that shall come into his or their hands officially, to the persons entitled thereto. The bond shall be recorded in the books of the provincial treasurer and kept on file in his office, and shall be available as security for the benefit of any person in interest. The governor may require each deputy by him appointed to execute to him a sufficient indemnity for his protection against malfeasance or nonfeasance of such deputy.

Section 24. *Provisions for officer when governor fails to give bond.* – In case the governor shall fail to give the bond provided in the preceding section within thirty days after his election, it shall be the duty

of the judge of the Court of First Instance of the province to appoint, in writing, a suitable person as the officer of the courts of the province, and the officer so appointed, upon executing the bond provided in the preceding section, shall be the officer of the courts of the province, with the same powers in the execution of process and appointment of deputies as the governor would have had he given the bond required.

The person so appointed shall hold office until the expiration of the term of office of the governor, and shall be called the sheriff of the province, and may require bonds of his deputies, as provided in the preceding section.

Section 25. *Officer of courts in Manila.* – The officer of the Supreme Court to serve its process and enforce good order in and about the court room of the courts in session at Manila shall be the sheriff of the city of Manila, to be appointed by the Commission, to hold office during its pleasure. The sheriff of the city of Manila shall have power to appoint as many deputies as he deems expedient, and may, in person or by his deputies, serve any process, preliminary or final, issued from the Supreme Court, a Court of First Instance, or court of justice of the peace in the city of Manila. Before entering upon the performance of his duties he shall execute a bond, with sufficient surety, to the Government of the Philippine Islands, in the penal sum of twenty-five thousand dollars, to be approved by the Insular Treasurer, conditioned for the faithful performance of the duties of himself and deputies as officers of the court, and the payment of all sums of money that shall come into his or their hands officially, to the persons entitled thereto. The bond shall be recorded in the books of the Insular Treasurer, and kept on file in his office, and shall be available as security for the benefit of any person in interest. The sheriff may require each deputy by him appointed to execute to him a sufficient indemnity for his protection against the malfeasance or nonfeasance of such deputy.

Section 26. *Renewing bond of officer.* – At any time that it shall be made to appear to the judge of the Court of First Instance in any province, or to the judges of the Supreme Court in the city of Manila, that the bond of the officer of the court, whether governor or sheriff, is insufficient, he or they may require a new and sufficient bond to be given within a period to be fixed in the order. If the new bond so required is not given within the period so fixed, a sheriff shall be appointed, as provided in the preceding sections. The sheriff so appointed shall have all the powers and duties of the regular officer of the court.

Section 27. *Fees.* – The officer of the court and his deputies shall be paid by fees only, and strictly in accordance with the fee bill provided in the Code of Civil Procedure.

Section 28. *Rules.* – The judges of the Supreme Court shall make all necessary rules for orderly procedure in the Supreme Court and Courts of First Instance, and courts of justices of the peace, and for the admission of lawyers to the practice of the law before such courts, in accordance with the provisions of the Code of Civil Procedure, which rules shall be uniform for all the courts of the same grade, and binding upon the several courts; but the judges of the Supreme Court may at any time alter or amend such rules.

Section 29. *Assignment of Supreme Court judges to sit in Courts of First Instance.* – The Supreme Court may, at any time, and for any reason satisfactory to its judges, assign any judge of that Court to hear any particular cause pending in any Court of First Instance, or to hold a term of the court in any Court of First Instance. The judge so assigned shall possess all the powers of the regular judge of a Court of First Instance in all actions heard by him under such assignment, but shall not sit in the Supreme Court in review of any decisions made by him in a Court of First Instance.

Section 30. *Reporter of decisions.* – The judges of the Supreme Court shall appoint a reporter of the decisions of the Court, who shall hold office during their pleasure, and they may at any time remove him and appoint his successor. He shall receive a salary at the rate of one thousand dollars per year, payable quarterly, upon the certificate of a majority of the judges of the court that he has performed the duties of the office for the preceding quarter, and is entitled to the compensation herein provided.

Section 31. *Reporter a ministerial officer.* – The reporter shall be a ministerial officer, subject to the orders of the Supreme Court.

Section 32. *What cases reported, and how reported.* – The judges shall prepare and furnish to the reporter reports of the opinions by them severally given, embracing such decisions of the court as may be deemed by the court of sufficient importance to be printed and published, as rapidly as such decisions are promulgated. Dissenting opinions may be published with the majority opinions, if the dissenting judge or judges so direct.

The reporter shall prepare and publish with each case a concise and correct synopsis of the facts necessary to a clear understanding of the decision, and shall state the names of counsel, and concisely the material and controverted points made and the authority therein cited by them and shall prefix to each case a syllabus, which shall be confined, as near as may be, to points of law decided by the court on the facts of the case, without a recital therein of the facts.

Section 33. *In what language cases reported.* – Until the first day of January, nineteen hundred and six, each case shall be reported in both English and Spanish languages, and the decisions in both languages shall be bound together in the same volume. After the first day of January, nineteen hundred and six, the decisions shall be published only in the English language.

Section 34. *Volumes, how indexed, bound, and so forth.* – Each volume shall contain a table of the cases reported and of the cases cited in the opinions and a full and alphabetical index of the subject matters of the volume prepared by the reporter, shall contain not less than seven hundred and fifty pages of printed matter, shall be well printed, upon good paper, and well bound in the best law sheep, substantially in the manner of the reports of the decisions of the Supreme Court of the United States, and shall be styled, "Philippine Reports," and numbered consecutively, in the order of the volumes published.

Section 35. *Contract for printing reports.* – When the reporter of the decisions of the Supreme Court has prepared a volume of the Philippine Reports for publication, he shall contract for printing and binding two thousand copies thereof, but such contract shall not be valid until approved by a majority of the judges of the Supreme Court.

Section 36. *Disposition of reports.* – The volumes, when printed, shall be delivered to the librarian of the Philippine Commission, who shall deliver one copy to the Chief Executive of the Archipelago, to each judge of the Supreme Court, and to each judge of a Court of First Instance, to each justice of the peace, to each provincial secretary, to the clerk of the Supreme Court, and to each clerk of a Court of First Instance in the Philippine Islands, to the Treasurer and Auditor of the Archipelago, which volumes shall not be sold or disposed of by the officials to whom they are delivered, but shall be public property appertaining to several offices named, and remain as a part of the public documents thereof for the use of the successors of the officials named, and of the public. At least ten copies shall be retained at all times in the library of the Philippine Commission and ten copies shall be sent to the Library of Congress at Washington. Volumes above the number provided by law for the Philippine Commission, and for distribution as above provided, shall be kept for exchange and for sale by the librarian, for the benefit of

the library of the Commission. The price of the volumes shall be fixed by the reporter, the Treasurer and the Auditor of the Archipelago.

Section 37. *Custody of original opinions.* – Immediately upon promulgation thereof, the opinions of the Supreme Court shall be regularly recorded by the clerk, in an "Opinion Book," and, when recorded, the original shall be delivered by the clerk to the reporter for the purpose of preparing the publications herein required, and shall be by him retained as a part of the files of the reporter's office.

Section 38. *Disposition of causes, actions, proceedings, appeals, records, papers, and so forth, pending in the existing Supreme Court and in the "Contencioso Administrativo."* – All records, books, papers, causes, actions, proceedings, and appeals lodged, deposited, or pending in the existing Audiencia or Supreme Court, or pending by appeal before the Spanish tribunal called "Contencioso Administrativo," are transferred to the Supreme Court above provided for, which has the same power and jurisdiction over them as if they had been in the first instance lodged, filed, or pending therein, or, in case of appeal, appealed thereto.

Section 39. *Abolition of existing Supreme Court.* – The existing Audiencia or Supreme Court is hereby abolished, and the Supreme Court provided by this Act is substituted in place thereof.

CHAPTER III

The Attorney-General

Section 40. *Attorney-General.* – There shall be an Attorney-General for the Philippine Islands, to be appointed by the Philippine Commission, to serve during its pleasure, with a salary at the rate of five thousand five hundred dollars per annum, payable monthly.

Section 41. *Solicitor-General.* – There shall be an officer learned in the law to assist the Attorney-General in the performance of all his duties, called the Solicitor-General, who shall be appointed by the Commission and shall be entitled to a salary of four thousand five hundred dollars a year, payable monthly. In case of a vacancy in the office of Attorney-General, or of his absence or disability, the Solicitor-General shall have power to exercise the duties of that office. Under the supervision of the Attorney-General, it shall be the especial duty of the Solicitor-General to conduct and argue suits and appeals in the Supreme Court, in which the Philippine Government is interested, and the Attorney-General may, whenever he deems it for the interest of the Philippine Government, either in person conduct and argue any case in any court of the Philippine Islands in which the Philippine Government is interested or may direct the Solicitor-General to do so.

Section 42. *Assistant Attorney-General.* – There shall be an Assistant Attorney-General, to be appointed by the Commission, to serve during its pleasure, with a salary at the rate of three thousand dollars per annum, payable monthly, who shall perform the duties of the Attorney-General, in his absence, and the absence of the Solicitor-General, and shall render such other services in the performance of the duties of the Attorney-General as may be assigned to him.

Section 43. *Oath of Attorney-General, Solicitor-General, and Assistant Attorney-General.* – Before entering upon the performance of their duties, the Attorney-General, Solicitor-General, and Assistant Attorney-General shall take and subscribe to the following oath or affirmation, to wit:

"I, _____, solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Attorney-General (or Solicitor-General or Assistant Attorney-General), according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands; that I will prosecute no man for envy, hatred, or malice, neither will I leave unprosecuted for love, fear, favor, affection, or hope of reward; and that I recognize and accept the supreme authority of the United States of America in these Islands, and will maintain true faith and allegiance thereto; that I impose upon myself this obligation voluntarily, without mental reservation, or purpose of evasion; so help me God. (The last four words to be stricken out in case of affirmation.)

"(Signature)_____

"Subscribed and sworn to (or affirmed) before me this _____ day of _____ 19___."

The oath may be administered by any judge of the Supreme Court and shall be filed with the clerk of that court.

Section 44. *Bond of Attorney-General.* – Before entering upon the performance of the duties of his office, the Attorney-General shall execute a bond to the Insular Government, in the penal sum of five thousand dollars, with sufficient surety or sureties, to be approved by the Insular Treasurer, conditioned for the faithful performance of the official duties of himself and his assistants and the payment of all sums of money that shall come into his or their hands officially, to the person entitled thereto. The bond shall be recorded in the books of the Insular Treasurer and kept on file in his office, and shall be available as security for the benefit of any person, corporation, or municipality in interest. In case the Attorney-General fails to give the bond herein prescribed, within thirty days after his appointment, the office shall be vacant, and another person shall be appointed in his stead as Attorney-General. The Attorney-General may require of the Solicitor-General and Assistant Attorney-General, each, a bond to him in the penal sum of five thousand dollars, with sufficient surety or sureties, to be by him approved, conditioned for the faithful performance of their official duties, respectively, and the payment of all sums of money that shall come into their or either of their hands officially, to the person lawfully entitled thereto. In case either the Solicitor-General or the Assistant Attorney-General fails to give the bond herein prescribed within thirty days after his appointment, his office shall be vacant, and another person shall be appointed in his stead.

Section 45. *Duties of the Attorney-General.* – The Attorney-General shall perform the following duties:

a) He shall attend the Supreme Court and prosecute or defend therein all causes, civil and criminal, to which the United States, or any officer thereof, in his official capacity, is a party;
b) He shall prosecute or defend therein all causes, civil and criminal, to which the Government of the Philippine Islands, or any officer thereof, in his official capacity, is a party; and all causes to which any province may be a party, unless the interest of the province be adverse to that of the Government of the Islands, or that of the United States, or some officer thereof acting in his official capacity, or of some other province;
c) After judgment in favor of the interest represented by him, in any of the cases mentioned in the last section, he shall direct the issuing of such process as may be necessary to carry the same into execution, and shall account for and pay over to the proper officer all money that may come into his possession belonging to the United States Government, the Government of the Philippine Islands, or any province;

d) When it may be necessary or proper for the enforcement or collection of any judgment or debt in favor of the Insular Government or any officer thereof in his official capacity, or of any province, the Attorney-General shall institute and prosecute in behalf of the creditor an action or actions to set aside any conveyance or other devise fraudulently made by the debtor, or any one for him, to hinder or delay or defraud the creditor;

e) He shall, when required by the public service, or when directed by the Chief Executive, repair to any province in the Islands and assist the provincial fiscal there in the discharge of his duties, and shall assist the provincial fiscal in any prosecution against an officer of the Government;

f) He shall, at the request of the Chief Executive, or other proper officer of the Insular Government, institute and prosecute a suit on any official bond or any contract, in which the Government of the Islands is interested, upon a breach thereof, and prosecute or defend for the Insular Government all actions, civil or criminal, relating to any matter connected with either of the offices of the Insular Government; and he may require the service or assistance of any provincial fiscal in and about such matters or suits;

g) Whenever requested by the Chief Executive, or other officer of the Insular Government, he shall prepare proper drafts for contracts, forms or other writings which may be wanted for the use of the Government;

h) He shall pursue the collection of any claim or judgment in favor of the Insular Government, outside of the Islands, or may, with the consent of the Chief Executive, employ counsel to assist in the collection thereof;

i) He shall give his opinion in writing to the legislative body of the Islands, the Chief Executive, the Auditor of public accounts, the Insular Treasurer, the General Superintendent of Public Instruction, the trustee of any Government Institution, and any provincial fiscal, when requested in writing, upon any question of law relating to their respective offices;

j) He shall keep a docket of all causes in which he is required to appear, which shall show the province and court in which the causes have been instituted and tried, and whether they be civil or criminal; if civil, the nature of the demand, stage of the proceedings, and, when prosecuted to a judgment, a memorandum of the judgment; of any process issued thereon, whether satisfied or not; if not satisfied, the return of the officer; and if criminal, the nature of the crime, the mode of prosecution, and the stage of the proceedings; and, when prosecuted to a sentence, a memorandum of the sentence, and of the execution thereof, if executed, and, if not executed, of the reasons for delay or prevention;

k) He shall make reports to the Philippine Commission through the Military Governor, on the first day of January and the first day of July each year, of the condition of the public service as administered in his office and under his supervision; and he shall, as a part of his report, make any recommendation which he may deem proper for the improvement of the service.

Section 46. *Office hours.* – The Attorney-General shall keep an office at Manila, and shall, except when absent on public business, or by consent of the Chief Executive, keep the same open on each business day from nine until twelve o'clock in the forenoon, and from three until five o'clock in the afternoon, and be there for business.

Section 47. *Assistants to the Attorney-General.* – The Attorney-General shall be allowed only such clerical assistants as may be absolutely necessary for the due performance of the duties of his office, upon the certificate of the majority of the judges of the Supreme Court that such assistants are necessary. The compensation of such assistants shall be fixed by the judges of the Supreme Court, with the approval of the Chief Executive.

CHAPTER IV

Courts of First Instance

Section 48. *One Court of First Instance for each province.* – There shall be in each province in which civil government has been or shall be organized under the sovereignty of the United States, a Court of First Instance, in each of which a judge shall preside, to be appointed by the Philippine Commission, to hold office during its pleasure. Each judge so appointed shall preside in all Courts of First Instance in his judicial district, which shall consist of such provinces as shall be hereafter by law designated to constitute such judicial district. But this section shall not apply to the Province of Benguet, nor to other provinces in which a special civil government shall be organized for largely uncivilized people, nor to the city of Manila.

Section 49. *In Manila.* – There shall be one Court of First Instance for the city of Manila, and two judges shall be appointed by the Commission, to serve during its pleasure, to preside in such court in separate court rooms.

Actions brought in the Court of First Instance for the city of Manila shall be equally apportioned for trial between the two judges, in accordance with a rule to be made by the judges of the Supreme Court. Any action apportioned to one judge may be tried by the other judge, when more convenient to the judges.

Section 50. *Salaries of judges of Courts of First Instance.* – Judges of the Courts of First Instance for the city of Manila shall receive a salary at the rate of five thousand five hundred dollars per year.

The salaries of other judges of Courts of First Instance shall be specially prescribed by law, according to the importance, and responsibility of the duties to be performed.

Section 51. *Transferring of judges for special reasons.* – Any judge of a Court of First Instance may be ordered by the Supreme Court to hold a term or part of a term of any Court of First Instance, although not in the district which properly appertains to his jurisdiction, whenever in the opinion of the judges of the Supreme Court such assignment is necessary, by reason of absence, illness or disqualification of the judge who would properly preside in such court, or whenever, by reason of an unusual amount of business, the services of an additional judge may be needed in any district or province.

The judgments, orders and proceedings of the judge so assigned to another province or judicial district shall be equally effective as if the regular judge of the province in which the court is held had presided.

Section 52. *Judge may preside in another province at request of judge of that province.* – A judge of any Court of First Instance may hold the Court of First Instance in any province, at the request of the judge thereof; and upon the request of the Chief Executive it shall be his duty to do so; and in either case, the judge holding the court shall have the same power as the proper judge thereof.

Section 53. *When such courts are open.* – Courts of First Instance shall be always open (legal holidays and non-judicial days excepted), and they shall hold their sessions at the capitals of the several provinces respectively unless otherwise specially provided by law. The dates upon which sessions shall be held in the several provinces shall be fixed by law hereafter.

Section 54. *Hours of sessions.* – During terms of court, the hours for the sessions thereof shall be from nine o'clock to twelve in the forenoon, and from three until five in the afternoon, except Saturdays, when

a forenoon session, only, shall be required; but the judge may extend the hours of sessions whenever in his judgment it is proper to do so. All officers and employees of the court shall be in attendance during the hours of sessions.

Section 55. *Jurisdiction of Courts of First Instance.* – The jurisdiction of Courts of First Instance shall be of two kinds:

1. Original; and
2. Appellate.

Section 56. *Its original jurisdiction.* – Courts of First Instance shall have original jurisdiction:

1. In all civil actions in which the subject of litigations is not capable of pecuniary estimation;
2. In all civil actions which involve the title to or possession of real property, or any interest therein, or the legality of any tax, impost, or assessment, except actions of forcible entry into, and detainer of lands or buildings, original jurisdiction of which is by this Act conferred upon courts of justice of the peace;
3. In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one hundred dollars or more;
4. In all actions in admiralty and maritime jurisdiction, irrespective of value of the property in controversy or the amount of the demand;
5. In all matters of probate, both of testate and intestate estates, appointment of guardians, trustees, and receivers, and in all actions for annulment of marriage, and in all such special cases and proceedings as are not otherwise provided for;
6. In all criminal cases in which a penalty of more than six months imprisonment or a fine exceeding one hundred dollars may be imposed;
7. Said courts and their judges, or any of them, shall have power to issue writs of injunction, mandamus, certiorari, prohibition, quo warranto, and habeas corpus in their respective provinces and districts, in the manner provided in the Code of Civil Procedure.

Section 57. *Its appellate jurisdiction.* – Courts of First Instance shall have appellate jurisdiction over all causes arising in justices and other inferior courts in their respective provinces.

Section 58. *The clerk.* – The Commission shall appoint a clerk for the court of each province. He shall hold office during the pleasure of the judge, and he may be removed and his successor be appointed by the judge from a list of eligibles provided by the Civil Service Board under the rules of the Civil Service Act. The clerk shall receive a salary at the rate of one thousand two hundred dollars per year, except in cases where a greater or less salary is specially prescribed by law, and all fees charged by him shall belong to the government. He may employ such assistants as a majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, after approval thereof by the Chief Executive. Each clerk of the court may appoint and remove his own deputy, whose services shall be paid for by the clerk out of his salary unless he be an assistant duly authorized, as in this section provided.

Section 59. *The clerk's bond.* – Before entering upon the performance of his duties, the clerk of a Court of First Instance shall execute a bond to the Government of the Philippine Islands, in the penal sum of four thousand dollars, with sufficient surety, to be approved by the judge, conditioned for the faithful

performance of his duties, and for the payment to those entitled thereto of all sums of money that shall come into his hands or into those of his deputies, by virtue of his office. The judge shall forward the bond to the Insular Treasurer and it shall be recorded in his books and kept on file in his office, and shall be available for any party in interest.

Section 60. *The clerk in Manila.* – The Commission shall appoint a clerk and an assistant clerk in the city of Manila. The clerk and assistant clerk shall hold office during the pleasure of the judges and may be removed and their successors appointed by the judges in accordance with the provisions of the Civil Service Law. The clerk shall receive a salary at the rate of two thousand dollars a year, the assistant clerk at the rate of one thousand six hundred dollars per year and all fees charged by them shall belong to the Government. The clerk may appoint and remove one or more deputies, whose services shall be paid for out of his salary, unless the deputy be an assistant duly authorized, as in this section provided. The clerk may employ such assistants, to be selected under the provisions of the Civil Service Law, as a majority of the judges of the Supreme Court may decide to be necessary, and at salaries to be by them fixed, after approval thereof by the Chief Executive. The bond of the clerk shall be for six thousand dollars, and he may require a bond of indemnity from the assistant clerk, which shall be approved, filed and recorded as provided in the last preceding section. The clerk shall be answerable on his bond for defaults of his deputy and assistants.

Section 61. *Officer of the Court of First Instance.* – The officer of the Court of First Instance to serve its process and enforce good order in and about the court room shall be the governor, or his deputy, of the province in which the court is held; but in the city of Manila the officer of the Court of First Instance shall be the sheriff or his deputy.

Section 62. *The fiscal.* – The provincial fiscal, chosen in accordance with the Provincial Government Act, shall represent the provincial and Insular Governments in his province in all actions or prosecutions in a Court of First Instance in the manner provided in the Provincial Government Act. He shall be an officer of the court and subject to its directions in relation to official matters pending in the Court of First Instance.

Section 63. *Allowance for traveling expenses.* – The judges of the Court of First Instance shall be allowed their actual traveling expenses in going to and from their respective places of residence to other provinces upon the business of the court, or to attend its sessions, but not including any allowance for subsistence.

Section 64. *Disposition of records, papers, causes, and appeals, now pending in the existing Courts of First Instance.* – All records, books, papers, actions, proceedings, and appeals lodged, deposited, or pending in the Court of First Instance as now constituted of or in any province, are transferred to the Court of First Instance of such province hereby established, which shall have the same power and jurisdiction over them as if they had been primarily lodged, deposited, filed, or commenced therein, or in cases of appeal, appealed thereto.

Section 65. *Abolition of existing Courts of First Instance.* – The existing Courts of First Instance are hereby abolished, and the Courts of First Instance provided by this Act are substituted in place thereof.

CHAPTER V

Courts of Justices of the Peace

Section 66. *Justice courts for each municipality.* – There shall be courts of justice of the peace as in this section provided:

1. The existing courts of justices of the peace, established by military orders since the thirteenth day of August, eighteen hundred and ninety-eight, are hereby recognized and continued and the justices of such courts shall continue to hold office during the pleasure of the Commission.
2. In every province in which there now is, or shall hereafter be established, a Court of First Instance, courts of justices of the peace shall be established in every municipality thereof which shall be organized under the Municipal Code, or which has been organized and is being conducted as a municipality when this Act shall take effect, under and by virtue of The Municipal Code.

Section 67. *Appointment and term of office of justices of the peace.* – Justices of the peace shall be appointed by the Philippine Commission, and shall hold office during the pleasure of the Commission. They shall be appointed from lists of suitable persons, nominated for such appointments by the provincial board for each province, for the several municipalities within the province.

Section 68. *Jurisdiction.* – A justice of the peace shall have original jurisdiction for the trial of all misdemeanors and offenses arising within the municipality of which he is a justice, in all cases where the sentence might not by law exceed six months imprisonment or a fine of one hundred dollars; and for the trial of all civil actions properly triable within his municipality and over which jurisdiction has not herein been given to the Court of First Instance, in all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to less than three hundred dollars.

A justice of the peace shall also have jurisdiction over actions for forcible entry into, and detainer of real estate, irrespective of the amount in controversy.

The jurisdiction of a justice of the peace in civil actions triable within his municipality, in cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one hundred dollars or more, but to less than three hundred dollars, shall be concurrent with that of the Court of First Instance: *Provided,* That the jurisdiction of a justice of the peace shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, or to those which involve the title to or possession of real estate or an interest therein, or the legality of any tax, impost, or assessment, or to actions in admiralty, or maritime jurisdiction, or to matters of probate, the appointment of guardians, trustees, and receivers, or actions for the annulment of marriage; but this proviso shall not apply to actions of forcible entry into and detainer of lands or buildings, original jurisdiction of which is hereby conferred upon courts of justices of the peace.

Section 69. *Courts of justices of the peace in Manila.* – The existing courts of justices of the peace in the city of Manila shall be continued as now organized, and with the same jurisdiction as is now by law conferred upon them, and shall so continue until special provisions shall be made by law for the organization of inferior civil and criminal tribunals for the city of Manila.

Section 70. *Clerks and amanuenses, and so forth, for justice courts.* – Each justice of the peace may act as his own clerk or he may appoint a clerk, and, if necessary, other clerical assistants and bailiffs, all at his own expense.

Section 71. *Fees, fines, and costs.* – Justices of the peace shall receive no salaries or allowances. A justice shall be entitled to a fee of three pesos for each action, civil or criminal, tried by him. But in cases of nonsuit or default the justice shall be entitled to but one-half of the fee herein provided. In civil actions, the fee shall be paid by the successful party, and taxed as a part of the cost against the defeated party. In criminal actions the fee shall be paid by the municipality, but shall be taxed as part of the costs to be paid against the defendant if he be convicted and sentenced to pay the costs. All fines and costs imposed by a justice of the peace in criminal prosecutions and collected during any month shall be paid into the municipal treasury on the first day of the succeeding month. On that day, the justice shall present to the municipal treasurer a detailed statement of the fines and costs collected by him since the last previous report, and of the fees accruing to him from the municipal treasury during the same period by virtue of this section. His account shall be forthwith audited by the municipal president and treasurer, and he shall thereupon receive from the treasury the amount of his fees as allowed by these auditors. For the purpose of the auditing herein provided, the auditors shall examine the records of the justice and any other papers or persons deemed necessary. The justice shall in all cases execute a receipt in duplicate for all money paid to him for fees, fines, or costs, one copy of which he shall retain and the other shall be delivered to the person making the payment. The copies retained by him shall be produced before the auditors. If the auditors are of the opinion that needless prosecutions have been instituted for the purpose of enhancing fees, they shall report the facts to the Commission and request the removal of the justice so offending.

Section 72. *Fees, costs, and fines in the justice courts in Manila.* – Until a municipal government is established in the city of Manila, all fees, costs, and fines collected by justices of the peace in criminal actions in the city shall be paid into the Insular Treasury and the auditing of their statements, as provided in the preceding section, shall be by the Insular Treasurer, whose duties in this respect shall be the same as those of the auditing board provided in the preceding section; and the justice fees in criminal prosecutions shall be paid from the Insular Treasury. After the organization of a municipal government in the city of Manila, all the provisions of the preceding section shall be applicable to it, as to other municipalities.

Section 73. *Fees to be only those prescribed by law.* – No justice of the peace, clerk, or amanuensis thereof shall collect or receive any fee, except such as are prescribed in the fee bill embraced in the Code of Civil Procedure.

Section 74. *Bonds of justices.* – Each justice of the peace, before entering upon the performance of his duties, shall execute a bond to the Insular Government, with sufficient surety, to be approved by the provincial treasurer, in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office, and the payment of all sums of money that shall come into his hands by virtue of his office. The bond shall be filed with the provincial treasurer and remain in his custody, and a breach of it may be prosecuted in the name of the Insular Government for the benefit of any party in interest.

Section 75. *Officers of justice court.* – Any deputy of the governor or sheriff of the province is authorized to act as an officer of a justice court in the province, and to serve any process issuing from such court. Process of such court other than executions may also be served by any bailiff appointed by the justice for that purpose, or by any policeman of the municipality.

Section 76. *Auxiliary justices.* – There shall be appointed by the Philippine Commission, to hold office during the pleasure of the Commission, one auxiliary justice of the peace, for each municipality which has a court of justice of the peace, who shall preside in the justice court in the municipality in case of the absence, disqualification or disability of the justice, and, in case of the death of the justice, until the successor to the deceased justice shall have been appointed and qualified. The auxiliary justice shall

receive the fees that would have appertained to the office of the justice during such time as he shall perform the duties of the justice as herein provided, but shall receive no other compensation.

Section 77. *Clerks and justices to make annual reports.* – The clerk of the Supreme Court, and of every Court of First Instance, and every justice of the peace of the Islands shall, on or before February first of each year, make a full report concerning the business done in his court for the year previous, to the Attorney-General, upon forms to be prescribed by him. Such reports shall show the suits brought in each court respectively, the suits dismissed by the plaintiff, and the suits decided during the previous calendar year, together with the suits pending at the close of the year, and the nature of the suits as to being civil or criminal. Each clerk and justice shall state the amount of costs received by him during the year. The Attorney-General shall compile and analyze the reports thus made, and himself make a report to the Military Governor, to be transmitted to the Commission.

Section 78. *Jurisdiction of provost courts over civil actions repealed, and actions pending therein to be transferred.* – All military orders, and all acts conferring upon provost courts in the Philippine Islands jurisdiction over civil actions, are hereby repealed. All civil actions now pending in the provost courts are hereby transferred to the proper tribunal in which they would have been brought under the provisions of this Act had this Act been in force at the time such actions were commenced, and the Supreme Court, Courts of First Instance, and courts of justices of the peace established by this Act are authorized to try and determine the actions so transferred to them respectively from the provost courts, in the same manner and with the same legal effect as though such actions had originally been commenced in the courts created by virtue of this Act. The criminal jurisdiction of provost courts shall not be affected by this Act.

CHAPTER VI

Notaries Public

Section 79. *Temporary provisions as to notaries public.* – Until the enactment of a new system of registration of land titles, whereby notaries public shall no longer be legal depositories of original instruments affecting titles to land, the notarial law of the Philippine Islands of February fifth, eighteen hundred and eighty-nine, its regulations of April eleventh, eighteen hundred and ninety, and the general instructions for drafting instruments subject to record in the Philippines, of October third, eighteen hundred and eighty-nine, as recognized under the proclamation issued by the major-general commanding the United States Army in the Philippines, dated August fourteenth, eighteen hundred and ninety-eight, and as modified by General Order Number Forty, issued from the office of the United States Military Governor, on September twenty-third, eighteen hundred and ninety-nine, and by General Order Number Twenty, issued from the office of the United States Military Governor on February third, nineteen hundred, are continued in force, and persons authorized under said military orders and by appointments heretofore made by the Military Governor or the Commission to perform the duties of notaries public, will continue in the due performance thereof, in accordance with the laws, regulations, instructions, orders, and modifications above set forth, unless such official shall be removed by the Commission.

Section 80. *Ultimate deposit of all original notarial documents.* – Whenever a law shall have been duly enacted and become operative, establishing a new system of registration of land titles, as provided in the preceding section, it shall be the duty of every notary public within the Islands forthwith to deposit in the office of the keeper of the general archives of the Islands at Manila, whatever the final official title of that officer may be, all registers, files, original documents, protocols, and notarial instruments of every kind which are in his possession and custody, and it shall be the duty of such custodian of the general archives

carefully to preserve all such registers, files, original documents, protocols, and notarial instruments of every kind, and when requested to do so by the persons interested, to issue a copy of any document so lodged with him, attesting the same under his official title, and with his seal of office.

Section 81. *Repeal of present notarial law.* – After the enactment of a new system of registration of land titles, the notarial law of the Philippine Islands of February fifth, eighteen hundred and eighty-nine, its regulations of April eleventh, eighteen hundred and ninety, and the general instructions for drafting instruments subject to record in the Philippine Islands, of October third, eighteen hundred and eighty-nine, and the modifications thereof, by General Order Number Forty, issued from the office of the United States Military Governor, on September twenty-third, eighteen hundred and ninety-nine, and by General Order Number Twenty, issued from the office of the Military Governor on February third, nineteen hundred, shall be repealed and shall be of no effect after the date of such enactment, and thereafter appointments of notaries public and the performance of official duties by them shall be regulated by the subsequent provisions of this Act.

Section 82. *Appointment and removal of notaries public.* – Judges of the Courts of First Instance may appoint, in their respective provinces, as many notaries public as the public good requires, and shall appoint at least one notary public for every organized municipality within the province, to hold their offices for two years from the first day of January of the year in which they are appointed, whose jurisdiction shall extend throughout the province, but not elsewhere. Clerks of Courts of First Instance shall be, by virtue of their office, notaries public.

Notaries public may be removed from office for good cause, by the judge or judges of the province or his successor in office. In the city of Manila, the judges of the Supreme Court may appoint as many notaries public as the public good requires, and may remove them from office for good cause. Notaries so appointed shall hold their office for two years from the first day of January of the year in which they are appointed, and their jurisdiction shall extend throughout the city of Manila, but not elsewhere.

Section 83. *Commission.* – The appointment of a notary public shall be in writing, signed by the judge, and shall be substantially in the following form:

> "United States of America, Philippine Islands,
>
> "Province of _____
>
> "This is to certify that _____, of the municipality of_____ in said province, was, on the _____ day of_____, A.D. 190__ appointed by me a notary public, within and for said province, for the term ending on the first day of January, A.D. 190__.
>
> "_____
> "Judge of the Court of
> "First Instance for said Province."

Section 84. *Oath.* – Every notary public, before entering upon his duties, shall take and subscribe the following oath or affirmation:

> "I, _____, solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties of the office of notary public within and for the province of _____ according to the best of my ability and understanding, agreeably to the laws of the Philippine Islands; and that I recognize and accept the supreme authority of the United States in these Islands, and will maintain true faith and allegiance thereto; and that I impose upon myself this obligation voluntarily, without mental reservation or purpose of evasion; so help me God. (The last four words to be stricken out in case of affirmation.)
>
> "(Signature.) _____
>
> "Subscribed and sworn to (or affirmed) before me, this _____ day of _____ 190__."

The oath may be administered by the judge, or any justice of the peace, and shall, together with the commission, be recorded in the office of the clerk of the court of the province in which the notary is appointed.

Section 85. *Certificate of appointment to be forwarded to the secretary of the Chief Executive.* – Clerks of Courts of First Instance shall make and forward to the secretary of the Chief Executive of the Islands a certificate of the appointment of notaries public made in their respective provinces, and with the terms of office, immediately after the commission and oath of office are recorded in said clerk's office, which certificate shall be recorded in the office of the secretary of the Chief Executive.

Section 86. *Seal.* – Each notary public shall have a seal of office, which shall be affixed to papers officially signed by him. The seal shall be procured by the notary at his own expense, and shall have the name of the province and the words "Philippine Islands," and his own name on the margin thereof, and the words "Notary Public" across the center.

Section 87. *Register of official acts.* – Every notary public shall keep a register of all his official acts, and shall give a certified copy of his record, or any part thereof, to any person applying for it, and paying the legal fees therefor.

Section 88. *Powers of notary public.* – Every notary public shall have power, within his province, to administer all oaths and affirmations provided for by law, in all matters incident to his notarial office, and in the execution of affidavits, depositions, and other documents requiring an oath, and to receive the proof or acknowledgment of all writings relating to commerce or navigation, such as bills of sale, bottomries, mortgages, and hypothecations of ships, vessels, or boats, charter parties of affreightments, letters of attorney, deeds, mortgages, transfers and assignments of land or buildings, or an interest therein, and such other writings as are commonly proved or acknowledged before notaries; to act as magistrates, in writing of affidavits or depositions, and to make declarations and testify the truth thereof, under his seal of office, concerning all matters done by him by virtue of his office.

Section 89. *Record of protest of bills or notes.* – When a notary public shall protest any draft, bill of exchange, or promissory note, he shall make a full and true record in his register or book kept for that purpose, of all his proceedings in relation thereto, and shall note therein whether the demand for the sum of money therein mentioned was made, of whom, when, and where; whether he presented such draft,

bill, or note; whether notices were given, to whom, and in what manner; where the same was made, and when, and to whom, and where directed; and of every other fact touching the same.

Section 90. *To affix date of expiration of commission.* – Notaries public shall affix to all acknowledgments taken and certified by them, according to law, the date on which their commissions expire.

Section 91. *Unlawful certification.* – Any notary public who shall willfully affix his signature and seal as notary public to an instrument after the expiration of his commission, shall be guilty of a misdemeanor, and punished by fine not exceeding five hundred dollars or imprisonment for a period not exceeding one year, or both, in the discretion of the court.

Section 92. *When to take effect.* – This Act shall take effect on June sixteenth, nineteen hundred and one.

Enacted, June 11, 1901.

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Republic Act No. 296 (June 17, 1948)
Judiciary Act of 1948

CHAPTER I
General Provisions

Section 1. *Title of Act*. – This Act shall be known as the Judiciary Act of 1948.

Section 2. *Supreme Court, Court of Appeals and other courts*. – The courts referred to in this Act are the Supreme Court, the Court of Appeals, the Courts of First Instance, the Municipal Courts and the Justice of the Peace Courts.

Section 3. *Special provision in oath of judges*. – The oath of office of judges, including justices of the peace and judges of municipal courts, shall contain, in addition to the matters prescribed in [S]ection [T]wenty-three of the Revised Administrative Code, a declaration to the effect that the affiant will administer justice without respect to person and do equal right to the poor and the rich.

The oath of office of the justice of the peace and judge of a municipal court shall be the same in substance as that prescribed for a judge of first instance. Said oath shall be filed with the clerk of Court of First Instance in the province or city, as the case may be, and shall be there preserved.

Section 4. *Preservation of oath of office of judge*. – The oath of office of a judge shall be filed with the clerk of the court to which the affiant pertains and shall be entered upon its records. Where a judge is authorized by law to exercise his functions in more than one court, it shall suffice if his oath is recorded in the court where he has his official station.

Section 5. *Judge's certificate as to work completed*. – District [J]udges, judges-at-large, cadastral judges, judges of municipal courts, and justices of the peace shall certify on their applications for leave, and upon salary vouchers presented by them for payment, or upon the pay rolls upon which their salaries are paid, that all special proceedings, applications, petitions, motions, and all civil and criminal cases which have been under submission for decision or determination for a period of ninety days or more have been determined and decided on or before the date of making the certificate, and no leave shall be granted and no salary shall be paid without such certificate.

In case any special proceeding, application, petition, motion, civil or criminal case is resubmitted upon the voluntary application or consent in writing of all the parties to the case, cause, or proceeding, and not otherwise, the ninety days herein prescribed within which a decision should be made shall begin to run from the date of such resubmission.

Section 6. *Disposition of moneys paid into court.* – All moneys accruing to the Government in the Supreme Court, in the Court of Appeals, and in the Court of First Instance, including fees, fines, forfeitures, costs, or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the corresponding clerk of court and, in the absence of special provision, shall be paid by him into the National Treasury to the credit of the proper account or fund and under such regulations as shall be prescribed by the Auditor General: *Provided, however,* That twenty per cent of all fees collected shall be set aside as a special fund for the compensation of attorneys *de oficio* as may be provided for in the rules of court.

A clerk shall not receive money belonging to private parties except where the same is paid to him or into court by authority of law.

Section 7. *Disbursement of funds for judiciary establishment*. – Except as otherwise specially provided, national funds available for the judiciary establishment shall be disbursed by the disbursing officer of the Bureau of Justice.

Section 8. *Annual report of clerks of courts*. – The clerk of the Supreme Court, the clerk of the Court of Appeals, and all clerks of Courts of First Instance shall make annual reports to the Solicitor General, of such scope and in such form as shall be by the latter prescribed, concerning the business done in their respective courts during the year.

CHAPTER II

Supreme Court

Section 9. *The Supreme Court; quorum of the court; designation of Justices of the Court of Appeals and District Judges to sit in the Supreme Court; number of Justices necessary to reach a decision.* – The Supreme Court of the Philippines shall consist of a Chief Justice and ten Associates Justices, which shall sit *in banc* in the hearing and determination of all cases within its jurisdiction. The presence of six Justices shall be necessary to constitute a *quorum* except when the judgment of the lower court imposes the death penalty, in which case the presence of eight Justices shall be necessary to constitute a *quorum*. In the absence of a *quorum*, the Court shall stand *ipso facto* adjourned until such time as the requisite number shall be present, and a memorandum showing this fact shall be inserted by the clerk in the minutes of the court.

If on account of illness, absence, or incapacity upon any of the grounds mentioned in Section [O]ne, Rule One [H]undred and [T]hirty-seven of the Rules of Court, of any of the Justices of the Supreme Court, or whenever, by reason of temporary disability of any Justice thereof, or vacancies occurring therein, the requisite number of Justices necessary to constitute a *quorum* or to render a judgment in any given case, as heretofore provided, is not present, the President of the Philippines, upon the recommendation of the Chief Justice, may designate such number of Justices of the Court of Appeals or District Judges as may be necessary, to sit temporarily as Justices of the Supreme Court in order to form a *quorum*, or until a judgment in said case is reached: *Provided, however,* That no Justice of the Court of Appeals or District Judge may be designated to act in any case in the decision of which he has taken part.

The concurrence of at least six Justices of the Court shall be necessary for the pronouncement of a judgment. However, for the purpose of declaring a law of a treaty unconstitutional, at least eight Justices must concur. When the necessary majority, as herein provided, to declare a law or a treaty unconstitutional cannot be had, the Court shall so declare, and in such case the validity or constitutionality of the Act or treaty involved shall be deemed upheld.

Whenever the judgment of the lower court imposes the death penalty, the case shall be determined by eight Justices of the Court. When eight Justices fail to reach a decision as to the propriety of the imposition of the death penalty, the penalty next lower in degree shall be imposed. *(As amended by RA No. 5440, September 9, 1968.)*

Section 10. *Place of holding sessions*. – The Supreme Court shall hold its sessions in the City of Manila. Whenever the public interest so requires, it may hold its sessions in any other place within the Philippines.

Section 11. *Appointment and compensation of Justice of the Supreme Court.* – The Chief Justice and the Associate Justices of the Supreme Court shall be appointed by the President of the Philippines. The Chief Justice of the Supreme Court shall receive a compensation of seventy-five thousand pesos *per annum*, and

each Associate Justice shall receive a compensation of sixty thousand pesos *per annum*. The Chief Justice of the Supreme Court shall be so designated in his commission; and the Associate Justice shall have precedence according to the dates of their respective commissions, or when the commissions of two or more of them bear the same date, according to the order in which their commissions may have been issued by the President of the Philippines: *Provided, however,* That a member of the Supreme Court appointed to any other branch of the government shall receive as compensation from the branch not less than his compensation in the Supreme Court. Any such member who is reappointed to that Court after rendering service in any other branch of the government shall retain the precedence to which he is entitled under his original appointment and his service in the Court shall, to all intents and purposes, be considered as continuous and uninterrupted. *(As amended by PD No. 974, August 9, 1976.)*

Section 12. *Vacancy in office of Chief Justice*. – In case of a vacancy in the office of Chief Justice of the Supreme Court or of his inability to perform the duties and powers of his office, they shall devolve upon the Associate Justice who is first in precedence, until such disability is removed, or another Chief Justice is appointed and duly qualified. This provision shall apply to every Associate Justice who succeeds to the office of Chief Justice.

Section 13. *Authority of Supreme Court over administration of its own affairs*. – The Supreme Court shall have exclusive administrative control of all matters affecting the internal operations of the Court.

Section 14. *Status of subordinates*. – Except as regards the appointment and compensation of the Reporter, Clerk, and such private secretaries to the individual Justices as the Court may authorize, all subordinates and employees of the Supreme Court shall be governed by the provisions of the Civil Service Law; but the Court may, by resolution, remove any of them for cause.

Section 15. *Clerk of the Supreme Court; his appointment; his compensation; his bond.* – The Supreme Court of the Philippines shall appoint a Clerk of Court who shall exercise powers and perform duties in regard to all matters within its jurisdiction, as are heretofore exercised and performed by the Clerk of the Supreme Court of the Philippines; and in the exercise of those powers and in the performance of those duties the Clerk shall be under the direction of the Court. No person may be appointed Clerk of the Supreme Court unless he has been engaged for five years or more in the practice of law, or has been clerk or deputy clerk of a court of record for the same period of time.

The clerk shall have the rank of a bureau director and shall receive an annual compensation of seven thousand and two hundred pesos. Before entering upon the discharge of the duties of his office, he shall file a bond in the amount of six thousand pesos, such bond to be approved by the Treasurer of the Philippines. The bond shall be kept in the Office of the Treasurer of the Philippines and entered in his books, the same being subject to inspection by interested parties.

The Clerk of Court may require any of his deputies or assistants to give an adequate bond as security against loss by reason of any wrongdoings or gross negligence on the part of such deputies or assistants.

Section 16. *Vacation period*. – The regular sessions of the Supreme Court may, in the discretion of the Court, be suspended for the period beginning with the first of April and closing with the fifteenth of June of each year, which, in case of such suspension, shall be known as the Supreme Court vacation.

During vacation at least one of the Justices, to be designated in such manner as the Court by resolution shall direct, shall remain on duty.

Section 17. *Jurisdiction of the Supreme Court.* – The Supreme Court shall have original jurisdiction over cases affecting ambassadors, other public ministers, and consuls; and original and exclusive jurisdiction in petitions for the issuance of writs of certiorari, prohibition and mandamus against the Court of Appeals.

In the following cases, the Supreme Court shall exercise original and concurrent jurisdiction with Courts of First Instance:

1. In petition for the issuance of writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus; and
2. In actions brought to prevent and restrain violations of law concerning monopolies and combinations in restraint of trade.

The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal, as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in

(1) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices or accessories, or whether they have been tried jointly or separately;

(2) All cases involving petitions for naturalization or denaturalization; and

(3) All decisions of the Auditor General, if the appellant is a private person or entity.

The Supreme Court shall further have exclusive jurisdiction to review, revise, reverse, modify or affirm on certiorari as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in

(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question;

(2) All cases involving the legality of any tax, impost, assessment or toil, or any penalty imposed in relation thereto;

(3) All cases in which the jurisdiction of any inferior court is in issue;

(4) All other cases in which only errors or questions of law are involved: *Provided, however,* That if, in addition to constitutional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of certiorari; and

(5) Final awards, judgments, decisions, or orders of the Commission on Elections, Court of Tax Appeals, Court of Industrial Relations, the Public Service Commission and the Workmen's Compensation Commission. *(As amended by RA No. 5440, September 9, 1968.)*

Section 18. *Regular terms of Supreme Court*. – The Supreme Court shall hold at Manila two regular terms for the hearing of cases, the first commencing on the second Monday of January and the second on the last Monday of June. Each regular term shall continue to and include the day before the opening of the next regular term. The Office of the Clerk of the Supreme Court shall always be open for the transaction of business, except upon lawful holidays, and the Court shall always be open for the transaction of such interlocutory business as may be done by a single member thereof.

The sessions of the Court for the hearing of cases shall be held on such days in the week, and for such length of time, as the Court by its rules may order.

Section 19. *Preservation of order in Supreme Court*. – The sheriff of the City of Manila or of the province where the Supreme Court may be in session shall, in person or by deputy, attend the sessions of the Supreme Court, enforce proper decorum in the court room, and preserve good order in its precincts. To this end he shall carry into effect the rules or orders of the Court made in this behalf, or of any judge thereof, and shall arrest any person there disturbing the court or violating the peace.

Section 20. *Service of process of Supreme Court*. – Writs, processes, and orders of the Supreme Court, or of any justice thereof, shall be served or executed by the sheriff of the City of Manila or of the province where the Supreme Court may be in session, or by any officer having authority to execute the writs, processes, or orders of a Court of First Instance.

Section 21. *Form of decisions—When opinion to be reported*. – When a decision is rendered by the Supreme Court, a written opinion or memorandum exemplifying the ground and scope of the judgment of the court shall be filed with the Clerk of the Court and shall be by him recorded in an opinion book. When the Court shall deem a decision to be of sufficient importance to require publication, the Clerk shall furnish a certified copy thereof to the Reporter. Dissenting opinions shall be published when the justices writing such opinions shall so direct.

Section 22. *Preparation of opinions for publication*. – The Reporter shall prepare and publish with each reported decision a concise synopsis of the facts necessary to a clear understanding of the case and shall state the names of counsel, and concisely the material and controverted points made, and the authority therein cited by them, and shall prefix to each case a syllabus, which shall be confined, as near as may be, to points of law decided by the Court on the facts of the case, without a recital therein of the facts.

Section 23. *General make-up of volumes*. – Each volume of the decisions of the Supreme Court shall contain a table of the cases reported and of the cases cited in the opinions and a full and alphabetical index of the subject matters of the volume prepared by the Reporter, shall contain not less than seven hundred and fifty pages of printed matter, shall be well printed, upon good paper, and well bound in the best law sheep substantially in the manner of the reports of the decisions of the Supreme Court of the United States, and shall be styled "Philippine Reports," and numbered consecutively, in the order of the volumes published.

CHAPTER III

Court of Appeals

Section 24. *The Court of Appeals*. – The Court of Appeals of the Philippines shall consist of a Presiding Justice and forty-four Associate Justices who shall be appointed by the President of the Philippines. The Presiding Justice of the Court of Appeals shall be so designated in his commission, and the other Justices of the Court shall have precedence according to the date of their respective commissions, or when the commissions of two or more of them shall bear the same date, according to the order in which their commissions have been issued by the President of the Philippines. *Provided, however,* That a member of the Court of Appeals appointed to any other branch of the government shall receive as compensation from that branch not less than his compensation in the Court of Appeals. Any such member who is reappointed to that Court after rendering service in any other branch of the government shall retain the precedence to which he is entitled under his original appointment and his service in the Court shall, to all intents and purpose, be considered as continuous and uninterrupted.

The Court of Appeals shall, as a body sit *in banc* but it may sit in fifteen divisions of three justices each. The fifteen divisions may sit at the same time. *(As amended by PD No. 1482, June 10, 1978.)*

Section 25. *Presiding Justice to preside sessions of Court*. – If the Presiding Justice is present in any session of the Court, whether *in banc* or in division, he shall preside. In his absence, the Associate Justice attending who is first in precedence in accordance with the preceding section of this Act, shall preside.

Section 26. *Vacancy in Office of Presiding Justice*. – In case of a vacancy in the Office of Presiding Justice of the Court of Appeals, or in the event of his inability to perform the duties and powers of his office, they shall devolve upon the Associate Justice of the Court who is first in precedence, until such disability is removed, or another Presiding Justice is appointed and has qualified. This provision and the provision of the preceding section shall apply to every Associate Justice who succeeds to the office of the Presiding Justice.

Section 27. *Designation of District Judges to sit in the Court of Appeals*. – In case of vacancy in the office of any one of the Associate Justices of the Court of Appeals, or in the event that any one of said Associate Justices is absent, or disabled, or incapacitated for any reason, to perform the duties and powers of his office, the President of the Philippines, upon the recommendation of the Presiding Justice of the Court of Appeals, may designate a District Judge to sit temporarily in the Court of Appeals, until such disability is removed or the vacancy is permanently filled. However, no District Judge so appointed shall act in the Court of Appeals in any case in which his ruling or decision is the subject of review.

Section 28. *Qualifications and compensations of Justices of Court of Appeals.* – The Justices of the Court of Appeals shall have the same qualifications as those provided in the Constitution for members of the Supreme Court. The Presiding Justice of the Court of Appeals shall receive an annual compensation of sixteen thousand pesos, and each Associate Justice, an annual compensation of fifteen thousand pesos. *(As amended by RA No. 1186, June 20, 1954.)*

Section 29. *Jurisdiction of the Court of Appeals.* – The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings, not enumerated in [S]ection [S]eventeen of this Act, properly brought to it, except final judgments or decisions of Courts of First Instance rendered after trial on the merits in the exercise of appellate jurisdiction, which affirm in full the judgment or decision of a municipal or city court, in which cases the aggrieved party may elevate the matter to the Court of Appeals only on petition for review, to which the Court of Appeals shall give due course only when the petition shows prima facie that the court has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed. The decision of the Court of Appeals shall be final: *Provided, however,* That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the said case be certified to it for review and determination, as if the case had been brought before it on appeal. *(As amended by RA No. 5433, June 27, 1968.)*

Section 30. *Original jurisdiction of the Court of Appeals*. – The Court of Appeals shall have original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and process in aid of its appellate jurisdiction.

Section 31. *Transfer of cases from Supreme Court and Court of Appeals to proper court*. – All cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it had originally been brought before it.

Section 32. *Place of holding sessions.* – The Court of Appeals shall have its permanent office in the City of Manila. Upon the recommendation of the Secretary of Justice, with the certification of the Presiding Justice of the Court of Appeals and when public interest demands, the Supreme Court of the Philippines may authorize any division or divisions of the Court to hold sessions periodically at such time and place

outside the City of Manila as the Supreme Court may determine for the purpose of hearing and deciding cases originating from a specific group of judicial districts. Copy of the rules or resolution for the holding of sessions outside Manila shall be sent to the Secretary of Justice, who, upon receipt thereof, shall make the necessary arrangements with the provincial or national officers concerned to provide the divisions with appropriate halls, office spaces and accommodations for the holding of said sessions. *(As amended by RA No. 5204, June 15, 1968.)*

Section 33. *Quorum of the Court*. – Twenty-four Justices of the Court of Appeals shall constitute a *quorum* for its sessions *in banc*; and three Justices shall constitute a *quorum* for the sessions of a division. In the absence of a *quorum*, the Court or the division shall stand *ipso facto* adjourned until such time as the requisite number shall be present, and a memorandum showing this fact shall be inserted by the clerk in the minutes of the Court. The affirmative vote of twenty-four Justices is necessary to pass a resolution of the Court *in banc*. The unanimous vote of the three Justices of a division shall be necessary for the pronouncement of a judgment. In the event that the three Justices do not reach a unanimous vote, the Presiding Justice shall designate two Justices from among the other members of the Court to sit temporarily with them, forming a division of five justices, and the concurrence of a majority of such division shall be necessary for the pronouncement of a judgment. *(As amended by PD No. 1482, June 10, 1978.)*

Every decision of the Court of Appeals shall continue complete findings of fact on all issues properly raised before it.

All cases submitted to a division of the Court of Appeals for decision shall be decided or terminated therein within the term in which they were heard and submitted for decision: *Provided, however,* That when a case is complicated or otherwise attended with special circumstances which demand additional time for its study or consideration, the Court of Appeals, sitting *in banc*, may, upon petition of the division concerned, grant an additional period not exceeding three months for its disposition or termination.

Section 34. *Distribution of cases between divisions*. – All the cases of the Court of Appeals shall be allotted between the different divisions thereof for trial and decision. Whenever in any criminal case submitted to a division the said division should be of the opinion that the penalty of death or life imprisonment should be imposed, the said Court shall refrain from entering judgment thereon and shall forthwith certify the case to the Supreme Court for final determination, as if the case had been brought before it on appeal.

Section 35. *Power of the court to adopt rules*. – The Court of Appeals, sitting *in banc*, shall make proper orders or rules to govern the allotment of cases between the different divisions, the constitution of such divisions, the regular rotation of Justices between them, the filling of vacancies occurring therein, and other matters relating to the business of the Court; and these rules shall continue in force until repealed or altered by it or by the Supreme Court.

Section 36. *Clerk of the Court of Appeals; his appointment; his compensation; his bond.* – The Court of Appeals shall appoint a clerk of court, who shall exercise the same powers and perform the same duties in regard to all matters within its jurisdiction, as are exercised and performed by the clerk of the Supreme Court of the Philippines, insofar as the same may be applicable; and in the exercise of those powers and in the performance of those duties, the clerk shall be under the direction of the Court. No person may be appointed clerk of the Court of Appeals unless he has been engaged for five years or more in the practice of law, or has been clerk or deputy clerk of a court of record for the same period of time.

The clerk shall have the rank of a Bureau Director and shall receive an annual compensation of seven thousand two hundred pesos. Before entering upon the discharge of the duties of his office, he shall file a bond in the amount of six thousand pesos in the same manner and form as required of the clerk of the Supreme Court, such bond to be approved by the Treasurer of the Philippines. The bond shall

be kept in the office of the Treasurer of the Philippines and entered in his books, the same being subject to inspection by interested parties.

The clerk of court may require any of his deputies or assistants to give an adequate bond as security against loss by reason of any wrongdoing or gross negligence on the part of such deputy or assistant.

Section 37. *Appointment by Court of Appeals of deputy clerks of court and other officers*. – The Court may appoint fifteen deputy clerks of court who shall have the same qualifications as those of the clerk of the Court of Appeals, and other officers in such number, and such compensation as now, and may be hereafter, authorized. *(As amended by PD No. 1482, June 10, 1978.)*

Section 38. *Applicability of certain provisions of the Revised Administrative Code to Court of Appeals*. – The provisions of sections ten, thirteen, fourteen, fifteen, seventeen, eighteen, nineteen, twenty-one, twenty-two, and sixty-six of this Act, and eighty-nine of the Revised Administrative Code, shall be applicable to the Court of Appeals, in so far as they may be of possible application.

CHAPTER IV

Courts of First Instance

Section 39. *Courts of First Instance*. – Courts of general original jurisdiction, known as Courts of First Instance, are organized and established throughout the Philippines in conformity with the provisions of this chapter.

Section 40. *Judges of First Instance.* – The judicial function in Courts of First Instance shall be vested in District Judges, to be appointed and commissioned as hereinafter provided: *Provided, however,* That those who are District Judges at the time of the approval of this amendatory Act shall continue as such in their respective districts without need of new appointments by the President of the Philippines, and new confirmations by the Commission on Appointments. *(As amended by RA No. 1186, June 20, 1954.)*

Section 41. *Limitation upon tenure of office.* – District Judges shall be appointed to serve during the good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office, unless sooner removed in accordance with law. *(As amended by RA No. 1186, June 20, 1954.)*

Section 42. *Qualification and salary.* – No person shall be appointed District Judge unless he has been ten years a citizen of the Philippines and has practiced law in the Philippines for a period of not less than ten years or has held during a like period, within the Philippines, an office requiring admission to the practice of law in the Philippines as an indispensable requisite.

The District Judge shall receive a compensation at the rate of sixteen thousand pesos per annum. The Judicial Superintendent of the Judiciary Division shall receive the same compensation and shall have the same rank and be entitled to the same privileges as the District Judge. *(As amended by RA No. 3090, June 17, 1961.)*

Section 43. *Jurisdiction of Courts of First Instance*. – The jurisdiction of the Courts of First Instance shall be of two kinds:

(a) Original, and

(b) Appellate.

Section 44. *Original jurisdiction*. – Courts of First Instance shall have original jurisdiction:

(a) In all civil actions in which the subject of the litigation is not capable of pecuniary estimation;

(b) In all civil actions which involve the title to or possession of real property, or any interest therein, or the legality of any tax, impost or assessment, except actions of forcible entry into and detainer of lands or buildings, original jurisdiction of which is conferred by this Act upon justice of the peace courts and municipal courts;

(c) In all cases in which the demand, exclusive of interest, or value of the property in controversy, amounts to more than ten thousand pesos; *(As amended by RA No. 3828, June 22, 1963.)*

(d) In all actions in admiralty and maritime jurisdiction, irrespective of the value of the property in controversy or the amount of the demand;

(e) In all matters of probate, both of testate and intestate estates, appointment of guardians, trustees and receivers, and in all actions for annulment of marriage, and in all such special cases and proceedings as are not otherwise provided for;

(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos;

(g) Over all crimes and offenses committed on the high seas or beyond the jurisdiction of any country, or within any of the navigable waters of the Philippines, on board a ship or water craft of any kind registered or licensed in the Philippines in accordance with the laws thereof. The jurisdiction herein conferred may be exercised by the Court of First Instance in any province into which the ship or water craft upon which the crime or offense was committed shall come after the commission thereof: *Provided*, That the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines; and

(h) Said courts and their judges, or any of them, shall have the power to issue writs of injunction, mandamus, certiorari, prohibition, quo warranto and habeas corpus in their respective provinces and districts, in the manner provided in the Rules of Court.

Section 45. *Appellate jurisdiction.* – Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.

Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: *Provided,* That the parties may submit memoranda and/or brief with oral argument if so requested: *Provided, however,* That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial *de novo*.

In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the [C]ourts of [F]irst [I]nstance, the decision of the latter shall be final: *Provided,* That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the [C]ourt of [A]ppeals whose decision shall be final: *Provided, however,* that the [S]upreme [C]ourt in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal. *(As amended by RA No. 6031, August 4, 1969.)*

Section 46. *Clerks and other subordinate employees of Courts of First Instance.* – Clerks of court, assistant clerks of court, branch clerks of court, deputy clerks, assistants, and other subordinate employees of Courts of First Instance shall, for administrative purposes, belong to the Department of Justice; but in the performance of their duties they shall be subject to the supervision of the judges of the courts to which they respectively pertain.

There shall be a clerk of court for every Court of First Instance or branch thereof: *Provided, however,* That for every Court of First Instance having two or more branches located in the same city or municipality, there shall be an assistant clerk of court, and a branch clerk of court for every branch thereof who shall be subject to the supervision of the clerk of court.

The clerks of court, assistant clerks of court and branch clerks of court of Courts of First Instance shall be appointed by the President of the Philippines with the consent of the Commission on Appointments. No person shall be appointed to any of these positions unless he is duly authorized to practice law in the Philippines: *Provided, however,* That this requirement shall not affect persons who, at the date of the approval of this Act, are holding any of the positions of clerk of court, assistant clerk of court, branch clerk of court or deputy clerk of court actually performing the work of a clerk of court assigned as such to a branch of the Court of First Instance, and who shall continue in office and be considered as clerks of court, assistant clerks of court, and branch clerks of court, respectively, in their corresponding courts or branches thereof without the need of new appointments: *Provided, further,* That said requirements shall not affect those who have previously qualified in the Civil Service examination for any of said positions.

The clerk of court, assistant clerk of court and branch clerk of court of the Courts of First Instance shall have such rank in the Department of Justice and shall receive an annual salary as may be provided for by law.

The clerk of court or branch clerk of court of a Court of First Instance may, by special written deputization approved by the judge, authorize any suitable person to act as his special deputy and in such capacity to perform such functions as may be specified in the authority granted.

The clerk of court or branch clerk of court may require his assistant or deputy to give an adequate bond as security against loss by reason of any wrongdoing or gross negligence on the part of such assistant of deputy. *(As amended by RA No. 4814, June 18, 1966.)*

Section 47. *Permanent station of clerk of court*. – The permanent station of a clerk of court shall be at the provincial capital or at the permanent residence of the District Judge presiding in the court.

Section 48. *Provincial officer as ex-officio clerk of court*. – When the Secretary of Justice shall deem such action advisable, he may direct that the duties of the clerk of court shall be performed by a provincial officer or employee as *ex-officio* clerk of court, in which case the salary of said employee or officer as clerk of court, *ex-officio*, shall be fixed by the provincial board and shall be equitably distributed by said board with the approval of the Secretary of Justice between the national government and the provincial government.

Section 49. *Judicial Districts*. – Judicial districts for Courts of First Instance in the Philippines are constituted as follows:

The First Judicial District shall consist of the Provinces of Cagayan, Batanes, Isabela, and Nueva Vizcaya, and the Subprovince of Ifugao;

The Second Judicial District, of the Provinces of Ilocos Norte, Ilocos Sur, Abra, City of Baguio, Mountain Province except the Subprovince of Ifugao, and La Union;

The Third Judicial District, of the Provinces of Pangasinan and Zambales, and the City of Dagupan;

The Fourth Judicial District, of the Provinces of Nueva Ecija and Tarlac;

The Fifth Judicial District, of the Provinces of Pampanga, Bataan, and Bulacan;

The Sixth Judicial District, of the City of Manila;

The Seventh Judicial District, of the Province of Rizal, Quezon City and Rizal City, the Province of Cavite, City of Cavite, the City of Tagaytay, and the Province of Palawan;

The Eighth Judicial District, of the Province of Laguna, the City of San Pablo, the Province of Batangas, the City of Lipa, and the Provinces of Mindoro and Marinduque;

The Ninth Judicial District, of the Provinces of Quezon and Camarines Norte;

The Tenth Judicial District, of the Provinces of Camarines Sur, Albay, Catanduanes, Sorsogon, Masbate, and Romblon;

The Eleventh Judicial District, of the Provinces of Capiz and Iloilo, the City of Iloilo and the Province of Antique;

The Twelfth Judicial District, of the Province of Occidental Negros, the City of Bacolod, the Province of Oriental Negros, and the Subprovince of Siquijor;

The Thirteenth Judicial District, of the Provinces of Samar and Leyte, and the City of Ormoc;

The Fourteenth Judicial District, of the Province of Cebu, the City of Cebu and the Province of Bohol;

The Fifteenth Judicial District, of the Provinces of Surigao, Agusan, Oriental Misamis, Bukidnon, and Lanao; and

The Sixteenth Judicial District, of the Province of Davao, the City of Davao, the Provinces of Cotabato and Occidental Misamis, the Province of Zamboanga and Zamboanga City, and the Province of Sulu.

Section 50. *Judges of First Instance for Judicial Districts*. – Four judges shall be commissioned for the First Judicial District. Two judges shall preside over the Courts of First Instance of Cagayan and Batanes, and shall be known as judges of the first and second branches thereof, respectively, the judge of the second branch to preside also over the Court of First Instance of Batanes; one judge shall preside over the Court of First Instance of Isabela; and one judge shall preside over the Court of First Instance of Nueva Vizcaya and the Subprovince of Ifugao.

Four judges shall be commissioned for the Second Judicial District. One judge shall preside over the Court of First Instance of Ilocos Norte; one judge shall preside over the Courts of First Instance of Ilocos Sur and Abra; one judge shall preside over the Courts of First Instance of the City of Baguio and Mountain Province except the Subprovince of Ifugao; and another judge shall preside over the Court of First Instance of La Union.

Four judges shall be commissioned for the Third Judicial District. They shall preside over the Court of First Instance of Pangasinan and shall be known as judges of the first, second, third and fourth branches thereof, respectively; one judge shall preside over the Court of First Instance of Lingayen to be known as the judge of the first branch; one judge shall preside over the Court of First Instance of the City of Dagupan and shall be known as the judge of the second branch; one judge shall preside over the Court of First Instance of Tayug and shall be known as the judge of the third branch; and one judge shall preside over the Court of First Instance of Lingayen to be known as the judge of the fourth branch who shall also preside over the Court of First Instance of Zambales, the judge of the fourth branch to preside also over the Court of First Instance of Zambales.

Three judges shall be commissioned for the Fourth Judicial District. Two judges shall preside over the Court of First Instance of Nueva Ecija and shall be known as judges of the first and second branches thereof, respectively; and one judge shall preside over the Court of First Instance of Tarlac.

Four judges shall be commissioned for the Fifth Judicial District. Two judges shall preside over the Court of First Instance of Pampanga and shall be known as judges of the first and second branches thereof, respectively, the judge of the second branch to preside also over the Court of First Instance of Bataan; and two judges shall preside over the Court of First Instance of Bulacan and shall be known as judges of the first and second branches thereof, respectively.

Ten judges shall be commissioned for the Sixth Judicial District. They shall preside over the Courts of First Instance of Manila and shall be known as judges of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth branches, respectively.

Five judges shall be commissioned for the Seventh Judicial District. Three judges shall preside over the Court of First Instance of the Province of Rizal, Quezon City and Rizal City and shall be known as judges of the first, second, and third branches thereof, respectively; and two judges shall preside over the Court of First Instance of the Province of Cavite and the Cities of Cavite and Tagaytay, and shall be known as judges of the first and second branches thereof, respectively, the judge of the second branch to preside also over the Court of First Instance of Palawan.

Five judges shall be commissioned for the Eighth Judicial District. Two judges shall preside over the Court of First Instance of Laguna and the City of San Pablo, and shall be known as judges of the first and second branches thereof, respectively; two judges shall preside over the Court of First Instance of Batangas and the City of Lipa, and shall be known as judges of the first and second branches thereof, respectively; and one judge shall preside over the Courts of First Instance of Mindoro and Marinduque.

Three judges shall be commissioned for the Ninth Judicial District. They shall preside over the Court of First Instance of Quezon and shall be known as judges of the first, second and third branches thereof, respectively, the judge of the third branch to preside also over the Court of First Instance of Camarines Norte.

Six judges shall be commissioned for the Tenth Judicial District. Two judges shall preside over the Court of First Instance of Camarines Sur and shall be known as judges of the first and second branches thereof, respectively; two judges shall preside over the Courts of First Instance of Albay and Catanduanes and shall be known as judges of the first and second branches thereof; one judge shall preside over the Court of First Instance of the Province of Sorsogon; and one judge shall preside over the Courts of First Instance of Masbate and Romblon.

Five judges shall be commissioned for the Eleventh Judicial District. Two judges shall preside over the Court of First Instance of Capiz and shall be known as judges of the first and second branches; and three judges shall preside over the Court of First Instance of the Province of Iloilo and the City of Iloilo, and shall be known as judges of the first, second and third branches thereof, respectively, the judge of the third branch to preside also over the Court of First Instance of Antique.

Four judges shall be commissioned for the Twelfth Judicial District. Three judges shall preside over the Court of First Instance of Occidental Negros and the City of Bacolod, and shall be known as judges of the first, second and third branches thereof, respectively; and one judge shall preside over the Courts of First Instance of Oriental Negros and the Subprovince of Siquijor.

Six judges shall be commissioned for the Thirteenth Judicial District. Three judges shall preside over the Court of First Instance of Samar and shall be known as judges of the first, second and third branches thereof, respectively; and three judges shall preside over the Court of First Instance of Leyte and the City of Ormoc, and shall be known as judges of the first, second and third branches thereof, respectively.

Four judges shall be commissioned for the Fourteenth Judicial District. Three judges shall preside over the Court of First Instance of the Province of Cebu and the City of Cebu, and shall be known as judges of the first, second and third branches thereof, respectively; and one judge shall preside over the Court of First Instance of Bohol.

Three judges shall be commissioned for the Fifteenth Judicial District. One judge shall preside over the Courts of First Instance of Surigao and Agusan; one judge shall preside over the Courts of First Instance of Oriental Misamis and Bukidnon; and one judge shall preside over the Court of First Instance of Lanao.

Four judges shall be commissioned for the Sixteenth Judicial District. One judge shall preside over the Court of First Instance of Davao; one judge shall preside over the Court of First Instance of Cotabato; one judge shall preside over the Courts of First Instance of Occidental Misamis and Zamboanga Province; and one judge shall preside over the Court of First Instance of Zamboanga City and Sulu.

Section 51. *Detail of judge to another district or province.* – Whenever a judge stationed in any province or branch of a court in a province shall certify to the Secretary of Justice that the condition of the docket in his court is such as to require the assistance of an additional judge, or when there is any vacancy in any court or branch of a court in a province, the Secretary of Justice may, in the interest of justice, with the approval of the Supreme Court and for a period of not more than three months for each time, assign any judge of any other court of province whose docket permits his temporary absence from said court, to hold sessions in the court needing such assistance, or where such vacancy exists. No judge so detailed shall take cognizance of any case when any of the parties thereto objects and the objection is sustained by the Supreme Court. *(As amended by RA No. 1186, June 20, 1954.)*

Section 52. *Permanent stations of District Judges*. – The permanent station of judges of the Sixth Judicial District shall be in the City of Manila.

In other judicial districts, the permanent stations of the Judges shall be as follows:

For the First Judicial District, the judge of the first branch of the Court of First Instance of Cagayan shall be stationed in the municipality of Tuguegarao, same province; the judge of the second branch, in the municipality of Aparri, same province; one judge shall be stationed in the municipality of Ilagan, Province of Isabela; and another judge, in the municipality of Bayombong, Province of Nueva Vizcaya.

For the Second Judicial District, one judge shall be stationed in the municipality of Laoag, Province of Ilocos Norte; one judge, in the municipality of Vigan, Province of Ilocos Sur; one judge, in the City of Baguio, Mountain Province; and one judge, in the municipality of San Fernando, Province of La Union.

For the Third Judicial District, one judge shall be stationed in the municipality of Lingayen, Province of Pangasinan; one judge shall be stationed in the City of Dagupan, same province; one judge, in the municipality of Iba, Province of Zambales, and one judge, in the municipality of Tayug, Province of Pangasinan.

For the Fourth Judicial District, two judges shall be stationed in the municipality of Cabanatuan, Province of Nueva Ecija, and one judge, in the municipality of Tarlac, Province of Tarlac.

For the Fifth Judicial District, two judges shall be stationed in the municipality of San Fernando, Province of Pampanga; and two judges, in the municipality of Malolos, Province of Bulacan.

For the Seventh Judicial District, the judge of the first branch of the Court of First Instance of Rizal shall be stationed in the municipality of Pasig, same province; that of the second branch, in Rizal City; and that of the third branch, in Quezon City; and two judges, in the City of Cavite, Province of Cavite.

For the Eighth Judicial District, two judges shall be stationed in the municipality of Santa Cruz, Province of Laguna; the judge of the first branch of the Court of First Instance of Batangas shall be stationed in the municipality of Batangas, and that of the second branch in the City of Lipa, same province; and one judge, in the municipality of Calapan, Province of Mindoro.

For the Ninth Judicial District, the three judges shall be stationed in the municipality of Lucena, Province of Quezon.

For the Tenth Judicial District, two judges shall be stationed in the municipality of Naga, Province of Camarines Sur; one judge, in the municipality of Legaspi, Province of Albay; one judge, in the municipality of Sorsogon, Province of Sorsogon; and one judge, in the municipality of Masbate, Province of Masbate.

For the Eleventh Judicial District, one judge shall be stationed in the municipality of Capiz, one in the municipality of Calivo, Province of Capiz; and three judges, in the City of Iloilo, Province of Iloilo.

For the Twelfth Judicial District, three judges shall be stationed in the City of Bacolod, Province of Occidental Negros; one judge, in the municipality of Dumaguete, Province of Oriental Negros.

For the Thirteen Judicial District, the judge of the first branch of the Court of First Instance of Samar shall be stationed in the municipality of Catbalogan, Province of Samar; the judge of the second branch, in the municipality of Borongan, same province; and the judge of the third branch, in the municipality of Laoang, same province; the judge of the first Branch of the Court of First Instance of Leyte shall be stationed in the municipality of Tacloban, Province of Leyte; the judge of the second branch, in the municipality of Maasin and the City of Ormoc, same province; and the judge of the third branch, in the municipality of Baybay, same province.

For the Fourteenth Judicial District, three judges shall be stationed in the City of Cebu, Province of Cebu; and one judge, in the municipality of Tagbilaran, Province of Bohol.

For the Fifteenth Judicial District, one judge shall be stationed in the municipality of Surigao, Province of Surigao; one judge, in the municipality of Cagayan, Province of Oriental Misamis; and one judge, in the municipality of Dansalan, Province of Lanao.

For the Sixteenth Judicial District, one judge shall be stationed in the City of Davao, Province of Davao; one judge, in the municipality of Cotabato, Province of Cotabato; one judge, in the municipality of Oroquieta, Province of Occidental Misamis; and one judge, in the City of Zamboanga.

Section 53. *Judges-at-Large and Cadastral Judges*. – In addition to the District Judges mentioned in [S]ection [F]orty-nine hereof there shall also be appointed eighteen Judges-at-[L]arge and fifteen Cadastral Judges who shall not be assigned permanently to any judicial district and who shall render duty in such district of province as may, from time to time, be designated by the Department Head.

Section 54. *Places and time of holding court*. – For the Sixth Judicial District, court shall be held in the City of Manila. In other districts court shall be held at the capitals or places in which the respective judges are permanently stationed, except as hereinafter provided. Sessions of court shall be convened on all working days when there are cases ready for trial or other court business to be dispatched.

In the following districts, court shall also be held at the places and times [hereinbelow] specified:

First Judicial District: At Santo Domingo de Basco, Province of Batanes, on the first Tuesday of March of each year. A special term of court shall also be held once a year, in the municipalities of Ballesteros and Tuao, both of the Province of Cagayan, and at Kiangan, Subprovince of Ifugao, in the discretion of the [D]istrict [J]udge.

Second Judicial District: At Bangued, Province of Abra, on the first Tuesday of January, March, June, and October of each year; at Bontoc, Mountain Province, on the first Tuesday of March, June, and November of each year; and, whenever the interest of justice so require, a special term of court shall be held at Lubuagan, Subprovince of Kalinga.

Seventh Judicial District: At Coron, Province of Palawan, on the first Monday of March and August of each year; at Cuyo, same province, on the second Thursday of March and August of each year; and at Puerto Princesa, same province, on the fourth Wednesday of March and August of each year.

Eighth Judicial District: The judge shall hold special term at the municipalities of Lubang, Mambunao and San Jose, Province of Mindoro, once every year, as may be determined by him; at Boac, Province of Marinduque, on the first Tuesday of March, July, September and December of each year.

Ninth Judicial District: At Infanta, Province of Quezon, for the municipalities of Infanta, Casiguran, Baler and Polillo, on the first Tuesday of June of each year; at Daet, Camarines Norte, terms of court shall be held at least six times a year on the dates to be fixed by the [D]istrict [J]udge.

Tenth Judicial District: At Virac, Province of Catanduanes, on the first Tuesday of March and September of each year; at Romblon, Province of Romblon, on the first Tuesday of January, June, and October of each year; and at Badajos, same province, on the third Tuesday of January, June, and October of each year.

Eleventh Judicial District: At San Jose, Province of Antique, on the first Tuesday of February, June and October of each year; and at Culasi, same province, on the first Tuesday of December of each year.

Twelfth Judicial District: At Larena, Subprovince of Siquijor, on the first Tuesday of August of each year.

Thirteenth Judicial District: The first branch, at Calbayog, Province of Samar, on the first Tuesday of September of each year; and Basey, same province, on the first Tuesday of January of each year; and the second branch, at Oras, same province, on the first Tuesday of July of each year, and the first Tuesday of October of each year in Guiwan; on the third branch, at Catarman, same province, on the first Tuesday of October of each year.

Fifteenth Judicial District: At Cantilan, Province of Surigao, on the first Tuesday of August of each year; at Butuan, Province of Agusan, on the first Tuesday of March and October of each year; a special term of court shall also be held once a year in either the municipality of Tandag or the municipality of Hinatuan, Province of Surigao, in the discretion of the [D]istrict [J]udge; at Mambajao, Province of Oriental Misamis, on the first Tuesday of March of each year. A special term of court shall, likewise, be held, once a year, either in the municipality of Talisayan or in the municipality of Gingoog, Province of Oriental Misamis, in the discretion of the [D]istrict [J]udge; at Iligan, Province of Lanao, on the first Tuesday of March and October of each year.

Sixteenth Judicial District: At Dipolog, Province of Zamboanga, terms of court shall be held at least three times a year on dates to be fixed by the [D]istrict [J]udge; at Pagadian, same province, for the municipalities of Pagadian, Margosatubig and Kabasalan, at least once a year; at Jolo, Province of Sulu, terms of court shall be held at least four times a year on dates to be fixed by the [D]istrict [J]udge; at Banganga and Mati, Province of Davao; and at Glan, Province of Cotabato, terms of court shall be held at least once a year on the dates to be fixed by the [D]istrict [J]udge.

Notwithstanding the provisions of this section, whenever weather conditions, the condition of the roads or means of transportation, the number of cases or the interest of the administration of justice require it, the Secretary of Justice may advance or postpone the term of court or transfer the place of holding the same to another municipality within the same judicial district; and, in the land registration cases, to any other place more convenient to the parties.

Section 55. *Duty of Judges to hold court at permanent station*. – Judges shall hold court at the place of their permanent station, in the case of District Judges, and at the place wherein they may be detailed, in the case of Judges-at-Large and Cadastral Judges, not only during the period hereinabove fixed but also at any other time when there are cases ready for trial or other court business to be dispatched, if they are not engaged elsewhere.

Section 56. *Special terms of court*. – When so directed by the Department Head, District Judges, Judges-at-Large and Cadastral Judges shall hold special terms of court at any time or in any municipality in their respective districts for the transactions of any judicial business.

Section 57. *Authority of District Judge to define territory appurtenant to courts*. – Where court is appointed to be held at more than one place in a district, the District Judge may, with the approval of the Department Head, define the territory over which the court held at a particular place shall exercise its authority, and cases arising in the territory thus defined shall be [triable] at such court accordingly. The power herein granted shall be exercised with a view to making the courts readily accessible to the people of the different parts of the districts and with a view to making the attendance of litigants and witnesses as inexpensive as possible.

Section 58. *Hours of daily sessions of the courts*. – The hours for the daily session of Courts of First Instance shall be from nine to twelve in the morning, and from three to five in the afternoon, except on Saturdays, when a morning session only shall be required; but the judge may extend the hours of session whenever in his judgment it is proper to do so. The judge holding any court may also, in his discretion, order that but one session per day shall be held instead of two, at such hours as may be deem expedient for the convenience both of the court and the public; but the number of hours that the court shall be in session per day shall be not less than five.

Section 59. *Clerk's duty to attend session and keep office hours*. – Clerks of court shall be in attendance during the hours of session; and when not so in attendance upon the court they shall keep the same office hours as are prescribed for other Government employees.

Section 60. *Division of business among branches of Court of Sixth District.* – In the Courts of First Instance of the Sixth District all cases relative to the registration of real estate in the City of Manila and all matters involving the exercise of the powers conferred upon the fourth branch of said court or the judge thereof in references to the registration of land shall be within the exclusive jurisdiction of said fourth branch and shall go or be assigned thereto for disposition according to law. All other business appertaining to the Courts of First Instance of said district shall be equitably distributed among the judges of the eighteen branches, in such manner as shall be agreed upon by the judges themselves; but in proceeding to such distribution of the ordinary cases, a smaller share shall be assigned to the fourth branch, due account being taken of the amount of land registration work which may be required of this branch: *Provided, however,* That at least four branches each year shall be assigned by rotation to try only criminal cases.

Nothing contained in this section and in [S]ection [S]ixty-three shall be construed to prevent the temporary designation of judges to act in this district in accordance with [S]ection [F]ifty-one. *(As amended by RA No. 1186, June 20, 1954.)*

Section 61. *Authority of Court of First Instance of the Sixth Judicial District over administration of its own affairs*. – The Court of First Instance of the Sixth Judicial District shall have the administrative control of all matters affecting the internal operations of the court. This administrative control shall be exercised by the court itself through the clerk of the court. In the administrative matters, the clerk of the court shall be under the direction of the court itself. The personnel of the office of the clerk of the Court of First Instance of the Sixth Judicial District shall consist of such officers and employees as may be provided by law. The subordinate employees of said office shall be appointed by the Secretary of Justice upon recommendation of the Chief of the office, the clerk of the court. The said clerk of the court shall receive an annual salary of five thousand one hundred pesos, and with all the employees of his office shall belong, for all purposes, to the Court of First Instance of the Sixth Judicial District.

Section 62. *Appointment and qualifications of clerks*. – The clerk and deputy clerk of the Sixth Judicial District shall be appointed by the President of the Philippines upon the recommendation of the Secretary of Justice, with the consent of the Commission on Appointments. No person shall be eligible for appointment to either of these positions unless he is duly authorized to practice law in the Philippines.

Section 63. *Interchange of Judges*. – The judges of the several branches of the Court of First Instance for the Sixth District may, for their own convenience or the more expeditious accomplishments of business, sit, by interchange, by mutual agreement or by order of the Department Head, in other branches than those to which they severally pertain; and any action or proceeding in one branch may be sent to another branch for trial or determination.

Section 64. *Convocation of Judges for assistance of Judge hearing land registration matters*. – In matters of special difficulty connected with the registration of land, any judge of the Sixth District concerned may, when he deems such course advisable or necessary, convoke the other nine judges of said court for the purpose of obtaining their advice and assistance. In such case the issue or issues to be decided shall be framed in writing by the said judge and shall be propounded for determination in joint session, with not fewer than three judges present. In case of a tie upon any issue, that view shall prevail which is maintained by the judge hearing the matter.

Section 65. *Vacation of Courts of First Instance*. – The yearly vacation of Courts of First Instance shall begin with the first of April and close with the first of June of each year.

Section 66. *Assignment of Judges to vacation duty*. – During the month of January of each year, the Department Head shall issue an order naming the judges who are to remain on duty during the court vacation of that year; and consistently with the requirements of the judicial service, the assignments shall be so made that no judge shall be assigned to vacation duty, unless upon his own request, with greater frequency than once in three years.

Such order shall specify, in the case of each judge assigned to vacation duty, the territory over which in addition to his own district his authority as vacation judge shall extend, and the assignments shall be so arranged that provisions will be made for the exercise of interlocutory jurisdiction, during vacation, in all parts of the Islands.

At least one judge shall always be assigned for vacation duty in the Sixth Judicial District.

The Department Head may from time to time modify his order assigning the judges to vacation duty as newly arising conditions or emergencies may require.

A judge assigned to vacation duty shall not ordinarily be required to hold court during such vacation; but the Department Head may, when in his judgment the emergency shall require, direct any judge assigned to vacation duty to hold during the vacation a special term of court in any district.

Section 67. *Proceedings for removal of Judges*. – No District Judge, Judge-at-Large or Cadastral Judge shall be separated or removed from office by the President of the Philippines unless sufficient cause shall exist, in the judgment of the Supreme Court, involving serious misconduct or inefficiency, for the removal of said judge from office after the proper proceedings. The Supreme Court of the Philippines is authorized, upon its own motion, or upon information of the Secretary of Justice, to conduct an inquiry into the official or personal conduct of any judge appointed under the provisions of this law, and to adopt such rules of procedure in that regard as it may deem proper; and, after such judge shall have been heard in his own defense, the Supreme Court may recommend his removal to the President of the Philippines, who, if he deems that the public interests will be subserved thereby, shall thereupon make the appropriate order for such removal.

The President of the Philippines, upon recommendation of the Supreme Court, may temporarily suspend a judge pending proceedings under this section. In case the judge suspended is acquitted of the cause or causes that gave rise to the investigation, the President of the Philippines shall order the payment to him of the salary, or part thereof, which he did not receive during his suspension, from any available funds for expenses of the judiciary.

The cost and expenses incident to such investigations shall be paid from the funds appropriated for contingent expenses of the judiciary, upon vouchers approved by the Chief Justice of the Supreme Court.

CHAPTER V

Justices of the Peace and Judges of Municipal Courts

Section 68. *Appointment and distribution of justices of the peace.* – There shall be one justice of the peace and one auxiliary justice of the peace in each municipality and municipal district, and if the public interest shall so require, in any minor political division or unorganized territory in the Philippines, and such Judges of Municipal Courts in each chartered city as their respective charters provide: *Provided,* That in addition to the present number of municipal judges in the City of Manila and Quezon City as provided for in their respective charters, there shall be two additional municipal judges for the City of Manila and one additional municipal judge for Quezon City, who shall have jurisdiction, assignment and compensation provided for in the charter of their respective cities. *(As amended by RA No. 2613, August 1, 1959.)*

Section 69. *Jurisdiction of justice of the peace so affected by territorial changes*. – When a new political division affecting the territorial jurisdiction of the justice of the peace is formed or the boundaries limiting the same are changed, the President of the Philippines may, in the absence of special provision, designate which of the justices and auxiliary justices within the territory affected by the change shall continue in office; and the powers of any others therein shall cease.

Section 70. *Tenure of office transfer from one municipality to another.* – Municipal judges having the requisite legal qualifications shall hold office during good behavior, until they reach the age of seventy years, or become incapacitated to discharge the duties of their office, unless sooner removed in accordance with law or unless his office be lawfully abolished or merged in the jurisdiction of another municipal judge: *Provided,* That in case the public interest requires it, a municipal judge of one municipality may be transferred to another: *Provided, further,* that whenever the municipal judge of a municipality shall certify to the [D]istrict [J]udge or the [D]istrict [J]udge, upon inspection, shall determine, that the condition of the docket in a municipal court is such as to require the assistance of an additional judge, the [D]istrict [J]udge may assign for a period of not more than three months each time, any municipal judge of any municipality within the province whose docket permits his temporary absence from said court, to hold sessions in the municipal court needing such assistance. No judge so detailed shall take cognizance of any case when any of the parties thereto objects and the objection is sustained by the [D]istrict [J]udge.

Whenever the condition of the docket in any municipal court within the province is such that it does not require the daily attendance of the municipal judge therein, the [D]istrict [J]udge may with the consent of the municipal judge concerned and for a period of not more than three months for each time, assign the said municipal judge to his court or to any other branch of the court of first instance of the province to assist the judge of the court of first instance in the making of researchers, drafting of interlocutory orders or acting as hearing commissioner as provided for in the rules of court. *(As amended by RA No. 6031, August 4, 1969.)*

Section 71. *Qualifications for the office of justice of the peace.* – No person shall be eligible for appointment as justice of the peace or auxiliary justice of the peace unless he is (1) at least twenty-five years of age; (2) a citizen of the Philippines; (3) of good moral character and has not been convicted of any felony; (4) has been admitted by the Supreme Court to the practice of law; and (5) has practiced law in the Philippines for a period of not less than five years or has held during a like period, within the Philippines, an office requiring admission to the practice of law in the Philippines as an indispensable requisite. *(As amended by RA No. 3828, June 22, 1963.)*

Section 72. *Filling of vacancy in office of the justice of peace*. – When a vacancy occurs in the office of any justice of the peace, except in provincial capitals and first-class municipalities, the [D]istrict [J]udge shall forward to the President of the Philippines a list of the names of persons qualified to fill

said vacancy, accompanied by all the applications presented by persons desirous of appointment. The President of the Philippines, with the consent of the Commission on Appointments, shall make the respective appointments from said list: *Provided, however*, That he may also appoint to the position any qualified person not included in the list and not applicant for the place, without preferences of any kind, when he deems such course to be in the public interest.

Section 73. *Auxiliary justice—Qualifications and duties*. – The auxiliary justice of the peace shall have the same qualifications and be subject to the same restrictions as the regular justice, and shall perform the duties of said office during any vacancy therein or in case of the absence of the regular justice from the municipality, or of his disability or disqualification, or in case of his death or resignation until the appointment and qualification of his successor, or in any cause whose immediate trial the regular justice shall certify to be specially urgent and which is unable to try by reason of actual engagement in another trial.

In case there is no auxiliary justice of the peace to perform the duties of the regular justice in the case above mentioned, the [D]istrict [J]udge shall designate the nearest justice of the peace of the province to act as justice of the peace in such municipality, town, or place.

Section 74. *Courtroom and supplies.* – The justice of the peace shall be provided with a room in the tribunal, or elsewhere in the center of population, suitable for holding court and shall be supplied with the necessary office supplies, furniture, lights, and janitor service therefor, and shall also be provided with such of the printed laws in force in the Philippines as may be required for his official use. The similar expenses of maintaining the office of a justice of the peace appointed in unorganized territory shall likewise be provided.

Legal blanks and the dockets required by law, as well as the notarial seal to be used by the justice as *ex-officio* notary public shall be furnished by the Department of Justice. *(As amended by RA No. 3828, June 22, 1963.)*

Section 75. *Clerks and employees of justice of the peace courts.* – The municipal or justice of the peace courts of the several chartered cities and of the provincial and sub-provincial capitals and first-class municipalities shall have such clerks of court, stenographers and other employees as may be necessary.

In other municipalities, the municipal judge shall likewise have a clerk of court, two stenographers and other minor personnel as the service may require, who shall be appointed by the municipal judge of the municipality with salaries three hundred pesos less than those received by their respective counterparts in the city courts or the municipal courts in the capitals of the province and sub-provinces to which such municipalities belong and such salaries shall be paid out of national funds. *(As amended by RA No. 6031, August 4, 1969.)*

With the exception of the clerks and employees of the Municipal Court of the City of Manila, all employees mentioned in this section shall be appointed by the respective justices of the peace, and their salaries paid by the National Government.

Section 76. *Miscellaneous powers of justice of the peace*. – A justice of the peace shall have power anywhere within his territorial jurisdiction to solemnize marriages, authenticate merchant's books, administer oaths and take depositions and acknowledgment, and, in his capacity as *ex-officio* notary public, may perform any act within the competency of a notary public.

Section 77. *Attendance at Court. Permission for judge to pursue other vocation.* – All provision of law relative to the observance of office hours and the holding of sessions applicable to courts of first instance shall likewise apply to municipal judges, but the latter may, after office hours, and with the permission of the [D]istrict [J]udge concerned, engage in teaching or other vocation not involving the practice of law: *Provided, however,* that until the secretary of justice certified that the salaries provided for in this [A]ct

are actually paid municipal judges, the present provisions of law with respect to the observance of office hours and engaging in any other vocation by municipal judges shall remain in force.

All municipal and city courts shall keep records of their proceedings in the same manner as courts of first instance. All judgments determining the merits of cases shall be in writing personally and directly prepared by the municipal or city judge, stating clearly the facts and the law on which they are based, signed by him and filed with the clerk of court. *(As amended by RA No. 6031, August 4, 1969.)*

Section 78. *Hearing of cause at place other than office of justice of the peace*. – Upon written request of both parties to a cause, a justice of the peace may hear the same at any suitable place in his jurisdiction; and in such case his necessary travel expense from his official station to the place of trial, and upon return therefrom, not exceeding two and one-half pesos per day in all, may be taxed as costs, but if the trial of more than one of such cases is requested in a particular locality, he shall arrange to try them as nearly as possible at the same time and place and shall divide the travel expense among them proportionately to the time consumed in the trial of each case.

Section 79. *Service of process of justice of the peace*. – The sheriff of the province shall serve or execute, or cause to be served and executed, all civil writs, processes, and orders issued by any justice of the peace in the province; and civil process, other than executions, may be served by any persons designated by the justice for the purpose. Criminal process issued by a justice of the peace shall be served or executed by the mayor of the municipality or other local political division, by means of the local police, or in the City of Manila by the members of its police department; but such process may also be served or executed with equal effect by the sheriff.

Criminal process may be issued by a justice of the peace, to be served outside his province, when the [D]istrict [J]udge, or in his absence the provincial fiscal, shall certify that in his opinion the interest of justice requires such service.

Section 80. *Seal of justice acting as notary public*. – The use of a seal of office shall not be necessary to the authentication of any paper, document, or record signed by a justice of the peace or emanating from his office except when he acts as notary public *ex-officio*.

Section 81. *Appointment of government officers as justices of the peace ex-officio*. – When in the opinion of the President of the Philippines the public interest shall so require, he may appoint any qualified person in the government service to act in the capacity of justice of the peace *ex-officio*, without additional compensation, in any specially organized province. Such appointee shall have all the powers of a justice of the peace proper, with such territorial jurisdiction as shall be stated in the commission issued to the appointee, but such jurisdiction shall not extend to, or be hereafter exercised at any place within the jurisdiction of any appointed justice of the peace or auxiliary justice of the peace.

A person exercising the function of justice of the peace *ex-officio* in any municipal district may, in his discretion, transfer any case within his jurisdiction to the justice of the peace of the nearest organized municipality in the province.

The President of the Philippines may, in his discretion, authorize a municipal district mayor who is an attorney-at-law to act as justice of the peace to try cases for violation of municipal ordinances within his district.

Section 82. *Salaries of municipal judges.* – Municipal judges shall receive the following salaries *per annum*:

(a) In municipalities which are the capitals of their respective provinces, twelve thousand pesos each;

(b) Of circuit courts and in the municipalities of the first class and second class, ten thousand eight hundred pesos each;

(c) In municipalities of the third class, fourth class and fifth class, nine thousand six hundred pesos each;

(d) In municipalities of the sixth class, seventh class and municipal districts and other places not especially provided for by law, eight thousand four hundred pesos each. *(As amended by RA No. 6031, August 4, 1969.)*

Section 83. *Salaries of the judges of the municipal courts of chartered cities and of the justices of the peace in provincial capitals.* – The annual salary of each of the judges of the municipal courts of the following chartered cities shall be:

a. Of the City of Manila, six thousand pesos;

b. Of Quezon City, and the Cities of Baguio, Cebu, Rizal and Iloilo, five thousand four hundred pesos;

c. Of the Cities of Bacolod and San Pablo, four thousand pesos;

d. Of the Cities of Cavite, Davao, Ormoc, Dagupan, Lipa and Zamboanga, and of other cities, three thousand six hundred pesos.

The annual salaries of the justices of the peace of the capitals of the provinces and sub-provinces shall be as follows:

Of the justices of the peace of the capitals of first, second, and third provinces, nine thousand six hundred pesos each; of the justices of the peace of the capitals of fourth and fifth class provinces, eight thousand four hundred pesos each; of the justices of the peace of the capitals of sixth and seventh class provinces, seven thousand two hundred pesos each; *Provided,* That the salaries of the justices of the peace of sub-provincial capitals shall be the same as those of the provincial capitals of provinces to which the sub-provinces would have been classified were they independent provinces; *Provided, further,* That the judge of the municipal court of a city which is at the same time the capital of a province shall be considered as the justice of the peace of the capital of such province. *(As amended by RA No. 3828, June 22, 1963.)*

Section 84. *Payment of salaries of justices of the peace*. – In order to facilitate the payment of the salaries of justices of the peace in the provinces, the treasurer of the respective political division concerned shall advance the same monthly out of any proper available funds in his possession and such advances will be reimbursed monthly from the national appropriation.

Section 85. *Compensation of auxiliary justices*. – An auxiliary justice of the peace, when performing all the duties of a justice of the peace, shall receive the full compensation which would accrue to the office of justice. In cases where the justice of the peace, without ceasing to act as justice, shall certify any cause to the auxiliary justice for trial, the latter shall receive compensation in an amount equivalent to the fees accruing in such cause, which amount shall be deducted from the salary of the regular justice.

When the auxiliary justice acts as substitute for the regular justice while the latter is absent on official business, the compensation of the auxiliary justice shall not be deducted from the salary of the justice.

Section 86. *Jurisdiction of justices of the peace and judges of municipal courts of chartered cities*. – The jurisdiction of justices of the peace and judges of municipal courts of chartered cities shall consist of:

a. Original jurisdiction to try criminal cases in which the offense charged has been committed within their respective territorial jurisdictions; and
b. Original jurisdiction in civil actions arising in their respective municipalities and cities, and not exclusively cognizable by the Courts of First Instance.

Section 87. *Original jurisdiction to try criminal cases.* – Justices of the peace and judges of municipal courts of chartered cities shall have original jurisdiction over:

(a) All violations of municipal or city ordinances committed within their respective territorial jurisdictions;
(b) All criminal cases arising under the laws relating to:
    (1) Gambling and management or operation of lotteries;
    (2) Assaults where the intent to kill is not charged of evident upon the trial;
    (3) Larceny, embezzlement and estafa where the amount or money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;
    (4) Sale of intoxicating liquors;
    (5) Falsely impersonating an officer;
    (6) Malicious mischief;
    (7) Trespass on government or private property;
    (8) Threatening to take human life;
    (9) Illegal possession of firearms, explosives and ammunition;
    (10) Illegal use of aliases; and
    (11) Concealment of deadly weapons.
(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

Said justices of the peace and judges of municipal courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities, which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

No warrant of arrest shall be issued by any justice of the peace in any criminal case filed with him unless he first examines the witness or witnesses personally, and the examination shall be under oath and reduced to writing in the form of searching questions and answers.

Justices of the peace in the capitals of provinces and sub-provinces and judges of municipal courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdiction, in which the penalty provided by law does not exceed *prison correccional* or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the [D]istrict [J]udge shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

All cases filed under the next preceding paragraph with justices of the peace of capitals and municipal court judges shall be tried and decided on the merits by the respective justices of the peace or municipal judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be. *(As amended by RA No. 3828, June 22, 1963.)*

Section 88. *Original jurisdiction in civil cases.* – In all civil actions, including those mentioned in Rules [F]ifty-nine and [S]ixty-two of the Rules of Court, arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court shall have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed ten thousand pesos exclusive of interests and costs. Where there are several claims or causes of action between the same parties embodied in the same complaint, the amount of the demand shall be the totality of the demand in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; but where the claims or causes of action joined in a single complaint are separately owned by or due to different parties, each separate claim shall furnish the jurisdiction test. In forcible entry and detainer proceedings, the justice of the peace or judge of the municipal court shall have original jurisdiction, but the said justice or judge may receive evidence upon the question of title therein, whatever may be the value of the property, solely for the purpose of determining the character and extent of possession and damages for detention. In forcible entry proceedings, he may grant preliminary injunctions, in accordance with the provisions of the Rules of Court to prevent the defendant from committing further acts of dispossession against the plaintiff.

The jurisdiction of a justice of the peace and judge of a municipal court shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, except in forcible entry and detainer cases; nor those which involve the legality of any tax, impost or assessment; nor to actions involving admiralty or maritime jurisdiction; nor to matters of probate, the appointment of trustees or receivers; nor to actions for annulment of marriages; *Provided, however,* That justices of the peace may, with the approval of the Secretary of Justice, be assigned by the respective [D]istrict [J]udge in each case to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the value of which does not exceed ten thousand pesos, such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants, if there are more than one, or from the corresponding tax declaration of real property. *(As amended by RA No. 3828, June 22, 1963.)*

Justices of the peace in the capitals of provinces and sub-provinces and also municipal judges of chartered cities, in the absence of the District Judge from the province may exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall be held to include the hearing of all motions for the appointments of a receiver, for temporary injunctions, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, and the hearing of petitions for a writ of habeas corpus.

Section 89. *Traveling expenses of justices of the peace assigned to hear civil, cadastral and criminal cases*. – Whenever a justice of the peace, upon assignment by the [D]istrict [J]udge, either hears and determines cadastral or land registration cases or exercises like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which the penalty provided by law does not exceed imprisonment for two years and four months, or a fine of two thousand pesos, or both such imprisonment and fine, he shall receive, in addition to his salary, during the time that he is acting by virtue of such assignment, a per diem not to exceed five pesos: *Provided, however*, That if said justice of the peace hears and determines cadastral or land registration cases elsewhere than in the municipality in which he exercises jurisdiction, upon the authority of the Secretary of Justice, he shall be paid, in addition to his necessary traveling expenses, a *per diem* not to exceed fifteen pesos to be fixed by the Secretary of Justice.

Section 90. *Concurrent jurisdiction to appoint guardians.* – Justices of the peace and judges of municipal courts of chartered cities shall have concurrent jurisdiction with the courts first instance to appoint guardians or guardians *ad litem* for persons who are incapacitated by being of minor age or mentally incapable in matters within their respective jurisdiction. *(As amended by RA No. 643, June 12, 1951.)*

Section 91. *Incidental powers of justices of the peace and municipal courts*. – The justice of the peace and municipal courts shall have power to administer oaths and to give certificates thereof; to issue summonses, writs, warrants, executions, and all other processes necessary to enforce their orders and judgments; to compel the attendance of witnesses; to punish contempts of court by fine or imprisonment, or both, within the limitation imposed by Rules of Court, and to require of any person arrested a bond for good behavior or to keep the peace, or for the further appearance of such person before a court of competent jurisdiction. But no such bond shall be accepted unless it be executed by the person in whose behalf it is made, with sufficient surety or sureties, to be approved by said court.

Section 92. *Fees collectible by justices of the peace*. – No fees, compensation, or reward of any sort, except such as is expressly prescribed and allowed by law, shall be collected or received for any service rendered by a justice of the peace or by any officer or employee of his court.

Section 93. *Moneys paid into courts of justices of the peace—By whom to be received*. – All moneys accruing to the Government in courts of justices of the peace, including fees, fines, forfeitures, costs, or other miscellaneous receipts, and all trust or depository funds paid into such courts shall be received by the deputy provincial treasurer, or in the City of Manila by the Collector of Internal Revenue, for disposition according to law.

Section 94. *Disposition of Government moneys derived from courts of justices of the peace*. – Such of these moneys as accrue to the Government shall be turned over to the Collector of Internal Revenue, who shall have the administrative jurisdiction over such collections and shall pay the same into the National Treasury to the credit of the general funds of the National Government.

Section 95. *Monthly report of justice of the peace*. – On the first of the month each justice of the peace shall submit to the receiving officer, upon forms prescribed by the General Auditing Office, a detailed report of all official business transacted by him or in his court during the preceding month, such as marriages solemnized, actions begun, terminated, or pending in the court, together with an itemized statement of all fees and costs collected and for what service.

Section 96. *Supervision of District Judges over justice of the peace—Annual report of justice*. – The District Judge shall at all times exercise a supervision over the justices of the peace within his district, and shall keep himself informed of the manner in which they perform their duties, by personal inspection whenever possible, from reports which he may require from them, from cases appealed to his court, and from all other available sources. In proper cases he shall advise and instruct them whenever requested, or when occasion arises, and such justices of the peace shall apply to him and not to the Secretary of Justice for advice and instruction, and any such inquiries received by the Secretary of Justice shall be referred by him to the [D]istrict [J]udge of the proper district.

The justice of the peace shall, during the first five days of the year, forward to the District Judge a report concerning the business done in his court for the previous year, upon forms to be prescribed by the Secretary of Justice.

Such report shall be filed in the office of the clerk of the Court of First Instance, and said District Judge of the district shall, with the assistance of said clerk, embody a summary of such reports for each province of his district together with other matters of interest and importance relative to the administration of justice therein, particularly with reference to justice of the peace courts, in a brief report, which he shall forward as soon as possible after the close of the fiscal year to the Department Head.

Section 97. *Suspension and removal*. – If at any time the District Judge has reason to believe that a justice of the peace is not performing his duties properly or if complaints are made which, if true, would indicate that the justice is unfit for the office, he shall make such investigation of the same

as the circumstances may seem to him to warrant, and may, for good cause, reprimand the justice, or may recommend to the President of the Philippines his removal from office, or his removal and disqualification from holding office, and may suspend him from office pending action by the President of the Philippines. The President of the Philippines may, upon such recommendation or on his own motion, remove from office any justice of the peace or auxiliary justice of the peace.

Section 98. *Final disposition of dockets*. – When a justice of the peace shall die or resign or shall be removed from office or shall remove from the jurisdiction to which he was appointed, or when his office shall in any way become vacant, such justice of the peace, or his legal representative in case of his death, shall, within ten days thereafter, deliver his docket, process, papers, books, and all records relating to his office to the justice appointed to fill the vacancy or to the auxiliary justice of the same locality.

Where the documents and records aforesaid are delivered into the custody of the auxiliary justice of the peace, it shall be his duty, during the time he shall perform the duties of the office, safely to keep the same and to certify copies thereof whenever lawfully demanded; and upon the appointment and qualification of a justice of the peace to fill the vacancy, the said auxiliary justice shall deliver all the documents and records pertaining to the office in question to the new justice of the peace.

When any violation of this section comes to the knowledge of the District Judge having supervision over the office in question, it shall be his duty to issue a summary order for the delivery of the documents and records aforesaid, under penalty of contempt.

CHAPTER VI

Transitory and Final Provisions

Section 99. *Repeal of laws*. – All laws and rules inconsistent with the provisions of this Act are hereby repealed.

Section 100. *Appropriation*. – There is hereby appropriated from the general funds, not otherwise appropriated, the sum of three hundred five thousand five hundred thirteen pesos and thirty-three centavos to pay the salaries of the eleven [D]istrict [J]udges that are created in this Act together with their corresponding personnel and sundry expenses for the period from June first, nineteen hundred forty-eight to June thirtieth, nineteen hundred forty-nine.

Section 101. *Date in which to take effect*. – This Act shall take effect upon its approval.

Approved: June 17, 1948.

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Batas Pambansa Blg. 129 (August 14, 1981)
The Judiciary Reorganization Act of 1980

AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

PRELIMINARY CHAPTER

Section 1. *Title.* – This Act shall be known as "The Judiciary Reorganization Act of 1980."

Section 2. *Scope.* – The reorganization herein provided shall include the Court of Appeals, the Courts of First Instance, the Circuit Criminal Courts, the Juvenile and Domestic Relations Courts, the Courts of Agrarian Relations, the City Courts, the Municipal Courts, and the Municipal Circuit Courts.

CHAPTER I

Court of Appeals

Section 3. *Organization.* – There is hereby created a Court of Appeals which shall consist of a Presiding Justice and sixty-eight (68) Associate Justices who shall be appointed by the President of the Philippines. The Presiding Justice shall be so designated in his appointment, and the Associate Justices shall have precedence according to the dates of their respective appointments, or when the appointments of two or more of them shall bear the same date, according to the order in which their appointments were issued by the President. Any member who is reappointed to the Court after rendering service in any other position in the government shall retain the precedence to which he was entitled under his original appointment, and his service in the Court shall, for all intents and purposes, be considered as continuous and uninterrupted. *(As amended by EO No. 33, July 28, 1986; RA No. 8246, December 30, 1996.)*

Section 4. *Exercise of powers and functions.* – The Court of Appeals shall exercise its powers, functions, and duties through twenty-three (23) divisions, each composed of three (3) members. The Court may sit *en banc* for the purpose of exercising administrative, ceremonial or other nonadjudicatory functions. *(As amended by EO No. 33, July 28, 1986; RA No. 8246, December 30, 1996.)*

Section 5. *Succession to Office of Presiding Justice.* – In case of a vacancy in the Office of the Presiding Justice or in the event of his absence or inability to perform the powers, functions, and duties of his office, the Associate Justice who is first in precedence shall perform his powers, functions, and duties until such disability is removed, or another Presiding Justice is appointed and has qualified.

Section 6. *Who presides over session of a division.* – If the Presiding Justice is present in any session of a division of the Court, he shall preside. In his absence, the Associate Justice attending such session who has precedence shall preside.

Section 7. *Qualifications.* – The Presiding Justice and the Associate Justices shall have the same qualifications as those provided in the Constitution for Justices of the Supreme Court.

Section 8. *Grouping of divisions.– (Expressly repealed by Section 4, EO No. 33, July 28, 1986.)*

Section 9. *Jurisdiction.* – The Court of Appeals shall exercise:

(1) Original jurisdiction to issue writs of *mandamus,* prohibition, *certiorari, habeas corpus,* and *quo warranto,* and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;

(2) Exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts; and

(3) Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.

The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous and must be completed within three (3) months, unless extended by the Chief Justice. *(As amended by RA No. 7902, February 23, 1995.)*

Section 10. *Place of holding sessions.* – The Court of Appeals shall have its permanent stations as follows: The first seventeen (17) divisions shall be stationed in the City of Manila for cases coming from the First to the Fifth Judicial Regions; the Eighteenth, Nineteenth, and Twentieth Divisions shall be in Cebu City for cases coming from the Sixth, Seventh and Eighth Judicial Regions; the Twenty-first, Twenty-second and Twenty-third Divisions shall be in Cagayan de Oro City for cases coming from the Ninth, Tenth, Eleventh, and Twelfth Judicial Regions. Whenever demanded by public interest, or whenever justified by an increase in case load, the Supreme Court, upon its own initiative or upon recommendation of the Presiding Justice of the Court of Appeals, may authorize any division of the Court to hold sessions periodically, or for such periods and at such places as the Supreme Court may determine, for the purpose of hearing and deciding cases. Trials or hearings in the Court of Appeals must be continuous and must be completed within three (3) months unless extended by the Chief Justice of the Supreme Court. *(As amended by RA No. 8246, December 30, 1996.)*

Section 11. *Quorum.* – A majority of the actual members of the Court shall constitute a quorum for its session *en banc.* Three members shall constitute a quorum for the sessions of a division. The unanimous vote of the three members of a division shall be necessary for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the opinion by any member of the division. In the event that the three members do not reach a unanimous vote, the Presiding Justice shall request the Raffle Committee of the Court for the designation of two additional Justices to sit temporarily with them, forming a special division of five members and the concurrence of a majority of such division shall be necessary for the pronouncement of a decision or final resolution. The designation of such additional Justices shall be made strictly by raffle.

A motion for reconsideration of its decision or final resolution shall be resolved by the Court within ninety (90) days from the time it is submitted for resolution, and no second motion for reconsideration from the same party shall be entertained. *(As amended by EO No. 33, July 28, 1986.)*

Section 12. *Internal Rules.* – The Court *en banc* is authorized to promulgate rules or orders governing the constitution of the divisions and the assignment of Appellate Justices thereto, the distribution of cases, and other matters pertaining to the operations of the Court or its divisions. Copies of such rules and orders shall be furnished by the Supreme Court, which rules and orders shall be effective fifteen (15) days after receipt thereof, unless directed otherwise by the Supreme Court.

CHAPTER II

Regional Trial Courts

Section 13. *Creation of Regional Trial Courts.* – There are hereby created thirteen (13) Regional Trial Courts, one for each of the following judicial regions:

The First Judicial Region, consisting of the provinces of Abra, Benguet, Ilocos Norte, Ilocos Sur, La Union, Mountain Province, and Pangasinan, and the cities of Baguio, Dagupan, Laoag, and San Carlos;

The Second Judicial Region, consisting of the provinces of Batanes, Cagayan, Ifugao, Isabela, Kalinga-Apayao, Nueva Vizcaya, and Quirino;

The Third Judicial Region, consisting of the provinces of Bataan, Bulacan (except the municipality of Valenzuela), Nueva Ecija, Pampanga, Tarlac, and Zambales, and the cities of Angeles, Cabanatuan, Olongapo, Palayan, and San Jose;

The National Capital Judicial Region, consisting of the cities of Manila, Quezon, Pasay, Caloocan, and the municipalities of Navotas, Malabon, San Juan, Mandaluyong, Makati, Pasig, Pateros, Taguig, Marikina, Parañaque, Las Piñas, Muntinlupa, and Valenzuela;

The Fourth Judicial Region, consisting of the provinces of Batangas, Cavite, Laguna, Marinduque, Mindoro Occidental, Mindoro Oriental, Palawan, Quezon, Rizal (except the cities and municipalities embraced within the National Capital Judicial Region), Romblon, and Aurora, and the cities of Batangas, Cavite, Lipa, Lucena, Puerto Princesa, San Pablo, Tagaytay, and Trece Martires;

The Fifth Judicial Region, consisting of the provinces of Albay, Camarines Sur, Camarines Norte, Catanduanes, Masbate, and Sorsogon, and the cities of Legaspi, Naga, and Iriga;

The Sixth Judicial Region, consisting of the provinces of Aklan, Antique, Capiz, Iloilo, and Negros Occidental, and the cities of Bacolod, Bago, Cadiz, Iloilo, La Carlota, Roxas, San Carlos, and Silay, and the sub-province of Guimaras;

The Seventh Judicial Region, consisting of the provinces of Bohol, Cebu, Negros Oriental, and Siquijor, and the cities of Bais, Canlaon, Cebu, Danao, Dumaguete, Lapu-Lapu, Mandaue, Tagbilaran, and Toledo;

The Eighth Judicial Region, consisting of the provinces of Eastern Samar, Leyte, Northern Samar, Southern Leyte, and Samar, the sub-province of Biliran and the cities of Calbayog, Ormoc, and Tacloban;

The Ninth Judicial Region, consisting of the provinces of Basilan, Sulu, Tawi-Tawi, Zamboanga del Norte, and Zamboanga del Sur, and the cities of Dapitan, Dipolog, Pagadian, and Zamboanga;

The Tenth Judicial Region, consisting of the provinces of Agusan del Norte, Agusan del Sur, Bukidnon, Camiguin, Misamis Occidental, Misamis Oriental, and Surigao del Norte, and the cities of Butuan, Cagayan de Oro, Gingoog, Ozamis, Oroquieta, Surigao, and Tangub;

The Eleventh Judicial Region, consisting of the provinces of Davao del Norte, Davao Oriental, Davao del Sur, South Cotabato, and Surigao del Sur, and the cities of Davao, and General Santos; and

The Twelfth Judicial Region, consisting of the provinces of Lanao del Norte, Lanao del Sur, Maguindanao, North Cotabato, and Sultan Kudarat, and the cities of Cotabato, Iligan, and Marawi.

In case of transfer or redistribution of the provinces, sub-provinces, cities or municipalities comprising the regions established by law for purposes of the administrative field organization of the various departments and agencies of the government, the composition of the judicial regions herein constituted shall be deemed modified accordingly.

Section 14. *Regional Trial Courts*. –

(a) Seventy-nine Regional Trial Judges shall be commissioned for the First Judicial Region. There shall be:

Three branches with seats thereat for the Province of Abra, with seats at Bangued, and Bucay *(As amended by RA No. 7154, September 4, 1991)*;

Sixteen branches with seats thereat for the Province of Benguet and the City of Baguio, with seats at Baguio City, La Trinidad and Buguias *(As amended by RA No. 7154, September 4, 1991; RA No. 10696, November 11, 2015)*;

Ten branches with seats thereat for the Province of Ilocos Norte and the City of Laoag, with seats at Laoag City, Batac, and Bangui *(As amended by RA No. 7154, September 4, 1991)*;

Nine branches with seats thereat for the Province of Ilocos Sur, with seats at Vigan, Narvacan, Candon, Cabugao, and Tagudin *(As amended by RA No. 7472, May 5, 1992; RA No. 10714, December 9, 2015)*;

Eleven branches with seats thereat for the Province of La Union, with seats at San Fernando, Agoo, Bauang, and Balaoan *(As amended by RA No. 7154, September 4, 1991)*;

Two branches with seats thereat for the Province of Mountain Province, with seats at Bontoc; and

Twenty-eight branches with seats thereat for the Province of Pangasinan and the Cities of Dagupan and San Carlos, with seats at Lingayen, Dagupan City, Urdaneta, Villasis, Tayug, Rosales, Alaminos, Burgos, and San Carlos City *(As amended by RA No. 7154, September 4, 1991; RA No. 7472, May 5, 1992; RA No. 10567, May 22, 2013; RA No. 10710, December 9, 2015)*.

(b) Forty Regional Trial Judges shall be commissioned for the Second Judicial Region. There shall be:

Thirteen branches with seats thereat for the Province of Cagayan, with seats at Tuguegarao, Aparri, Tuao, Sanchez Mira and Ballesteros *(As amended by RA No. 7154, September 4, 1991)*;

One branch for the Province of Batanes, with seat at Basco;

Three branches with seats thereat for the Province of Ifugao, with seats at Lagawe, Alfonso Lista, and Banaue *(As amended by RA No. 7154, September 4, 1991)*;

Twelve branches with seats thereat for the Province of Isabela, with seats at Ilagan, Cauayan, Santiago, Cabagan, Roxas, and Echague *(As amended by RA No. 7154, September 4, 1991; RA No. 10538, May 15, 2013)*;

Three branches with seats thereat for the Province of Kalinga-Apayao, with seats at Tabuk, Luna, and at Lubuagan, Kalinga *(As amended by RA No. 7154, September 4, 1991; RA No. 10298, November 15, 2012)*;

Five branches with seats thereat for the Province of Nueva Vizcaya, with seats at Bayombong, and Bambang *(As amended by RA No. 7154, September 4, 1991)*; and

Three branches with seats thereat for the Province of Quirino, with seats at Cabarroguis and Maddela *(As amended by RA No. 7154, September 4, 1991)*.

(c) One hundred twenty Regional Trial Judges shall be commissioned for the Third Judicial Region. There shall be:

Ten branches with seats thereat for the Province of Bataan, with seats at Balanga, Mariveles, and Dinalupihan *(As amended by RA No. 7154, September 4, 1991; RA No. 9680, July 29, 2009)*;

Thirty-two branches with seats thereat for the Province of Bulacan (except the municipality of Valenzuela), with seats at Malolos, City of San Jose Del Monte and City of Meycauayan *(As amended by RA No. 7154, September 4, 1991; RA No. 10521, April 23, 2013; RA No. 10695, November 11, 2015; and RA No. 10702, November 20, 2015)*;

Twenty-four branches with seats thereat for the Province of Nueva Ecija and the Cities of Cabanatuan, San Jose and Palayan, with seats at Cabanatuan City, Guimba, Gapan, Sto. Domingo, San Jose City, Palayan City, and Science City of Muñoz *(As amended by RA No. 7154, September 4, 1991; RA No. 10700, November 20, 2015; RA No. 10739, December 29, 2015)*;

Twenty-eight branches with seats thereat for the Province of Pampanga and the City of Angeles, with seats at San Fernando, Guagua, Macabebe, and Angeles City *(As amended by RA No. 7154, September 4, 1991; RA No. 10582, May 24, 2013)*;

Fifteen branches with seats thereat for the Province of Tarlac, with seats at Tarlac, Capas, Paniqui, Camiling, Tarlac City, and Concepcion *(As amended by RA No. 7154, September 4, 1991; RA No. 10562, May 22, 2013; RA No. 10563, May 22, 2013; RA No. 10564, May 22, 2013)*; and

Eleven branches with seats thereat for the Province of Zambales and the City of Olongapo, with seats at Iba and Olongapo City *(As amended by RA No. 10581, May 24, 2013)*.

(d) Three hundred twenty Regional Trial Judges shall be commissioned for the National Capital Judicial Region. There shall be:

Ninety-seven branches for the City of Manila, with seats thereat *(As amended by RA No. 7154, September 4, 1991)*;

Sixty-seven branches for Quezon City, with seats thereat *(As amended by RA No. 7154, September 4, 1991; RA No. 10704, November 20, 2015)*;

Eighteen branches for Pasay City, with seats thereat *(As amended by RA No. 7154, September 4, 1991; RA No. 10711, December 9, 2015)*;

Thirteen branches for Caloocan City, with seats thereat *(As amended by RA No. 7154, September 4, 1991)*;

One hundred eighteen branches for the Municipalities of Navotas, Malabon, San Juan, Mandaluyong, Makati, Pasig, Pateros, Taguig, Marikina, Parañaque, Las Piñas, and Muntinlupa; with fifty-eight seated in Makati; thirty-four seated in Pasig; five in

Mandaluyong, two seated in Marikina, ten in Malabon, four in Parañaque, one in Las Piñas, and one in Muntinlupa *(As amended by RA No. 7154, September 4, 1991; RA No. 10299, November 15, 2012; RA No. 10520, April 23, 2013; RA No. 9848, December 11, 2009; RA No. 10713, December 9, 2015)*; and

Seven branches for the Municipality of Valenzuela, with seats thereat *(As amended by EO No. 33, July 28, 1986; RA No. 7154, September 4, 1991; RA No. 10341, November 21, 2012).*

(e) One hundred eighty-one Regional Trial Judges shall be commissioned for the Fourth Judicial Region. There shall be:

Twenty branches with seats thereat for the Province of Batangas and the Cities of Lipa and Batangas, with seats at Batangas City, Lemery, Taal, Tanauan, Balayan, Lipa City, Nasugbu, and Rosario *(As amended by RA No. 7154, September 4, 1991; RA No. 10302, November 15, 2012)*;

Forty branches with seats thereat for the Province of Cavite and the Cities of Cavite, Tagaytay and Trece Martires, with seats at Naic, Cavite City, Tagaytay City, Bacoor, Imus, Trece Martires City, Dasmariñas, and Carmona *(As amended by RA No. 7154, September 4, 1991; RA No. 10249, November 8, 2012; RA No. 10454, April 8, 2013)*;

Thirty-five branches with seats thereat for the Province of Laguna and the City of San Pablo, with seats at Santa Rosa City, Biñan, San Pedro, Sta. Cruz, San Pablo City, Los Baños, Cabuyao, Siniloan, and City of Calamba (*As amended by RA No. 7154, September 4, 1991*; *RA No. 10162, April 17, 2012; RA No. 10339, November 21, 2012; RA No. 10517, April 23, 2013; RA No. 10523, April 23, 2013; RA No. 10543, May 15, 2013; RA No. 10569, May 22, 2013)*;

Two branches for the Province of Marinduque, with seats at Boac *(As amended by RA No. 7154, September 4, 1991)*;

Seven branches with seats thereat for the Province of Mindoro Oriental, with seats at Calapan, Pinamalayan, Roxas, and Initao *(As amended by RA No. 7154, September 4, 1991; RA No. 10701, November 20, 2015; RA No. 10880, July 17, 2016)*;

Three branches with seats thereat for the Province of Mindoro Occidental, with seats at Mamburao, and San Jose *(As amended by RA No. 7154, September 4, 1991)*;

Ten branches with seats thereat for the Province of Palawan and the City of Puerto Princesa, with seats at Puerto Princesa City, Roxas, Brooke's Point, and Coron *(As amended by RA No. 7154, September 4, 1991; RA No. 10547, May 15, 2013)*;

Eighteen branches with seats thereat for the Province of Quezon and the City of Lucena, with seats at Lucena City, Gumaca, Calauag, Mauban, Infanta, and Catanauan *(As amended by RA No. 7154, September 4, 1991; RA No. 9247, February 19, 2004; RA No. 10518, April 23, 2013; RA No. 10539, May 15, 2013)*;

Three branches for the province of Aurora, with seats at Baler and Casiguran *(As amended by RA No. 7154, September 4, 1991; RA No. 10303, November 1, 2012)*;

Forty branches with seats thereat for the Province of Rizal, except the cities and municipalities embraced within the National Capital Judicial Region, with seats at Binangonan, Antipolo, San Mateo, Morong, and Tanay *(As amended by RA No. 7154, September 4, 1991; RA No. 9377, March 6, 2007; RA No. 10568, May 22, 2013; RA No. 10580, May 24, 2013; RA No. 10603, June 11, 2013)*; and

Three branches with seats thereat for the Province of Romblon, with seats at Romblon, Odiongan and Cajidiocan, Island of Sibuyan. *(As amended by RA No. 7154, September 4, 1991; RA No. 10300, November 15, 2012).*

(f) Sixty-six Regional Trial Judges shall be commissioned for the Fifth Judicial Region. There shall be:

Eighteen branches with seats thereat for the Province of Albay and the City of Legaspi, with seats at Legaspi City, Ligao, and Tabaco;

Twenty-seven branches with seats thereat for the province of Camarines Sur and the Cities of Naga and Iriga, with seats at Naga City, Libmanan, Tigaon, San Jose, Pili, Iriga City, Buhi, Nabua, Sipocot, Ragay, and Calabanga *(As amended by RA No. 7154, September 4, 1991)*;

Five branches with seats thereat for the Province of Camarines Norte, with seats at Daet and Labo *(As amended by RA No. 7154, September 4, 1991)*;

Two branches for the Province of Catanduanes, with seats at Virac;

Seven branches with seats thereat for the Province of Masbate, with seats at Masbate, Claveria, Cataingan, and San Jacinto *(As amended by RA No. 7154, September 4, 1991)*; and

Seven branches with seats thereat for the Province of Sorsogon, with seats at Sorsogon, Gubat, Irosin, Bulan and City of Sorsogon *(As amended by RA No. 7154, September 4, 1991; RA No. 10712, December 9, 2015)*.

(g) Eighty Regional Trial Judges shall be commissioned for the Sixth Judicial Region. There shall be:

Nine branches with seats thereat for the Province of Aklan, with seats at Kalibo;

Five branches with seats thereat for the Province of Antique, with seats at San Jose, Culasi, and Bugasong *(As amended by RA No. 7154, September 4, 1991)*;

Eight branches with seats thereat for the Province of Capiz and the City of Roxas, with seats at Roxas City and Mamburao;

Twenty-six branches with seats thereat for the Province of Iloilo, the Sub-province of Guimaras, and the City of Iloilo, with seats at Iloilo City, Barotac Viejo, Guimbal, Dumangas, and Janiuay *(As amended by RA No. 7154, September 4, 1991; RA No. 10245, November 8, 2012; RA No. 10248, November 8, 2012; RA No. 10392, March 14, 2013)*; and

Thirty-two branches with seats thereat for the Province of Negros Occidental, and the Cities of Bacolod, Bago, Cadiz, La Carlota, San Carlos and Silay, with seats at Silay City, Bacolod City, Himamaylan, San Carlos City, Cadiz City, Kabankalan, Bago City, La Carlota City, City of Sagay, and City of Sipalay *(As amended by RA No. 7154, September 4, 1991; RA No. 10247, November 8, 2012; RA No.10250, November 8, 2012; RA No. 10371, February 28, 2013; RA No. 10715, December 9, 2015)*.

(h) One hundred two Regional Trial Judges shall be commissioned for the Seventh Judicial Region. There shall be:

Eleven branches with seats thereat for the Province of Bohol and the City of Tagbilaran, with seats at Tagbilaran City, Carmen, Talibon and Loay *(As amended by RA No. 7154, September 4, 1991; RA No. 10579, May 24, 2013)*;

Seventy branches with seats thereat for the Province of Cebu and the Cities of Cebu, Danao, Talisay, Lapu-Lapu, Mandaue and Toledo, with seats at Cebu City, Danao City, Argao, Lapu-Lapu City, Mandaue City, Toledo City, Barili, Bogo, Oslob, Naga, and

Carcar *(As amended by RA No. 7154, September 4, 1991; RA No. 9375, March 6, 2007; RA No. 10340, November 21, 2012; RA No. 10348, December 6, 2012; RA No. 10363, January 28, 2013; RA No. 10519, April 23, 2013; RA No. 10540, May 15, 2013; RA No. 10544, May 15, 2013; RA No. 10545, May 15, 2013; RA No. 10570, May 22, 2013; RA No. 10578, May 24, 2013)*;

Twenty branches with seats thereat for the Province of Negros Oriental and the Cities of Dumaguete, Bais and Canlaon, with seats at Dumaguete City, Bayawan, Guihulngan, Bais City, and Tanjay *(As amended by RA No. 7154, September 4, 1991; RA No. 10571, May 22, 2013; RA No. 10703, November 20, 2015)*; and

One branch for the Province of Siquijor, with seat at Siquijor *(As amended by RA No. 7154, September 4, 1991)*.

(i) Forty-seven Regional Trial Judges shall be commissioned for the Eighth Judicial Region. There shall be:

Six branches with seats thereat for the Province of Eastern Samar, with seats at Borongan, Guiuan, Dolores, Oras and Balangiga *(As amended by RA No. 9307, August 2, 2004)*;

Twenty-two branches with seats thereat for the Province of Leyte, the Sub-province of Biliran, and the Cities of Ormoc and Tacloban, with seats at Tacloban City, Abuyog, Calubian, Ormoc City, Carigara, Baybay, Burauen, Naval, Palompon, Hilongos, and Caibiran *(As amended by RA No. 7154, September 4, 1991; RA No. 9307, August 2, 2004; RA No. 9373, March 6, 2007; RA No. 10244, November 8, 2012; RA No. 10541, May 15, 2013)*;

Six branches with seats thereat for the Province of Northern Samar, with seats at Catarman, Laoang, Allen and Gamay *(As amended by RA No. 7154, September 4, 1991; RA No. 9307, August 2, 2004)*;

Four branches with seats thereat for the Province of Southern Leyte, with seats at Maasin, San Juan and Sogod *(As amended by RA No. 7154, September 4, 1991)*; and

Nine branches with seats thereat for the Province of Samar and the City of Calbayog, with seats at Catbalogan, Basey, Calbayog City, Calbiga, Tarangnan and Gandara. *(As amended by RA No. 7154, September 4, 1991).*

(j) Thirty-eight Regional Trial Judges shall be commissioned for the Ninth Judicial Region. There shall be:

Two branches for the Province of Basilan, with seats at Isabela;

Three branches with seats thereat for the Province of Sulu, with seats at Jolo, Parang, and Siasi *(As amended by RA No. 7154, September 4, 1991)*;

Two branches with seats thereat for the Province of Tawi-Tawi, with seats at Bongao and Sapa-Sapa *(As amended by RA No. 7154, September 4, 1991)*;

Eight branches with seats thereat for the Province of Zamboanga del Norte, and the Cities of Dipolog and Dapitan, with seats at Dipolog City, Sindangan, Siocon, and Liloy *(As amended by RA No. 7154, September 4, 1991)*;

Nineteen branches with seats thereat for the Province of Zamboanga del Sur and the Cities of Pagadian and Zamboanga, with seats at Zamboanga City, Pagadian City, Molave, San Miguel, and Aurora *(As amended by RA No. 7154, September 4, 1991; RA No. 10301, November 15, 2012)*; and

Four branches for the Province of Zamboanga Sibugay with seats at Ipil and Imelda *(As amended by RA No. 9448, May 15, 2007; RA No. 10577, May 24, 2013)*.

(k) Forty-nine Regional Trial Judges shall be commissioned for the Tenth Judicial Region. There shall be:

Seven branches with seats thereat for the Province of Agusan del Norte and the City of Butuan, with seats at Butuan City and Cababadran *(As amended by RA No. 7154, September 4, 1991)*;

Three branches with seats thereat for the Province of Agusan del Sur, with seats at Prosperidad, Bayugan, and Trento *(As amended by RA No. 7154, September 4, 1991; RA No. 10362, January 23, 2013)*;

Eight branches with seats thereat for the Province of Bukidnon, with seats at Malaybalay, Don Carlos, and Manalo Fortich *(As amended by RA No. 7154, September 4, 1991; RA No. 10602, June 11, 2013)*;

Seven branches with seats thereat for the Province of Misamis Occidental and the Cities of Oroquieta, Ozamiz, and Tangub, with seats at Oroquieta City, Calamba, Ozamiz City, and Tangub City *(As amended by RA No. 7154, September 4, 1991)*;

Nineteen branches with seats thereat for the Province of Misamis Oriental and the Cities of Cagayan de Oro and Gingoog, with seats at Cagayan de Oro City, Medina, Gingoog City and Initao *(As amended by RA No. 7154, September 4, 1991)*;

One branch for the Province of Camiguin, with seat at Mambajao; and

Four branches with seats thereat for the Province of Surigao del Norte and the City of Surigao, with seats at Surigao City, Dapa, and Dinagat, Dinagat Island.

(l) Sixty-three Regional Trial Judges shall be commissioned for the Eleventh Judicial Region. There shall be:

Six branches with seats thereat for the Province of Davao del Norte, with seats at Tagum, Nabunturan, and Panabo *(As amended by RA No. 7154, September 4, 1991)*;

Four branches with seats thereat for the Province of Davao Oriental, with seats at Mati, Baganga, and Lupon *(As amended by RA No. 7154, September 4, 1991)*;

Twenty branches with seats thereat for the Province of Davao del Sur and the City of Davao, with seats at Davao City, Digos, Malita, and Bansalan *(As amended by RA No. 7154, September 4, 1991; RA No. 10243, November 8, 2012; RA No. 10565, May 22, 2013)*;

Twenty-five Branches with seats thereat for the Province of South Cotabato and Sarangani, and the city of General Santos, with seats at General Santos City, Koronadal, Surallah. Alabel, and Polomolok *(As amended by RA No. 7154, September 4, 1991; RA No. 9906, January 7, 2010; RA No. 10123, June 3, 2010; RA No. 10393, May 14, 2013; RA No. 10608, August 22, 2013)*;

Six branches with seats thereat for the Province of Surigao del Sur, with seats at Tandag, Lianga, Bislig, and Cantilan *(As amended by RA No. 7154, September 4, 1991; RA No. 10246, November 8, 2012)*; and

Two branches for the Province of Compostela Valley, with seats at Compostela and Mabini *(As amended by RA No. 10252, November 8, 2012)*.

(m) Twenty-nine Regional Trial Court Judges shall be commissioned for the Twelfth Judicial Region. There shall be:

Eight branches with seats thereat for the Province of Lanao del Norte and the City of Iligan, with seats at Iligan City, Kapatagan and Tubod *(As amended by RA No. 7154, September 4, 1991)*;

Six branches with seats thereat for the Province of Lanao del Sur and the City of Marawi, with seats at Marawi City, Malabang and Wao *(As amended by RA No. 7154, September 4, 1991; RA No. 9423, April 10, 2007)*;

Four branches with seats thereat for the Province of Maguindanao and the City of Cotabato, with seats at Cotabato City and Maganoy *(As amended by RA No. 7154, September 4, 1991; RA No. 10546, May 15, 2013)*;

Eight branches with seats thereat for the Province of North Cotabato, with seats at Kabacan, Kidapawan, and Midsayap *(As amended by RA No. 7154, September 4, 1991; RA No. 10542, May 15, 2013; RA No. 10576, May 24, 2013)*; and

Three branches with seats thereat for the Province of Sultan Kudarat, with seats at Isulan, Tacurong and Kalamansig *(As amended by RA No. 7154, September 4, 1991)*.

Section 15. *Qualifications.* – No person shall be appointed Regional Trial Judge unless he is a natural-born citizen of the Philippines, at least thirty-five years of age, and, for at least ten years, has been engaged in the practice of law in the Philippines or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.

Section 16. *Time and duration of sessions.* – The time and duration of daily sessions of the Regional Trial Courts shall be determined by the Supreme Court: *Provided, however*, That all motions, except those requiring immediate action, shall be heard in the afternoon of every Friday, unless it falls on a holiday, in which case, the hearing shall be held on the afternoon of the next succeeding business day: *Provided, further*, That the Supreme Court may, for good reasons, fix a different motion day in specified areas.

Section 17. *Appointment and assignment of Regional Trial Judges.* – Every Regional Trial Judge shall be appointed to a region which shall be his permanent station, and his appointment shall state the branch of the court and the seat thereof to which he shall be originally assigned. However, the Supreme Court may assign temporarily a Regional Trial Judge to another region as public interest may require, provided that such temporary assignment shall not last longer than six (6) months without the consent of the Regional Trial Judge concerned.

A Regional Trial Judge may be assigned by the Supreme Court to any branch or city or municipality within the same region as public interest may require, and such assignment shall not be deemed an assignment to another station within the meaning of this section.

Section 18. *Authority to define territory appurtenant to each branch.* – The Supreme Court shall define the territory over which a branch of the Regional Trial Court shall exercise its authority. The territory thus defined shall be deemed to be the territorial area of the branch concerned for purposes of determining the venue of all suits, proceedings or actions, whether civil or criminal, as well as determining the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts over which the said branch may exercise appellate jurisdiction. The power herein granted shall be exercised with a view to making the courts readily accessible to the people of the different parts of the region and making the attendance of litigants and witnesses as inexpensive as possible.

Section 19. *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (P20,000) or, for civil actions in Metro Manila, where such the value exceeds Fifty thousand

pesos (P50,000) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

(3) In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds One hundred thousand pesos (P100,000) or, in Metro Manila, where such demand or claim exceeds Two hundred thousand pesos (P200,000);

(4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds One hundred thousand pesos (P100,000) or, in probate matters in Metro Manila, where such gross value exceeds Two hundred thousand pesos (P200,000);

(5) In all actions involving the contract of marriage and marital relations;

(6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions;

(7) In all civil actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic Relations Court and of the Courts of Agrarian Relations as now provided by law; and

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (P100,000) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (P200,000). *(As amended by RA No. 7691, March 25, 1994.)**

Section 20. *Jurisdiction in criminal cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.

Section 21. *Original jurisdiction in other cases.* – Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, *habeas corpus* and injunction which may be enforced in any part of their respective regions; and

(2) In actions affecting ambassadors and other public ministers and consuls.

Section 22. *Appellate jurisdiction.* – Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Court of Appeals which may give it due course only when the petition shows *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed.

Section 23. *Special jurisdiction to try special cases.* – The Supreme Court may designate certain branches of the Regional Trial Courts to handle exclusively criminal cases, juvenile and domestic relations cases, agrarian cases, urban land reform cases which do not fall under the jurisdiction of quasi-judicial bodies and agencies, and/or such other special cases as the Supreme Court may determine in the interest of a speedy and efficient administration of justice.

Section 24. *Special Rules of Procedure.* – Whenever a Regional Trial Court takes cognizance of juvenile and domestic relations cases and/or agrarian cases, the special rules of procedure applicable under present laws to such cases shall continue to be applied, unless subsequently amended by law or by rules of court promulgated by the Supreme Court.

CHAPTER III

Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts

Section 25. *Establishment of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts.* – There shall be created a Metropolitan Trial Court in each metropolitan area established by law, a Municipal Trial Court in each of the other cities or municipalities, and a Municipal Circuit Trial Court in each circuit comprising such cities and/or municipalities as are grouped together pursuant to law.

Section 26. *Qualifications.* – No person shall be appointed judge of a Metropolitan Trial Court, Municipal Trial Court, or Municipal Circuit Trial Court unless he is a natural-born citizen of the Philippines, at least 30 years of age, and, for at least five years, has been engaged in the practice of law in the Philippines, or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.

Section 27. *Metropolitan Trial Courts of the National Capital Region.* – There shall be a Metropolitan Trial Court in the National Capital Region, to be known as the Metropolitan Trial Court of Metro Manila, which shall be composed of eighty-two (82) branches. There shall be:

Thirty branches (Branches I to XXX) for the city of Manila with seats thereat;

Thirteen branches (Branches XXXI to XLIII) for Quezon City with seats thereat *(Additional 22 pursuant to RA No. 10480, April 16, 2013)*;

Five branches (Branches XLIV to XLVIII) for Pasay City with seats thereat *(Additional 5 pursuant to RA No. 10711, December 9, 2015)*;

Five branches (Branches XLIX to LIII) for Caloocan City with seats thereat *(Additional 4 pursuant to RA No. 9374, March 6, 2007)*;

One branch (Branch LIV) for Navotas with seat thereat *(Additional 2 pursuant to RA No. 10299, November 15, 2012)*;

Two branches (Branches LV to LVI) for Malabon with seats thereat *(Additional 1 pursuant to RA No. 10520, April 23, 2013)*;

Two branches (Branches LVII to LVIII) for San Juan with seats thereat;

Two branches (Branches LIX to LX) for Mandaluyong with seats thereat *(Additional 11 pursuant to RA No. 9848, December 11, 2009)*;

Seven branches (Branches LXI to LXVII) for Makati with seats thereat *(Additional 6 pursuant to RA No. 10537, May 15, 2013)*;

Five branches (Branches LXVIII to LXXII) for Pasig with seats thereat *(Additional 12 pursuant to RA No. 10566, May 22, 2013)*;

One branch (Branch LXXIII) for Pateros with seat thereat;

One branch (Branch LXXIV) for Taguig with seat thereat *(Additional 3 pursuant to RA No. 10381, March 14, 2013)*;

Two branches (Branches LXXV and LXXVI) for Marikina with seats thereat *(Additional 4 pursuant to RA No. 9424, April 10, 2007)*;

Two branches (LXXVII and LXXVIII) for Parañaque with seats thereat *(Additional 5 pursuant to RA No. 9376, March 6, 2007)*;

One branch (Branch LXXIX) for Las Piñas with seat thereat *(Additional 4 pursuant to RA No. 10522, April 23, 2013)*;

One branch (Branch LXXX) for Muntinlupa with seat thereat *(Additional 5 pursuant to RA No. 10251, November 8, 2012)*;

Two branches (Branches LXXXI and LXXXII) for Valenzuela with seats thereat *(Additional 3 pursuant to RA No. 10341, November 21, 2012)*.

Section 28. *Other Metropolitan Trial Courts.* – The Supreme Court shall constitute Metropolitan Trial Courts in such other metropolitan areas as may be established by law whose territorial jurisdiction shall be co-extensive with the cities and municipalities comprising the metropolitan area.

Every Metropolitan Trial Judge shall be appointed to a metropolitan area which shall be his permanent station and his appointment shall state the branch of the court and the seat thereof to which he shall be originally assigned. A Metropolitan Trial Judge may be assigned by the Supreme Court to any branch within said metropolitan area as the interest of justice may require, and such assignment shall not be deemed an assignment to another station within the meaning of this section.

Section 29. *Municipal Trial Courts in Cities.* – In every city which does not form part of a metropolitan area, there shall be a Municipal Trial Court with one branch, except as hereunder provided:

Two branches for Laoag City;

Six branches for Baguio City *(As amended by RA No. 10696, November 11, 2015)*;

Three branches for Dagupan City;

Five branches for Olongapo City;

Three branches for Cabanatuan City;

Two branches for San Jose City;

Five branches for Angeles City *(As amended by RA No. 10694, November 11, 2015)*;

One branch for the City of Mabalacat, Pampanga *(As amended by RA No. 10694, November 11, 2015)*;

Three branches for the City of San Jose del Monte, Bulacan *(As amended by RA No. 9450, May 15, 2007)*;

Three branches for San Pablo City *(As amended by RA No. 9252, February 24, 2004)*;

Three branches for Calamba City *(As amended by RA No. 9308, August 2, 2004)*;

Two branches for Cavite City;

Two branches for Batangas City;

Three branches for Lipa City *(As amended by RA No. 9276, March 25, 2004)*;

Two branches for Lucena City;

Two branches for the Province of Palawan to be stationed at Puerto Princesa City *(As amended by RA No. 10253, November 8, 2012)*;

Five branches for Antipolo City *(As amended by RA No. 9377, March 6, 2007; RA No. 10568, May 22, 2013)*;

Three branches for Naga City;

Two branches for Iriga City;

Three branches for Legaspi City;

Four branches for Roxas City *(As amended by RA No. 9274, March 21, 2004)*;

Ten branches for Iloilo City *(As amended by RA No. 9306, August 2, 2004)*;

Seven branches for Bacolod City;

Two branches for Dumaguete City;

Two branches for Tacloban City;

Fourteen branches for Cebu City *(As amended by RA No. 9252, February 24, 2004; RA No. 10570, May 22, 2013)*;

Three branches for Mandaue City;

Two branches for Talisay City *(As amended by RA No. 9375, March 6, 2007)*

Three branches for Lapu-Lapu City *(As amended by RA No. 10578, May 24, 2013)*;

Four branches for Tagbilaran City *(As amended by RA No. 9309, August 4, 2004)*;

Two branches for Surigao City;

Four branches for Butuan City *(As amended by RA No. 9310, August 4, 2004)*;

Seven branches for Cagayan De Oro City *(As amended by RA No. 10254, November 8, 2012)*;

Seven branches for Davao City;

Three branches for General Santos City;

Two branches for Oroquieta City;

Three branches for Ozamiz City;

Two branches for Dipolog City;

Four branches for Zamboanga City;

Two branches for Pagadian City; and

Five branches for Iligan City *(As amended by RA No. 9305, August 2, 2004)*.

Section 30. *Municipal Trial Courts.* – In each of the municipalities that are not comprised within a metropolitan area and a municipal circuit, there shall be a Municipal Trial Court which shall have one branch, except as here-under provided:

Two branches for San Fernando, La Union;

Four branches for Tuguegarao;

Three branches for Lallo, and two branches for Aparri, both of Cagayan;

Two branches for Santiago, Isabela;

Two branches each for Malolos, Meycauayan and Bulacan, all of Bulacan Province;

Four branches for San Fernando and two branches for Guagua, both of Pampanga;

One branch for Magalang, Pampanga *(As amended by RA No. 10694, November 11, 2015)*;

Two branches for Tarlac, Tarlac;

Two branches for San Pedro, Laguna;

Two branches each for Antipolo and Binangonan, both in Rizal;

Two branches for Daet, Camarines Norte *(As amended by RA No. 9449, May 15, 2007)*;

Two branches for Bacoor, Cavite *(As amended by RA No. 10454, April 8, 2013)*;

Three branches for Imus City, Cavite *(As amended by RA No. 10454, April 8, 2013)*;

Three branches for Dasmariñas City, Cavite *(As amended by RA No. 10454, April 8, 2013)*;

One branch for Carmona, Cavite *(As amended by RA No. 10705, November 20, 2015)*;

One branch for General Mariano Alvarez, Cavite *(As amended by RA No. 10705, November 20, 2015).*

Section 31. *Municipal Circuit Trial Courts.* – There shall be a Municipal Circuit Trial Court in each area defined as a municipal circuit, comprising one or more cities and/or one or more municipalities. The municipalities comprising municipal circuits as organized under Administrative Order No. 33, issued on June 13, 1978 by the Supreme Court pursuant to Presidential Decree No. 537, are hereby constituted as municipal circuits for purposes of the establishment of the Municipal Circuit Trial Courts; and the appointments thereto of Municipal Circuit Trial Judges: *Provided, however*, That the Supreme Court may, as the interests of justice may require, further reorganize the said courts taking into account workload, geographical location, and such other factors as will contribute to a rational allocation thereof, pursuant to the provisions of Presidential Decree No. 537 which shall be applicable insofar as they are not inconsistent with this Act.

Every Municipal Circuit Trial Judge shall be appointed to a municipal circuit which shall be his official station.

The Supreme Court shall determine the city or municipality where the Municipal Circuit Trial Court shall hold sessions.

Section 32. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in criminal cases.* – Except in cases falling within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over all violations of city or municipal ordinances committed within their respective territorial jurisdiction; and

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value, or amount thereof: *Provided, however,* That in offenses involving damage to property through criminal negligence they shall have exclusive original jurisdiction thereof. *(As amended by RA No. 7691, March 25, 1994.)***

Section 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

(1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed One hundred thousand pesos (P100,000) or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred thousand pesos (P200,000), exclusive of interest,

damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: *Provided,* That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of filing fees: *Provided, further,* That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions;

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: *Provided,* That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession; and

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: *Provided,* That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots. *(As amended by RA No. 7691, March 25, 1994.)**

Section 34. *Delegated jurisdiction in cadastral and land registration cases.* – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts may be assigned by the Supreme Court to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots where the value of which does not exceed One hundred thousand pesos (P100,000), such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants if there are more than one, or from the corresponding tax declaration of the real property. Their decisions in these cases shall be appealable in the same manner as decisions of the Regional Trial Courts. *(As amended by RA No. 7691, March 25, 1994.)*

Section 35. *Special jurisdiction in certain cases.* – In the absence of all the Regional Trial Judges in a province or city, any Metropolitan Trial Judge, Municipal Trial Judge, Municipal Circuit Trial Judge may hear and decide petitions for a writ of *habeas corpus* or applications for bail in criminal cases in the province or city where the absent Regional Trial Judges sit.

Section 36. *Summary procedures in special cases.* – In Metropolitan Trial Courts and Municipal Trial Courts with at least two branches, the Supreme Court may designate one or more branches thereof to try exclusively forcible entry and unlawful detainer cases, those involving violations of traffic laws, rules and regulations, violations of the rental law, and such other cases requiring summary disposition as the Supreme Court may determine. The Supreme Court shall adopt special rules or procedures applicable to such cases in order to achieve an expeditious and inexpensive determination thereof without regard to technical rules. Such simplified procedures may provide that affidavits and counter-affidavits may be admitted in lieu of oral testimony and that the periods for filing pleadings shall be non-extendible.

Section 37. *Preliminary investigation.* – Judges of Metropolitan Trial Courts, except those in the National Capital Region, of Municipal Trial Courts, and Municipal Circuit Trial Courts shall have authority to conduct preliminary investigation of crimes alleged to have been committed within their respective territorial jurisdictions which are cognizable by the Regional Trial Courts.

The preliminary investigation shall be conducted in accordance with the procedure prescribed in Section 1, paragraphs (a), (b), (c), and (d), of Presidential Decree No. 911: *Provided, however,* That, if after the preliminary investigation the Judge finds a *prima facie* case, he shall forward the records of the case to the Provincial/City Fiscal for the filing of the corresponding information with the proper court.

No warrant of arrest shall be issued by the Judge in connection with any criminal complaint filed with him for preliminary investigation, unless after an examination in writing and under oath or affirmation of the complainant and his witnesses, he finds that a probable cause exists.

Any warrant of arrest issued in accordance herewith may be served anywhere in the Philippines.

Section 38. *Judgments and processes.* –

(1) All judgments determining the merits of cases shall be in writing, stating clearly the facts and the law on which they were based, signed by the Judge and filed with the Clerk of Court. Such judgment shall be appealable to the Regional Trial Courts in accordance with the procedure now prescribed by law for appeals to the Court of First Instance, by the provisions of this Act, and by such rules as the Supreme Court may hereafter prescribe.

(2) All processes issued by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in cases falling within their jurisdiction, may be served anywhere in the Philippines without the necessity of certification by the Judge of the Regional Trial Court.

CHAPTER IV

General Provisions

Section 39. *Appeals.* – The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from: *Provided, however*, That in *habeas corpus* cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appealed from.

No record on appeal shall be required to take an appeal. In lieu thereof, the entire original record shall be transmitted with all the pages prominently numbered consecutively, together with an index of the contents thereof.

This section shall not apply in appeals in special proceedings and in other cases wherein multiple appeals are allowed under applicable provisions of the Rules of Court.

Section 40. *Form of decision in appealed cases.* – Every decision or final resolution of a court in appealed cases shall clearly and distinctly state the findings of fact and the conclusions of law on which it is based, which may be contained in the decision or final resolution itself, or adopted by reference from those set forth in the decision, order, or resolution appealed from.

Section 41. *Salaries.* – Intermediate Appellate Justices, Regional Trial Judges, Metropolitan Trial Judges, Municipal Trial Judges, and Municipal Circuit Trial Judges shall receive such compensation and allowances as may be authorized by the President along the guidelines set forth in Letter of Implementation No. 93 pursuant to Presidential Decree No. 985, as amended by Presidential Decree No. 1597.

Section 42. *Longevity pay.* – A monthly longevity pay equivalent to 5% of the monthly basic pay shall be paid to the Justices and Judges of the courts herein created for each five years of continuous, efficient, and meritorious service rendered in the judiciary: *Provided,* That in no case shall the total salary of each Justice or Judge concerned, after this longevity pay is added, exceed the salary of the Justice or Judge next in rank.

Section 43. *Staffing pattern.* – The Supreme Court shall submit to the President, within thirty (30) days from the date of the effectivity of this Act, a staffing pattern for all courts constituted pursuant to this Act which shall be the basis of the implementing order to be issued by the President in accordance with the immediately succeeding section.

Section 44. *Transitory provisions.* – The provisions of this Act shall be immediately carried out in accordance with an Executive Order to be issued by the President. The Court of Appeals, the Courts of First Instance, the Circuit Criminal Courts, the Juvenile and Domestic Relations Courts, the Courts of Agrarian Relations, the City Courts, the Municipal Courts, and the Municipal Circuit Courts shall continue to function as presently constituted and organized, until the completion of the reorganization provided in this Act as declared by the President. Upon such declaration, the said courts shall be deemed automatically abolished and the incumbents thereof shall cease to hold office. The cases pending in the old Courts shall be transferred to the appropriate Courts constituted pursuant to this Act, together with the pertinent functions, records, equipment, property and the necessary personnel.

The applicable appropriations shall likewise be transferred to the appropriate courts constituted pursuant to this Act, to be augmented as may be necessary from the funds for organizational changes as provided in Batas Pambansa Blg. 80. Said funding shall thereafter be included in the annual General Appropriations Act.

Section 45. *Shari'a Courts.* – Shari'a Courts to be constituted as provided for in Presidential Decree No. 1083, otherwise known as the "Code of Muslim Personal Laws of the Philippines," shall be included in the funding appropriations so provided in this Act.

Section 46. *Gratuity of judges and personnel separated from office.* – All members of the judiciary and subordinate employees who shall be separated from office by reason of the reorganization authorized herein, shall be granted a gratuity at a rate equivalent to one month's salary for every year of continuous service rendered in any branch of the government or equivalent nearest fraction thereof favorable to them on the basis of the highest salary received: *Provided,* That such member of the judiciary or employee shall have the option to retire under the Judiciary Retirement Law or general retirement law, if he has met or satisfied the requirements therefor.

Section 47. *Repealing clause.* – The provisions of Republic Act No. 296, otherwise known as the Judiciary Act of 1948, as amended, of Republic Act No. 5179 as amended, of the Rules of Court, and of all other statutes, letters of instructions and generals orders or parts thereof, inconsistent with the provisions of this Act are hereby repealed or accordingly modified.

Section 48. *Date of effectivity.* – This Act shall take effect immediately.

Approved: August 14, 1981.

End Notes

*Other provisions of RA No. 7691 in relation to Sections 19 and 33 of BP Blg. 129:

> Section 5. After five (5) years from the effectivity of this Act, the jurisdictional amounts mentioned in Sections 19(3), (4), and (8); and Sec. 33(1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000). Five (5) years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00): *Provided, however,* That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000).

Section 7. The provisions of this Act shall apply to all civil cases that have not yet reached the pretrial stage. However, by agreement of all the parties, civil cases cognizable by municipal and metropolitan courts by the provisions of this Act may be transferred from the Regional Trial Courts to the latter. The executive judge of the appropriate Regional Trial Court shall define the administrative procedure of transferring the cases affected by the redefinition of jurisdiction to the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

** Other provisions of RA No. 7691 in relation to Section 32 of BP Blg. 129:

Criminal cases falling within the jurisdiction of Family Courts (established by the Family Courts Act of 1997 [RA No. 8369]) have been transferred from Metropolitan Trial Courts, Municipal Trial Courts, Municipal Trial Court in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts to Regional Trial Courts under A.M. No. 99-1-13-SC effective March 1, 1999.

Source:

C. B. No. 42 / 77 OG No. 35, 4781 (August 29, 1981)

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The Supreme Court under the 1987 Constitution

As in the 1935 and 1973 Constitutions, the 1987 Constitution provides that "[t]he judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law." (Art. VIII, Sec. 1). The exercise of judicial power is shared by the Supreme Court with all the courts below it, but it is only the Supreme Court's decisions that are vested with precedential value or doctrinal authority, as its interpretations of the Constitution and the laws are final and beyond review by any other branch of government.

Unlike the 1935 and 1973 Constitutions, however, the 1987 Constitution defines the concept of judicial power. Under paragraph 2 of Section 1, Article VIII, "judicial power" includes not only the "duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable" but also "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government." This latter provision dilutes the effectivity of the "political question" doctrine which places specific questions best submitted to the political wisdom of the people beyond the review of the courts.

Building on previous experiences under former Constitutions, the 1987 Constitution provides for specific safeguards to ensure the independence of the Judiciary. These are found in the following provisions:

> The grant to the Judiciary of fiscal autonomy. "Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year, and after approval, shall be automatically and regularly released." (Art. VIII, Sec. 3)
>
> The grant to the Chief Justice of authority to augment any item in the general appropriations law for the Judiciary from savings in other items of said appropriation as authorized by law. (Art. VI, Sec. 25[5])
>
> The removal from Congress of the power to deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 of Article VIII.
>
> The grant to the Court of the power to appoint all officials and employees of the Judiciary in accordance with the Civil Service Law. (Art. VIII, Sec. 5[6])
>
> The removal from the Commission of Appointments of the power to confirm appointments of justices and judges. (Art. VIII, Sec. 9)
>
> The removal from Congress of the power to reduce the compensation or salaries of the Justices and judges during their continuance in office. (Art. VIII, Sec. 10)

The prohibition against the removal of judges through legislative reorganization by providing that "(n)o law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its members." (Art. VIII, Sec. 2)

The grant of sole authority to the Supreme Court to order the temporary detail of judges. (Art. VIII, Sec. 5[3])

The grant of sole authority to the Supreme Court to promulgate rules of procedure for the courts. (Art. VIII, Sec. 5[5])

The prohibition against designating members of the Judiciary to any agency performing quasi-judicial or administrative functions. (Art. VIII, Sec. 12)

The grant of administrative supervision over the lower courts and its personnel in the Supreme Court. (Art. VIII, Sec. 6)

BRIEF OVERVIEW

The Supreme Court under the present Constitution is composed of a Chief Justice and 14 Associate Justices. It may sit *en banc* or, in its discretion, in divisions of three, five, or seven members (Art. VIII, Sec. 4). Its members shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy, without need of confirmation by the Commission on Appointments (Art. VIII, Sec. 9). This new process is intended to "de-politicize" the courts of justice, ensure the choice of competent judges, and fill existing vacancies without undue delay.

Members of the Supreme Court are required to have proven competence, integrity, probity and independence; they must be natural-born citizens of the Philippines, at least forty years old, with at least fifteen years of experience as a judge of a lower court or law practice in the country (Art. VIII, Sec. 7). Justices shall hold office during good behavior until they reach the age of seventy years, or become incapacitated to discharge the duties of their office (Art. VIII, Sec. 11).

JUDICIAL POWER AND JURISDICTION

Under Article VIII, Section 1, the judicial power shall be vested in one Supreme Court and in such lower courts as may be provided by law. This power includes the duty to settle actual controversies involving rights that are legally demandable and enforceable and to determine if any branch or instrumentality of government has acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

The Supreme Court has both original and appellate jurisdiction. It exercises original jurisdiction (cases are directly filed with the SC in the first instance without passing through any of the lower courts) over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus* (Art. VIII, Sec. 5[1]). It also has original jurisdiction over writs of amparo, habeas data and the environmental writ of kalikasan. It exercises appellate jurisdiction to review, revise, reverse, modify, or affirm final judgments, and orders of the lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

(b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.

(c) All cases in which the jurisdiction of any lower court is in issue.

(d) All criminal cases in which the penalty imposed is *reclusion perpetua* or higher.

(e) All cases in which only an error or question of law is involved. (Art. VIII, Sec. 5[1], [2])

The Supreme Court has administrative supervision over all courts and court personnel (Article VIII, Sec. 6). It exercises this power through the Office of the Court Administrator.

THE SUPREME COURT'S RULE-MAKING POWERS

The Supreme Court has the exclusive power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the underprivileged. Any such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. (Art. VIII, Sec. 5[5])

Source: SC Website <*http://sc.judiciary.gov.ph/389/*)>

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2019 Amendments to the 1997 Rules of Civil Procedure (A.M. No. 19-10-20-SC)

2019 Amendments to the 1997 Rules of Civil Procedure[1] (A.M. No. 19-10-20-SC)[2]

RULES OF COURT

Pursuant to the provisions of [S]ection 5(5) of Article VIII of the Constitution, the Supreme Court hereby adopts and promulgates the following rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged:

RULE 1
GENERAL PROVISIONS

Section 1. *Title of the Rules.* – These Rules shall be known and cited as the Rules of Court. (1)

Section 2. *In what courts applicable.* – These Rules shall apply in all the courts, except as otherwise provided by the Supreme Court. (n)

Section 3. *Cases governed.* – These Rules shall govern the procedure to be observed in actions, civil or criminal, and special proceedings.

(a) A civil action is one by which a party sues another for the enforcement or protection of a right, or the prevention or redress of a wrong. (1a, R2)

A civil action may either be ordinary or special. Both are governed by the rules for ordinary civil actions, subject to the specific rules prescribed for a special civil action. (n)

(b) A criminal action is one by which the State prosecutes a person for an act or omission punishable by law. (n)

(c) A special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact. (2a, R2)

Section 4. *In what cases not applicable.* – These Rules shall not apply to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient. (R143a)

Section 5. *Commencement of action.* – A civil action is commenced by the filing of the original complaint in court. If an additional defendant is impleaded in a later pleading, the action is commenced with

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[1] Per Supreme Court Resolution on Bar Matter No. 803 dated April 8, 1997.

[2] Supreme Court Resolution dated October 15, 2019 approving the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure (Effective May 1, 2020).

regard to him on the date of the filing of such later pleading, irrespective of whether the motion for its admission, if necessary, is denied by the court. (6a)

Section 6. *Construction.* – These Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. (2a)

CIVIL ACTIONS
ORDINARY CIVIL ACTIONS

RULE 2
CAUSE OF ACTION

Section 1. *Ordinary civil actions, basis of.* – Every ordinary civil action must be based on a cause of action. (n)

Section 2. *Cause of action, defined.* – A cause of action is the act or omission by which a party violates a right of another. (n)

Section 3. *One suit for a single cause of action.* – A party may not institute more than one suit for a single cause of action. (3a)

Section 4. *Splitting a single cause of action; effect of.* – If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others. (4a)

Section 5. *Joinder of causes of action.* – A party may in one pleading assert, in the alternative or otherwise, as many causes of action as he may have against an opposing party, subject to the following conditions:

(a) The party joining the causes of action shall comply with the rules on joinder of parties;

(b) The joinder shall not include special civil actions or actions governed by special rules;

(c) Where the causes of action are between the same parties but pertain to different venues or jurisdictions, the joinder may be allowed in the Regional Trial Court provided one of the causes of action falls within the jurisdiction of said court and the venue lies therein; and

(d) Where the claims in all the causes of action are principally for recovery of money, the aggregate amount claimed shall be the test of jurisdiction. (5a)

Section 6. *Misjoinder of causes of action.* – Misjoinder of causes of action is not a ground for dismissal of an action. A misjoined cause of action may, on motion of a party or on the initiative of the court, be severed and proceeded with separately. (n)

RULE 3
PARTIES TO CIVIL ACTIONS

Section 1. *Who may be parties; plaintiff and defendant.* – Only natural or juridical persons, or entities authorized by law may be parties in a civil action. The term "plaintiff" may refer to the claiming party, the counter-claimant, the cross-claimant, or the third (fourth, etc.)[-]party plaintiff. The term "defendant" may refer to the original defending party, the defendant in a counterclaim, the cross-defendant, or the third (fourth, etc.)[-]party defendant. (1a)

Section 2. *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (2a)

Section 3. *Representatives as parties.* – Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal. (3a)

Section 4. *Spouses as parties.* – Husband and wife shall sue or be sued jointly, except as provided by law. (4a)

Section 5. *Minor or incompetent persons.* – A minor or a person alleged to be incompetent, may sue or be sued, with the assistance of his father, mother, guardian, or if he has none, a guardian *ad litem*. (5a)

Section 6. *Permissive joinder of parties.* – All persons in whom or against whom any right to relief in respect to or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, may, except as otherwise provided in these Rules, join as plaintiffs or be joined as defendants in one complaint, where any question of law or fact common to all such plaintiffs or to all such defendants may arise in the action; but the court may make such orders as may be just to prevent any plaintiff or defendant from being embarrassed or put to expense in connection with any proceedings in which he may have no interest. (6)

Section 7. *Compulsory joinder of indispensable parties.* – Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants. (7)

Section 8. *Necessary party.* – A necessary party is one who is not indispensable but who ought to be joined as a party if complete relief is to be accorded as to those already parties, or for a complete determination or settlement of the claim subject of the action. (8a)

Section 9. *Non-joinder of necessary parties to be pleaded.* – Whenever in any pleading in which a claim is asserted a necessary party is not joined, the pleader shall set forth his name, if known, and shall state

why he is omitted. Should the court find the reason for the omission unmeritorious, it may order the inclusion of the omitted necessary party if jurisdiction over his person may be obtained.

The failure to comply with the order for his inclusion, without justifiable cause, shall be deemed a waiver of the claim against such party.

The non-inclusion of a necessary party does not prevent the court from proceeding in the action, and the judgment rendered therein shall be without prejudice to the rights of such necessary party. (8a, 9a)

Section 10. *Unwilling co-plaintiff.* – If the consent of any party who should be joined as plaintiff can not be obtained, he may be made a defendant and the reason therefor shall be stated in the complaint. (10)

Section 11. *Misjoinder and non-joinder of parties.* – Neither misjoinder nor non-joinder of parties is ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded with separately. (11a)

Section 12. *Class suit.* – When the subject matter of the controversy is one of common or general interest to many persons so numerous that it is impracticable to join all as parties, a number of them which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned may sue or defend for the benefit of all. Any party in interest shall have the right to intervene to protect his individual interest. (12a)

Section 13. *Alternative defendants.* – Where the plaintiff is uncertain against who of several persons he is entitled to relief, he may join any or all of them as defendants in the alternative, although a right to relief against one may be inconsistent with a right of relief against the other. (13a)

Section 14. *Unknown identity or name of defendant.* – Whenever the identity or name of a defendant is unknown, he may be sued as the unknown owner, heir, devisee, or by such other designation as the case may require; when his identity or true name is discovered, the pleading must be amended accordingly. (14)

Section 15. *Entity without juridical personality as defendant.* – When two or more persons not organized as an entity with juridical personality enter into a transaction, they may be sued under the name by which they are generally or commonly known.

In the answer of such defendant, the names and addresses of the persons composing said entity must all be revealed. (15a)

Section 16. *Death of party; duty of counsel.* – Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. (16a, 17a)

Section 17. *Death or separation of a party who is a public officer.* – When a public officer is a party in an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action may be continued and maintained by or against his successor if, within thirty (30) days after the successor takes office or such time as may be granted by the court, it is satisfactorily shown to the court by any party that there is a substantial need for continuing or maintaining it and that the successor adopts or continues or threatens to adopt or continue the action of his predecessor. Before a substitution is made, the party or officer to be affected, unless expressly assenting thereto, shall be given reasonable notice of the application therefor and accorded an opportunity to be heard. (18a)

Section 18. *Incompetency or incapacity.* – If a party becomes incompetent or incapacitated, the court, upon motion with notice, may allow the action to be continued by or against the incompetent or incapacitated person assisted by his legal guardian or guardian *ad litem*. (19a)

Section 19. *Transfer of interest.* – In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. (20)

Section 20. *Action on contractual money claims.* – When the action is for recovery of money arising from contract, express or implied, and the defendant dies before entry of final judgment in the court in which the action was pending at the time of such death, it shall not be dismissed but shall instead be allowed to continue until entry of final judgment. A favorable judgment obtained by the plaintiff therein shall be enforced in the manner especially provided in these Rules for prosecuting claims against the estate of a deceased person. (21a)

Section 21. *Indigent party.* – A party may be authorized to litigate his action, claim or defense as an indigent if the court, upon an *ex parte* application and hearing, is satisfied that the party is one who has no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

Such authority shall include an exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him. The amount of the docket and other lawful fees which the indigent was exempted from paying shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides.

Any adverse party may contest the grant of such authority at any time before judgment is rendered by the trial court. If the court should determine after hearing that the party declared as an indigent is in fact a person with sufficient income or property, the proper docket and other lawful fees shall be

assessed and collected by the clerk of court. If payment is not made within the time fixed by the court, execution shall issue or the payment thereof, without prejudice to such other sanctions as the court may impose. (22a)

Section 22. *Notice to the Solicitor General.* – In any action involving the validity of any treaty, law, ordinance, executive order, presidential decree, rules or regulations, the court, in its discretion, may require the appearance of the Solicitor General who may be heard in person or through a representative duly designated by him. (23a)

RULE 4
VENUE OF ACTIONS

Section 1. *Venue of real actions.* – Actions affecting title to or possession of real property, or interest therein, shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved, or a portion thereof, is situated.

Forcible entry and detainer actions shall be commenced and tried in the municipal trial court of the municipality or city wherein the real property involved, or a portion thereof, is situated. (1[a], 2[a]a)

Section 2. *Venue of personal actions.* – All other actions may be commenced and tried where the plaintiff or any of the principal plaintiffs resides, or where the defendant or any of the principal defendants resides, or in the case of a nonresident defendant where he may be found, at the election of the plaintiff. (2[b]a)

Section 3. *Venue of actions against nonresidents.* – If any of the defendants does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff, or any property of said defendant located in the Philippines, the action may be commenced and tried in the court of the place where the plaintiff resides, or where the property or any portion thereof is situated or found. (2[c]a)

Section 4. *When Rule not applicable.* – This Rule shall not apply-

(a) In those cases where a specific rule or law provides otherwise; or

(b) Where the parties have validly agreed in writing before the filing of the action on the exclusive venue thereof. (3a, 5a)

RULE 5
UNIFORM PROCEDURE IN TRIAL COURTS

Section 1. *Uniform procedure.* – The procedure in the Municipal Trial Courts shall be the same as in the Regional Trial Courts, except (a) where a particular provision expressly or impliedly applies only to either of said courts, or (b) in civil cases governed by the Rule on Summary Procedure. (n)

Section 2. *Meaning of terms.* – The term "Municipal Trial Courts" as used in these Rules shall include Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts. (1a)

PROCEDURE IN REGIONAL TRIAL COURTS

RULE 6
KINDS OF PLEADINGS

Section 1. *Pleadings defined.* – Pleadings are the written statements of the respective claims and defenses of the parties submitted to the court for appropriate judgment. (1)

Section 2. *Pleadings allowed.* – The claims of a party are asserted in a complaint, counterclaim, cross-claim, third (fourth, etc.)-party complaint, or complaint-in-intervention.

The defenses of a party are alleged in the answer to the pleading asserting a claim against him or her.

An answer may be responded to by a reply only if the defending party attaches an actionable document to the answer. (2a)

Section 3. *Complaint.* – The complaint is the pleading alleging the plaintiff's or claiming party's cause or causes of action. The names and residences of the plaintiff and defendant must be stated in the complaint. (3a)

Section 4. *Answer.* – An answer is a pleading in which a defending party sets forth his or her defenses. (4a)

Section 5. *Defenses.* – Defenses may either be negative or affirmative.

(a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his or her cause or causes of action.

(b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him or her. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance.

Affirmative defenses may also include grounds for the dismissal of a complaint, specifically, that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment. (5a)

Section 6. *Counterclaim.* – A counterclaim is any claim which a defending party may have against an opposing party. (6)

Section 7. *Compulsory counterclaim.* – A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the

jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counterclaim may be considered compulsory regardless of the amount. A compulsory counterclaim not raised in the same action is barred, unless otherwise allowed by these Rules. (7a)

Section 8. *Cross-claim.* – A cross-claim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein. Such cross-claim may cover all or part of the original claim. (8a)

Section 9. *Counter-counterclaims and counter-cross-claims.* – A counterclaim may be asserted against an original counter-claimant.

A cross-claim may also be filed against an original cross-claimant. (9)

Section 10. *Reply.* – All new matters alleged in the answer are deemed controverted. If the plaintiff wishes to interpose any claims arising out of the new matters so alleged, such claims shall be set forth in an amended or supplemental complaint. However, the plaintiff may file a reply only if the defending party attaches an actionable document to his or her answer.

A reply is a pleading, the office or function of which is to deny, or allege facts in denial or avoidance of new matters alleged in, or relating to, said actionable document.

In the event of an actionable document attached to the reply, the defendant may file a rejoinder if the same is based solely on an actionable document. (10a)

Section 11. *Third, (fourth, etc.)-party complaint.* – A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant, for contribution, indemnity, subrogation or any other relief, in respect of his or her opponent's claim.

The third (fourth, etc.)-party complaint shall be denied admission, and the court shall require the defendant to institute a separate action, where: (a) the third (fourth, etc.)-party defendant cannot be located within thirty (30) calendar days from the grant of such leave; (b) matters extraneous to the issue in the principal case are raised; or (c) the effect would be to introduce a new and separate controversy into the action. (11a)

Section 12. *Bringing new parties.* – When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants, if jurisdiction over them can be obtained. (12)

Section 13. *Answer to third (fourth, etc.)-party complaint.* – A third (fourth, etc.)-party defendant may allege in his or her answer his or her defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he [or she] may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff. (13a)

RULE 7
PARTS AND CONTENTS OF A PLEADING

Section 1. *Caption.* – The caption sets forth the name of the court, the title of the action, and the docket number if assigned.

The title of the action indicates the names of the parties. They shall all be named in the original complaint or petition; but in subsequent pleadings, it shall be sufficient if the name of the first party on each side be stated with an appropriate indication when there are other parties.

Their respective participation in the case shall be indicated. (1)

Section 2. *The body.* – The body of the pleading sets forth its designation, the allegations of the party's claims or defenses, the relief prayed for, and the date of the pleading.

(a) *Paragraphs.* – The allegations in the body of a pleading shall be divided into paragraphs so numbered as to be readily identified, each of which shall contain a statement of a single set of circumstances so far as that can be done with convenience. A paragraph may be referred to by its number in all succeeding pleadings.

(b) *Headings.* – When two or more causes of action are joined, the statement of the first shall be prefaced by the words "first cause of action," of the second by "second cause of action," and so on for the others.

When one or more paragraphs in the answer are addressed to one of several causes of action in the complaint, they shall be prefaced by the words "answer to the first cause of action" or "answer to the second cause of action" and so on; and when one or more paragraphs of the answer are addressed to several causes of action, they shall be prefaced by words to that effect.

(c) *Relief.* – The pleading shall specify the relief sought, but it may add a general prayer for such further or other relief as may be deemed just or equitable.

(d) *Date.* – Every pleading shall be dated. (4)

Section 3. *Signature and address.* – (a) Every pleading [and other written submissions to the court] must be signed by the party or counsel representing him or her.

(b) The signature of counsel constitutes a certificate by him or her that he or she has read the pleading and document; that to the best of his or her knowledge, information, and belief formed after an inquiry reasonable under the circumstances:

(1) It is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) The claims, defenses, and other legal contentions are warranted by existing law or jurisprudence, or by a non-frivolous argument for extending, modifying, or reversing existing jurisprudence;

(3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after availment of the modes of discovery under these [R]ules; and

(4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

(c) If the court determines, on motion or *motu proprio* and after notice and hearing, that this [R]ule has been violated, it may impose an appropriate sanction or refer such violation to the proper office for disciplinary action, on any attorney, law firm, or party that violated the rule, or is responsible for the violation. Absent exceptional circumstances, a law firm shall be held jointly and severally liable for a violation committed by its partner, associate, or employee. The sanction may include, but shall not be limited to, non-monetary directive or sanction; an order to pay a penalty in court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation, including attorney's fees for the filing of the motion for sanction. The lawyer or law firm cannot pass on the monetary penalty to the client. (3a)

Section 4. *Verification.* – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;

(b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (4a)

Section 5. *Certification against forum shopping.* – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his [or her] knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (5a)

Section 6. *Contents.* – Every pleading stating a party's claims or defenses shall, in addition to those mandated by Section 2, Rule 7, state the following:

(a) Names of witnesses who will be presented to prove a party's claim or defense;

(b) Summary of the witnesses' intended testimonies, provided that the judicial affidavits of said witnesses shall be attached to the pleading and form an integral part thereof. Only witnesses whose judicial affidavits are attached to the pleading shall be presented by the parties during trial. Except if a party presents meritorious reasons as basis for the admission of additional witnesses, no other witness or affidavit shall be heard or admitted by the court; and

(c) Documentary and object evidence in support of the allegations contained in the pleading. (n)

RULE 8
MANNER OF MAKING ALLEGATIONS IN PLEADINGS

Section 1. *In general.* – Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts, including the evidence on which the party pleading relies for his [or her] claim or defense, as the case may be.

If a cause of action [or] defense relied on is based on law, the pertinent provisions thereof and their applicability to him or her shall be clearly and concisely stated. (1a)

Section 2. *Alternative causes of action or defenses.* – A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one cause of action or defense or in separate causes of action or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. (2)

Section 3. *Conditions precedent.* – In any pleading, a general averment of the performance or occurrence of all conditions precedent shall be sufficient. (3)

Section 4. *Capacity.* – Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (4)

Section 5. *Fraud, mistake, condition of the mind.* – In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge or other condition of the mind of a person may be averred generally. (5)

Section 6. *Judgment.* – In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it. An authenticated copy of the judgment or decision shall be attached to the pleading. (6a)

Section 7. *Action or defense based on document.* – Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading. (7a)

Section 8. *How to contest such documents.* – When an action or defense is founded upon a written instrument, or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he or she claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused. (8a)

Section 9. *Official document or act.* – In pleading an official document or official act, it is sufficient to aver that the document was issued or the act was done in compliance with law. (9)

Section 10. *Specific denial.* – A defendant must specify each material allegation of fact the truth of which he or she does not admit and, whenever practicable, shall set forth the substance of the matters upon which he or she relies to support his or her denial. Where a defendant desires to deny only a part of an averment, he or she shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made [to] the complaint, he or she shall so state, and this shall have the effect of a denial. (10a)

Section 11. *Allegations not specifically denied deemed admitted.* – Material averments in a pleading asserting a claim or claims, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. (11a)

Section 12. *Affirmative defenses.* – (a) A defendant shall raise his or her affirmative defenses in his or her answer, which shall be limited to the reasons set forth under Section 5(b), Rule 6, and the following grounds:

1. That the court has no jurisdiction over the person of the defending party;
2. That venue is improperly laid;

3. That the plaintiff has no legal capacity to sue;
4. That the pleading asserting the claim states no cause of action; and
5. That a condition precedent for filing the claim has not been complied with.

(b) Failure to raise the affirmative defenses at the earliest opportunity shall constitute a waiver thereof.

(c) The court shall *motu proprio* resolve the above affirmative defenses within thirty (30) calendar days from the filing of the answer.

(d) As to the other affirmative defenses under the first paragraph of Section 5(b), Rule 6, the court may conduct a summary hearing within fifteen (15) calendar days from the filing of the answer. Such affirmative defenses shall be resolved by the court within thirty (30) calendar days from the termination of the summary hearing.

(e) Affirmative defenses, if denied, shall not be the subject of a motion for reconsideration or petition for *certiorari*, prohibition or *mandamus*, but may be among the matters to be raised on appeal after a judgment on the merits. (n)

Section 13. *Striking out of pleading or matter contained therein.* – Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within twenty (20) calendar days after the service of the pleading upon him or her, or upon the court's own initiative at any time, the court may order any pleading to be stricken out or that any sham or false, redundant, immaterial, impertinent, or scandalous matter be stricken out therefrom. (12a)

RULE 9
EFFECT OF FAILURE TO PLEAD

Section 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (1)

Section 2. *Compulsory counterclaim, or cross-claim, not set up barred.* – A compulsory counterclaim, or a cross-claim, not set up shall be barred. (2)

Section 3. *Default; [d]eclaration of.* – If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his or her pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

(a) *Effect of order of default.* – A party in default shall be entitled to notice[s] of subsequent proceedings but shall not to take part in the trial.

(b) *Relief from order of default.* – A party declared in default may at any time after notice thereof and before judgment, file a motion under oath to set aside the order of default upon proper showing that his or her failure to answer was due to fraud, accident, mistake or excusable negligence and that he or she has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice.

(c) *Effect of partial default.* – When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented.

(d) *Extent of relief to be awarded.* – A judgment rendered against a party in default shall [neither] exceed the amount or be different in kind from that prayed for nor award unliquidated damages.

(e) *Where no defaults allowed.* – If the defending party in action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the Solicitor General or his or her deputized public prosecutor, to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated. (3a)

RULE 10
AMENDED AND SUPPLEMENTAL PLEADINGS

Section 1. *Amendments in general.* – Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, in the most expeditious and inexpensive manner. (1a)

Section 2. *Amendments as a matter of right.* – A party may amend his [or her] pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) calendar days after it is served. (2a)

Section 3. *Amendments by leave of court.* – Except as provided in the next preceding [S]ection, substantial amendments may be made only upon leave of court. But such leave shall be refused if it appears to the court that the motion was made with intent to delay [or] confer jurisdiction on the court, or the pleading stated no cause of action from the beginning which could be amended. Orders of the court upon the matters provided in this [S]ection shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard. (3a)

Section 4. *Formal amendments.* – A defect in the designation of the parties and other clearly clerical or typographical errors may be summarily corrected by the court at any stage of the action, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party. (4)

Section 5. *No amendment [necessary] to conform to or authorize presentation of evidence.* – When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall

be treated in all respects as if they had been raised in the pleadings. No amendment of such pleadings deemed amended is necessary to cause them to conform to the evidence. (5a)

Section 6. *Supplemental pleadings.* – Upon motion of a party[,] the court may, upon reasonable notice and upon such terms as are just, permit him or her to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) calendar days from notice of the order admitting the supplemental pleading. (6a)

Section 7. *Filing of amended pleadings.* – When any pleading is amended, a new copy of the entire pleading, incorporating the amendments, which shall be indicated by appropriate marks, shall be filed. (7)

Section 8. *Effect of amended pleadings.* – An amended pleading supersedes the pleading that it amends. However, admissions in superseded pleadings may be offered in evidence against the pleader, and claims or defenses alleged therein not incorporated in the amended pleading shall be deemed waived. (8a)

RULE 11
WHEN TO FILE RESPONSIVE PLEADINGS

Section 1. *Answer to the complaint.* – The defendant shall file his or her answer to the complaint within thirty (30) calendar days after service of summons, unless a different period is fixed by the court. (1a)

Section 2. *Answer of a defendant foreign private juridical entity.* – Where the defendant is a foreign private juridical entity and service of summons is made on the government official designated by law to receive the same, the answer shall be filed within sixty (60) calendar days after receipt of summons by such entity. (2a)

Section 3. *Answer to amended complaint.* – [When] the plaintiff files an amended complaint as a matter of right, the defendant shall answer the same within thirty (30) calendar days after being served with a copy thereof.

Where its filing is not a matter of right, the defendant shall answer the amended complaint within fifteen (15) calendar days from notice of the order admitting the same. An answer earlier filed may serve as the answer to the amended complaint if no new answer is filed.

This Rule shall apply to the answer to an amended counterclaim, amended cross-claim, amended third (fourth, etc.)-party complaint, and amended complaint-in-intervention. (3a)

Section 4. *Answer to counterclaim or cross-claim.* – A counterclaim or cross-claim must be answered within twenty (20) calendar days from service. (4a)

Section 5. *Answer to third (fourth, etc.)-party complaint.* – The time to answer a third (fourth, etc)-party complaint shall be governed by the same rule as the answer to the complaint. (5)

Section 6. *Reply.* – A reply, if allowed under Section 10, Rule 6 hereof, may be filed within fifteen (15) calendar days from service of the pleading responded to. (6a)

Section 7. *Answer to supplemental complaint.* – A supplemental complaint may be answered within twenty (20) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. The answer to the complaint shall serve as the answer to the supplemental complaint if no new or supplemental answer is filed. (7a)

Section 8. *Existing counterclaim or cross-claim.* – A compulsory counterclaim or a cross-claim that a defending party has at the time he or she files his or her answer shall be contained therein. (8a)

Section 9. *Counterclaim or cross-claim arising after answer.* – A counterclaim or a cross-claim which either matured or was acquired by a party after serving his or her pleading may, with the permission of the court, be presented as a counterclaim or a cross-claim by supplemental pleading before judgment. (9a)

Section 10. *Omitted counterclaim or cross-claim.* – When a pleader fails to set up a counterclaim or a cross-claim through oversight, inadvertence, or excusable neglect, or when justice requires, he or she may, by leave of court, set up the counterclaim or cross-claim by amendment before judgment. (10a)

Section 11. *Extension of time to file an answer.* – A defendant may, for meritorious reasons, be granted an additional period of not more than thirty (30) calendar days to file an answer. A defendant is only allowed to file one (1) motion for extension of time to file an answer.

A motion for extension to file any pleading, other than an answer, is prohibited and considered a mere scrap of paper. The court, however, may allow any other pleading to be filed after the time fixed by these Rules. (11a)

RULE 12
BILL OF PARTICULARS

Section 1. *When applied for; purpose.* – Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter, which is not averred with sufficient definiteness or particularity, to enable him or her properly to prepare his or her responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) calendar days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired. (1a)

Section 2. *Action by the court.* – Upon the filing of the motion, the clerk of court must immediately bring it to the attention of the court, which may either deny or grant it outright, or allow the parties the opportunity to be heard. (2)

Section 3. *Compliance with order.* – If the motion is granted, either in whole or in part, the compliance therewith must be effected within ten (10) calendar days from notice of the order, unless a different period is fixed by the court. The bill of particulars or a more definite statement ordered by the court may be filed either in a separate or in an amended pleading, serving a copy thereof on the adverse party. (3a)

Section 4. *Effect of non-compliance.* – If the order is not obeyed, or in case of insufficient compliance therewith, the court may order the striking out of the pleading or the portions thereof to which the order was directed[,] or make such other order as it deems just. (4)

Section 5. *Stay of period to file responsive pleading.* – After service of the bill of particulars or of a more definite pleading, or after notice of denial of his or her motion, the moving party may file his or her responsive pleading within the period to which he or she was entitled at the time of filing his or her motion, which shall not be less than five (5) calendar days in any event. (5a)

Section 6. *Bill a part of pleading.* – A bill of particulars becomes part of the pleading for which it is intended. (6)

RULE 13
FILING AND SERVICE OF PLEADINGS, JUDGMENTS AND OTHER PAPERS

Section 1. *Coverage.* – This Rule shall govern the filing of all pleadings, motions, and other court submissions, as well as the service thereof, except those for which a different mode of service is prescribed. (1a)

Section 2. *Filing and [s]ervice, defined.* – Filing is the act of submitting the pleading or other paper to the court.

Service is the act of providing a party with a copy of the pleading or any other court submission. If a party has appeared by counsel, service upon such party shall be made upon his or her counsel, unless service upon the party and the party's counsel is ordered by the court. Where one counsel appears for several parties, such counsel shall only be entitled to one copy of any paper served upon him by the opposite side.

Where several counsels appear for one party, such party shall be entitled to only one copy of any pleading or paper to be served upon the lead counsel if one is designated, or upon any one of them if there is no designation of a lead counsel. (2a)

Section 3. *Manner of filing.* – The filing of pleadings and other court submissions shall be made by:

(a) Submitting personally the original thereof, plainly indicated as such, to the court;

(b) Sending them by registered mail;

(c) Sending them by accredited courier; or

(d) Transmitting them by electronic mail or other electronic means as may be authorized by the [c]ourt in places where the court is electronically equipped.

In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second and third cases, the date of the mailing of motions, pleadings, [and other court submissions, and] payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the

record of the case. In the fourth case, the date of electronic transmission shall be considered as the date of filing. (3a)

Section 4. *Papers required to be filed and served.* – Every judgment, resolution, order, pleading subsequent to the complaint, written motion, notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected. (4)

Section 5. *Modes of [s]ervice.* – Pleadings, motions, notices, orders, judgments, and other court submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means as may be authorized by the [c]ourt, or as provided for in international conventions to which the Philippines is a party. (5a)

Section 6. *Personal [s]ervice.* – Court submissions may be served by personal delivery of a copy to the party or to the party's counsel, or to their authorized representative named in the appropriate pleading or motion, or by leaving it in his or her office with his or her clerk, or with a person having charge thereof. If no person is found in his or her office, or his or her office is not known, or he or she has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion residing therein. (6a)

Section 7. *Service by mail.* – Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or to the party's counsel at his or her office, if known, otherwise at his or her residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail. (7a)

Section 8. *Substituted service.* – If service of pleadings, motions, notices, resolutions, orders and other papers cannot be made under the two preceding [S]ections, the office and place of residence of the party or his or her counsel being unknown, service may be made by delivering the copy to the clerk of court, with proof of failure of both personal service and service by mail. The service is complete at the time of such delivery. (8a)

Section 9. *Service by electronic means and facsimile.* – Service by electronic means and facsimile shall be made if the party concerned consents to such modes of service.

Service by electronic means shall be made by sending an e-mail to the party's or counsel's electronic mail address, or through other electronic means of transmission as the parties may agree on, or upon direction of the court.

Service by facsimile shall be made by sending a facsimile copy to the party's or counsel's given facsimile number. (n)

Section 10. *Presumptive service.* – There shall be presumptive notice to a party of a court setting if such notice appears on the records to have been mailed at least twenty (20) calendar days prior to the scheduled date of hearing and if the addressee is from within the same judicial region of the court where

the case is pending, or at least thirty (30) calendar days if the addressee is from outside the judicial region. (n)

Section 11. *Change of electronic mail address or facsimile number.* – A party who changes his or her electronic mail address or facsimile number while the action is pending must promptly file, within five (5) calendar days from such change, a notice of change of e-mail address or facsimile number with the court and serve the notice on all other parties.

Service through the electronic mail address or facsimile number of a party shall be presumed valid unless such party notifies the court of any change, as aforementioned. (n)

Section 12. *Electronic mail and facsimile subject and title of pleadings and other documents.* – The subject of the electronic mail and facsimile must follow the prescribed format: case number, case title and the pleading, order or document title. The title of each electronically-filed or served pleading or other document, and each submission served by facsimile shall contain sufficient information to enable the court to ascertain from the title: (a) the party or parties filing or serving the paper, (b) nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought. (n)

Section 13. *Service of [j]udgments, [f]inal [o]rders or [r]esolutions.* – Judgments, final orders or resolutions shall be served either personally or by registered mail. Upon *ex parte* motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by [means of] publication at the expense of the prevailing party. (9a)

Section 14. *Conventional service or filing of orders, pleadings and other documents.* – Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the [c]ourt:

(a) Initiatory pleadings and initial responsive pleadings, such as an answer;

(b) Subpoena, protection orders, and writs;

(c) Appendices and exhibits to motions, or other documents that are not readily amenable to electronic scanning may, at the option of the party filing such, be filed and served conventionally; and

(d) Sealed and confidential documents or records. (n)

Section 15. *Completeness of service.* – Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) calendar days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) calendar days from the date he or she received the first notice of the postmaster, whichever date is earlier. Service by accredited courier is complete upon actual receipt by the addressee, or after at least two (2) attempts to deliver by the courier service, or upon the expiration of five (5) calendar days after the first attempt to deliver, whichever is earlier.

Electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent. Electronic service is not effective or complete if the party serving the document learns that it did not reach the addressee or person to be served.

Service by facsimile transmission is complete upon receipt by the other party, as indicated in the facsimile transmission printout. (10a)

Section 16. *Proof of filing.* – The filing of a pleading or any other court submission shall be proved by its existence in the record of the case.

(a) If the pleading or any other court submission is not in the record, but is claimed to have been filed personally, the filing shall be prove[n] by the written or stamped acknowledgment of its filing by the clerk of court on a copy of the pleading or court submission;

(b) If the pleading or any other court submission was filed by registered mail, the filing shall be proven by the registry receipt and by the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if not delivered.

(c) If the pleading or any other court submission was filed through an accredited courier service, the filing shall be proven by an affidavit of service of the person who brought the pleading or other document to the service provider, together with the courier's official receipt and document tracking number.

(d) If the pleading or any other court submission was filed by electronic mail, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a paper copy of the pleading or other document transmitted or a written or stamped acknowledgment of its filing by the clerk of court. If the paper copy sent by electronic mail was filed by registered mail, paragraph (b) of this Section applies.

(e) If the pleading or any other court submission was filed through other authorized electronic means, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a copy of the electronic acknowledgment of its filing by the court. (12a)

Section 17. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a statement of the date, place and manner of service. If the service is made by:

(a) Ordinary mail. – Proof shall consist of an affidavit of the person mailing stating the facts showing compliance with [S]ection 7 of this Rule.

(b) Registered mail. – Proof shall be made by [the] affidavit mentioned above and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof[,] the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

(c) Accredited courier service. – Proof shall be made by an affidavit of service executed by the person who brought the pleading or paper to the service provider, together with the courier's official receipt or document tracking number.

(d) Electronic mail, facsimile, or other authorized electronic means of transmission. – Proof shall be made by an affidavit of service executed by the person who sent the e-mail, facsimile, or other electronic transmission, together with a printed proof of transmittal. (13a)

Section 18. *Court-issued orders and other documents.* – The court may electronically serve orders and other documents to all the parties in the case which shall have the same effect and validity as provided herein. A paper copy of the order or other document electronically served shall be retained and attached to the record of the case. (n)

Section 19. *Notice of lis pendens.* – In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his or her answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names.

The notice of *lis pendens* hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded. (14a)

RULE 14
SUMMONS

Section 1. *Clerk to issue summons.* – Unless the complaint is on its face dismissible under Section 1, Rule 9, the court shall, within five (5) calendar days from receipt of the initiatory pleading and proof of payment of the requisite legal fees, direct the clerk of court to issue the corresponding summons to the defendants. (1a)

Section 2. *Contents.* – The summons shall be directed to the defendant, signed by the clerk of court under seal, and contain:

(a) The name of the court and the names of the parties to the action;

(b) When authorized by the court upon *ex parte motion*, an authorization for the plaintiff to serve summons to the defendant;

(c) A direction that the defendant answer within the time fixed by these Rules; and

(d) A notice that unless the defendant so answers, plaintiff will take judgment by default and may be granted the relief applied for.

A copy of the complaint and order for appointment of guardian *ad litem*, if any, shall be attached to the original and each copy of the summons. (2a)

Section 3. *By whom served.* – The summons may be served by the sheriff, his or her deputy, or other proper court officer, and in case of failure of service of summons by them, the court may authorize the plaintiff - to serve the summons - together with the sheriff.

In cases where summons is to be served outside the judicial region of the court where the case is pending, the plaintiff shall be authorized to cause the service of summons.

If the plaintiff is a juridical entity, it shall notify the court, in writing, and name its authorized representative therein, attaching a board resolution or secretary's certificate thereto, as the case may be, stating that such representative is duly authorized to serve the summons on behalf of the plaintiff.

If the plaintiff misrepresents that the defendant was served summons, and it is later proved that no summons was served, the case shall be dismissed with prejudice, the proceedings shall be nullified, and the plaintiff shall be meted appropriate sanctions.

If summons is returned without being served on any or all the defendants, the court shall order the plaintiff to cause the service of summons by other means available under the Rules.

Failure to comply with the order shall cause the dismissal of the initiatory pleading without prejudice. (3a)

Section 4. *Validity of summons and issuance of alias summons[.]* – Summons shall remain valid until duly served, unless it is recalled by the court. In case of loss or destruction of summons, the court may, upon motion, issue an *alias* summons.

There is failure of service after unsuccessful attempts to personally serve the summons on the defendant in his or her address indicated in the complaint. Substituted service should be in the manner provided under Section 6 of this Rule. (5a)

Section 5. *Service in person on defendant.* – Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person and informing the defendant that he or she is being served, or, if he or she refuses to receive and sign for it, by leaving the summons within the view and in the presence of the defendant. (6a)

Section 6. *Substituted service.* – If, for justifiable causes, the defendant cannot be served personally after at least three (3) attempts on two (2) different dates, service may be effected:

(a) By leaving copies of the summons at the defendant's residence to a person at least eighteen (18) years of age and of sufficient discretion residing therein;

(b) By leaving copies of the summons at [the] defendant's office or regular place of business with some competent person in charge thereof. A competent person includes, but is not limited to, one who customarily receives correspondences for the defendant;

(c) By leaving copies of the summons, if refused entry upon making his or her authority and purpose known, with any of the officers of the homeowners' association or condominium

corporation, or its chief security officer in charge of the community or the building where the defendant may be found; and

(d) By sending an electronic mail to the defendant's electronic mail address, if allowed by the court. (7a)

Section 7. *Service upon entity without juridical personality.* – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was filed. (8a)

Section 8. *Service upon prisoners.* – When the defendant is a prisoner confined in a jail or institution, service shall be effected upon him or her by the officer having the management of such jail or institution who is deemed as a special sheriff for said purpose. The jail warden shall file a return within five (5) calendar days from service of summons to the defendant. (9a)

Section 9. *Service consistent with international conventions.* – Service may be made through methods which are consistent with established international conventions to which the Philippines is a party. (n)

Section 10. *Service upon minors and incompetents.* – When the defendant is a minor, insane or otherwise an incompetent person, service of summons shall be made upon him or her personally and on his or her legal guardian if he or she has one, or if none, upon his or her guardian *ad litem* whose appointment shall be applied for by the plaintiff. In the case of a minor, service shall be made on his or her parent or guardian. (10a)

Section 11. *Service upon spouses.* – When spouses are sued jointly, service of summons should be made to each spouse individually. (n)

Section 12. *Service upon domestic private juridical entity.* – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel of the corporation wherever they may be found, or in their absence or unavailability, on their secretaries.

If such service cannot be made upon any of the foregoing persons, it shall be made upon the person who customarily receives the correspondence for the defendant at its principal office.

In case the domestic juridical entity is under receivership or liquidation, service of summons shall be made on the receiver or liquidator, as the case may be.

Should there be a refusal on the part of the persons above-mentioned to receive summons despite at least three (3) attempts on two (2) different dates, service may be made electronically, if allowed by the court, as provided under Section 6 of this Rule. (11a)

Section 13. *Duty of counsel of record.* – Where the summons is improperly served and a lawyer makes a special appearance on behalf of the defendant to, among others, question the validity of service of summons, the counsel shall be deputized by the court to serve summons on his or her client. (n)

Section 14. *Service upon foreign private juridical entit[ies].* – When the defendant is a foreign private juridical entity which has transacted or is doing business in the Philippines, as defined by law, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers, agents, directors or trustees within the Philippines.

If the foreign private juridical entity is not registered in the Philippines, or has no resident agent but has transacted or is doing business in it, as defined by law, such service may, with leave of court, be effected outside of the Philippines through any of the following means:

(a) By personal service coursed through the appropriate court in the foreign country with the assistance of the [D]epartment of [F]oreign [A]ffairs;

(b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by registered mail at the last known address of the defendant;

(c) By facsimile;

(d) By electronic means with the prescribed proof of service; or

(e) By such other means as the court, in its discretion, may direct. (12a)

Section 15. *Service upon public corporations.* – When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct. (13a)

Section 16. *Service upon defendant whose identity or whereabouts are unknown.* – In any action where the defendant is designated as an unknown owner, or the like, or whenever his or her whereabouts are unknown and cannot be ascertained by diligent inquiry, within ninety (90) calendar days from the commencement of the action, service may, by leave of court, be effected upon him or her by publication in a newspaper of general circulation and in such places and for such time as the court may order.

Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (14a)

Section 17. *Extraterritorial service.* – When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under [S]ection [5]; or as provided for in international conventions to which the Philippines is a party; or by publication in a

newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (15a)

Section 18. *Residents temporarily out of the Philippines.* – When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding [S]ection. (16a)

Section 19. *Leave of court.* – Any application to the court under this Rule for leave to effect service in any manner for which leave of court is necessary shall be made by motion in writing, supported by affidavit of the plaintiff or some person on his [or her] behalf, setting forth the grounds for the application. (17a)

Section 20. *Return.* – Within thirty (30) calendar days from issuance of summons by the clerk of court and receipt thereof, the sheriff or process server, or person authorized by the court, shall complete its service. Within five (5) calendar days from service of summons, the server shall file with the court and serve a copy of the return to the plaintiff's counsel, personally, by registered mail, or by electronic means authorized by the Rules.

Should substituted service have been effected, the return shall state the following:

(1) The impossibility of prompt personal service within a period of thirty (30) calendar days from issue and receipt of summons;

(2) The date and time of the three (3) attempts on at least two (2) different dates to cause personal service and the details of the inquiries made to locate the defendant residing thereat; and

(3) The name of the person at least eighteen (18) years of age and of sufficient discretion residing thereat, name of competent person in charge of the defendant's office or regular place of business, or name of the officer of the homeowners' association or condominium corporation or its chief security officer in charge of the community or building where the defendant may be found. (4a)

Section 21. *Proof of service.* – The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff or his or her deputy.

If summons was served by electronic mail, a printout of said e-mail, with a copy of the summons as served, and the affidavit of the person mailing, shall constitute as proof of service. (18a)

Section 22. *Proof of service by publication.* – If the service has been made by publication, service may be proved by the affidavit of the publisher, editor, business or advertising manager, to which affidavit a copy of the publication shall be attached and by an affidavit showing the deposit of a copy of the summons and order for publication in the post office, postage prepaid, directed to the defendant by registered mail to his or her last known address. (19a)

Section 23. *Voluntary appearance.* – The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall be deemed a voluntary appearance. (20a)

RULE 15
MOTIONS

Section 1. *Motion defined.* – A motion is an application for relief other than by a pleading. (1)

Section 2. *Motions must be in writing.* – All motions shall be in writing except those made in open court or in the course of a hearing or trial.

A motion made in open court or in the course of a hearing or trial should immediately be resolved in open court, after the adverse party is given the opportunity to argue his or her opposition thereto.

When a motion is based on facts not appearing on record, the court may hear the matter on affidavits or depositions presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions. (2a)

Section 3. *Contents.* – A motion shall state the relief sought to be obtained and the grounds upon which it is based, and if required by these Rules or necessary to prove facts alleged therein, shall be accompanied by supporting affidavits and other papers. (3)

[Section 4. *Hearing of motion.* – Deleted]

Section 4. *Non-litigious motions.* – Motions which the court may act upon without prejudicing the rights of adverse parties are non-litigious motions. These motions include:

a) Motion for the issuance of an *alias* summons;
b) Motion for extension to file answer;
c) Motion for postponement;
d) Motion for the issuance of a writ of execution;
e) Motion for the issuance of an *alias* writ of execution;
f) Motion for the issuance of a writ of possession;
g) Motion for the issuance of an order directing the sheriff to execute the final certificate of sale; and
h) Other similar motions.

These motions shall not be set for hearing and shall be resolved by the court within five (5) calendar days from receipt thereof. (n)

Section 5. *Litigious motions.* – (a) Litigious motions include:

1) Motion for bill of particulars;

2) Motion to dismiss;
3) Motion for new trial;
4) Motion for reconsideration;
5) Motion for execution pending appeal;
6) Motion to amend after a responsive pleading has been filed;
7) Motion to cancel statutory lien;
8) Motion for an order to break in or for a writ of demolition;
9) Motion for intervention;
10) Motion for judgment on the pleadings;
11) Motion for summary judgment;
12) Demurrer to evidence;
13) Motion to declare defendant in default; and
14) Other similar motions.

(b) All motions shall be served by personal service, accredited private courier or registered mail, or electronic means so as to ensure their receipt by the other party.

(c) The opposing party shall file his or her opposition to a litigious motion within five (5) calendar days from receipt thereof. No other submissions shall be considered by the court in the resolution of the motion.

The motion shall be resolved by the court within fifteen (15) calendar days from its receipt of the opposition thereto, or upon expiration of the period to file such opposition. (n)

Section 6. *Notice of hearing on litigious motions; discretionary.* – The court may, in the exercise of its discretion, and if deemed necessary for its resolution, call a hearing on the motion. The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing. (5a)

Section 7. *Proof of service necessary.* – No written motion shall be acted upon by the court without proof of service thereof, pursuant to Section 5(b) hereof. (6a)

Section 8. *Motion day.* – Except for motions requiring immediate action, where the court decides to conduct hearing on a litigious motion, the same shall be set on a Friday. (7a)

Section 9. *Omnibus motion.* – Subject to the provisions of [S]ection 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived. (8a)

Section 10. *Motion for leave.* – A motion for leave to file a pleading or motion shall be accompanied by the pleading or motion sought to be admitted. (9)

Section 11. *Form.* – The Rules applicable to pleadings shall apply to written motions so far as concerns caption, designation, signature, and other matters of form. (10)

Section 12. *Prohibited motions.* – The following motions shall not be allowed:

(a) Motion to dismiss except on the following grounds:
   1) That the court has no jurisdiction over the subject matter of the claim;
   2) That there is another action pending between the same parties for the same cause; and
   3) That the cause of action is barred by a prior judgment or by the statute of limitations;

(b) Motion to hear affirmative defenses;

(c) Motion for reconsideration of the court's action on the affirmative defenses;

(d) Motion to suspend proceedings without a temporary restraining order or injunction issued by a higher court;

(e) Motion for extension of time to file pleadings, affidavits or any other papers, except a motion for extension to file an answer as provided by Section 11, Rule 11; and

(f) Motion for postponement intended for delay, except if it is based on acts of God, *force majeure* or physical inability of the witness to appear and testify. If the motion is granted based on such exceptions, the moving party shall be warned that the presentation of its evidence must still be terminated on the dates previously agreed upon.

A motion for postponement, whether written or oral, shall, at all times, be accompanied by the original official receipt from the office of the clerk of court evidencing payment of the postponement fee under Section 21(b), Rule 141, to be submitted either at the time of the filing of said motion or not later than the next hearing date. The clerk of court shall not accept the motion unless accompanied by the original receipt. (n)

Section 13. *Dismissal with prejudice.* – Subject to the right of appeal, an order granting a motion to dismiss or an affirmative defense that the cause of action is barred by a prior judgment or by the statute of limitations; that the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned or otherwise extinguished; or that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, shall bar the refiling of the same action or claim. (5, R16)

RULE 16
MOTION TO DISMISS

[Provisions either deleted or transposed]

RULE 17
DISMISSAL OF ACTIONS

Section 1. *Dismissal upon notice by plaintiff.* – A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon

the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1)

Section 2. *Dismissal upon motion of plaintiff.* – Except as provided in the preceding [S]ection, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him or her of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)

Section 3. *Dismissal due to fault of plaintiff.* – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)

Section 4. *Dismissal of counterclaim, cross-claim, or third-party complaint.* – The provisions of this Rule shall apply to the dismissal of any counterclaim, cross-claim, or third-party complaint. A voluntary dismissal by the claimant by notice as in [S]ection 1 of this Rule, shall be made before a responsive pleading or a motion for summary judgment is served or, if there is none, before the introduction of evidence at the trial or hearing. (4)

RULE 18
PRE-TRIAL

Section 1. *When conducted.* – After the last responsive pleading has been served and filed, the branch clerk of court shall issue, within five (5) calendar days from filing, a notice of pre-trial which shall be set not later than sixty (60) calendar days from the filing of the last responsive pleading. (1a)

Section 2. *Nature and [p]urpose.* – The pre-trial is mandatory and should be terminated promptly. The court shall consider:

(a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;

(b) The simplification of the issues;

(c) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;

(d) The limitation of the number and identification of witnesses and the setting of trial dates;

(e) The advisability of a preliminary reference of issues to a commissioner;

(f) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist;

(g) The requirement for the parties to:

1. Mark their respective evidence if not yet marked in the judicial affidavits of their witnesses;
2. Examine and make comparisons of the adverse parties' evidence *vis-a-vis* the copies to be marked;
3. Manifest for the record stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties' evidence;
4. Reserve evidence not available at the pre-trial, but only in the following manner:
   i. For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;
   ii. For documentary evidence and other object evidence, by giving a particular description of the evidence.

   No reservation shall be allowed if not made in the manner described above.

(h) Such other matters as may aid in the prompt disposition of the action.

The failure without just cause of a party and counsel to appear during pre-trial, despite notice, shall result in a waiver of any objections to the faithfulness of the reproductions marked, or their genuineness and due execution.

The failure without just cause of a party and/or counsel to bring the evidence required shall be deemed a waiver of the presentation of such evidence.

The branch clerk of court shall prepare the minutes of the pre-trial, which shall have the following format: (See prescribed form) (2a)

Section 3. *Notice of pre-trial.* – The notice of pre-trial shall include the dates respectively set for:

(a) Pre-trial;

(b) Court-Annexed Mediation; and

(c) Judicial Dispute Resolution, if necessary.

The notice of pre-trial shall be served on counsel, or on the party [if he] or she has no counsel. The counsel served with such notice is charged with the duty of notifying the party represented by him or her.

Non-appearance at any of the foregoing settings shall be deemed as non-appearance at the pre-trial and shall merit the same sanctions under Section 5 hereof. (3a)

Section 4. *Appearance of [p]arties.* – It shall be the duty of the parties and their counsel to appear at the pre-trial, court-annexed mediation, and judicial dispute resolution, if necessary. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability.

A representative may appear on behalf of a party, but must be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.

Section 5. *Effect of failure to appear.* – When duly notified, the failure of the plaintiff and counsel to appear without valid cause when so required[,] pursuant to the next preceding [S]ection, shall cause the dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered. (5a)

Section 6. *Pre-trial brief.* – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) calendar days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

(a) A concise statement of the case and the reliefs prayed for;

(b) A summary of admitted facts and proposed stipulation of facts;

(c) The main factual and legal issues to be tried or resolved;

(d) The propriety of referral of factual issues to commissioners;

(e) The documents or other object evidence to be marked, stating the purpose thereof;

(f) The names of the witnesses**,** and the summary of their respective testimonies; and

(g) A brief statement of points of law and citation of authorities.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. (8)

Section 7. *Pre-Trial Order.* – Upon termination of the pre-trial, the court shall issue an order within ten (10) calendar days which shall recite in detail the matters taken up. The order shall include:

(a) An enumeration of the admitted facts;

(b) The minutes of the pre-trial conference;

(c) The legal and factual issue/s to be tried;

(d) The applicable law, rules, and jurisprudence;

(e) The evidence marked;

(f) The specific trial dates for continuous trial, which shall be within the period provided by the Rules;

(g) The case flowchart to be determined by the court, which shall contain the different stages of the proceedings up to the promulgation of the decision and the use of time frames for each stage in setting the trial dates;

(h) A statement that the one-day examination of witness rule and most important witness rule under A.M. No. 03-1-09-SC (Guidelines for Pre-Trial) shall be strictly followed; and

(i) A statement that the court shall render judgment on the pleadings or summary judgment, as the case may be.

The direct testimony of witnesses for the plaintiff shall be in the form of judicial affidavits. After the identification of such affidavits, cross-examination shall proceed immediately.

Postponement of presentation of the parties' witnesses at a scheduled date is prohibited, except if it is based on acts of God, *force majeure* or duly substantiated physical inability of the witness to appear and testify. The party who caused the postponement is warned that the presentation of its evidence must still be terminated within the remaining dates previously agreed upon.

Should the opposing party fail to appear without valid cause stated in the next preceding paragraph, the presentation of the scheduled witness will proceed with the absent party being deemed to have waived the right to interpose objection and conduct cross-examination.

The contents of the pre-trial order shall control the subsequent proceedings, unless modified before trial to prevent manifest injustice. (7a)

Section 8. *Court-[a]nnexed [m]ediation.* – After pre-trial and, after issues are joined, the court shall refer the parties for mandatory court-annexed mediation.

The period for court-annexed mediation shall not exceed thirty (30) calendar days without further extension. (n)

Section 9. *Judicial [d]ispute [r]esolution.* – Only if the judge of the court to which the case was originally raffled is convinced that settlement is still possible, the case may be referred to another court for judicial dispute resolution. The judicial dispute resolution shall be conducted within a non-extendible period of fifteen (15) calendar days from notice of failure of the court-annexed mediation.

If judicial dispute resolution fails, trial before the original court shall proceed on the dates agreed upon.

All proceedings during the court-annexed mediation and the judicial dispute resolution shall be confidential. (n)

Section 10. *Judgment after pre-trial.* – Should there be no more controverted facts, or no more genuine issue as to any material fact, or an absence of any issue, or should the answer fail to tender an issue, the court shall, without prejudice to a party moving for judgment on the pleadings under Rule 34 or summary judgment under Rule 35, *motu proprio* include in the pre-trial order that the case be submitted for summary judgment or judgment on the pleadings, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial.

The order of the court to submit the case for judgment pursuant to this Rule shall not be the subject to appeal or *certiorari*. (n)

RULE 19
INTERVENTION

Section 1. *Who may intervene.* – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (1)

Section 2. *Time to intervene.* – The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (2)

Section 3. *Pleadings-in-intervention.* – The intervenor shall file a complaint-in-intervention if he or she asserts a claim against either or all of the original parties, or an answer-in-intervention if he or she unites with the defending party in resisting a claim against the latter. (3a)

Section 4. *Answer to complaint-in-intervention.* – The answer to the complaint-in-intervention shall be filed within fifteen (15) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. (4a)

RULE 20
CALENDAR OF CASES

Section 1. *Calendar of cases.* – The clerk of court, under the direct supervision of the judge, shall keep a calendar of cases for pre-trial, for trial, those whose trials were adjourned or postponed, and those with motions to set for hearing. Preference shall be given to *habeas corpus* cases, election cases, special civil actions, and those so required by law. (1)

Section 2. *Assignment of cases.* – The assignment of cases to the different branches of a court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present. (2)

RULE 21
SUBPOENA

Section 1. *Subpoena and subpoena duces tecum.* – Subpoena is a process directed to a person requiring him or her to attend and to testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his or her deposition. It may also require him to bring with him or her any books, documents, or other things under his or her control, in which case it is called a subpoena *duces tecum*. (1a)

Section 2. *By whom issued.* – The subpoena may be issued by –

(a) [T]he court before whom the witness is required to attend;

(b) [T]he court of the place where the deposition is to be taken;

(c) [T]he officer or body authorized by law to do so in connection with investigations conducted by said officer or body; or

(d) [A]ny Justice of the Supreme Court or the Court of Appeals in any case or investigation pending within the Philippines.

When application for a subpoena to a prisoner is made, the judge or officer shall examine and study carefully such application to determine whether the same is made for a valid purpose.

No prisoner sentenced to death, *reclusion perpetua* or life imprisonment and who is confined in any penal institution shall be brought outside the penal institution for appearance or attendance in any court unless authorized by the Supreme Court. (2a)

Section 3. *Form and contents.* – A subpoena shall state the name of the court and the title of the action or investigation, shall be directed to the person whose attendance is required, and in the case of a subpoena *duces tecum*, it shall also contain a reasonable description of the books, documents or things demanded which must appear to the court *prima facie* relevant. (3)

Section 4. *Quashing a subpoena.* – The court may quash a subpoena *duces tecum* upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

The court may quash a subpoena *ad testificandum* on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by these Rules were not tendered when the subpoena was served. (4)

Section 5. *Subpoena for depositions.* – Proof of service of a notice to take a deposition, as provided in [S]ections 15 and 25 of Rule 23, shall constitute sufficient authorization for the issuance of subpoenas for the persons named in said notice by the clerk of the court of the place in which the deposition is to be taken. The clerk shall not, however, issue a subpoena *duces tecum* to any such person without an order of the court. (5)

Section 6. *Service.* – Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance.

Costs for court attendance and the production of documents and other materials subject of the subpoena shall be tendered or charged accordingly. (6a)

Section 7. *Personal appearance in court.* – A person present in court before a judicial officer may be required to testify as if he or she were in attendance upon a subpoena issued by such court or officer. (7a)

Section 8. *Compelling attendance.* – In case of failure of a witness to attend, the court or judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his or her deputy, to arrest the witness and bring him or her before the court or officer where his or her attendance is required, and the cost of such warrant and seizure of such witness shall be paid by the witness if the court issuing it shall determine that his or her failure to answer the subpoena was willful and without just excuse. (8a)

Section 9. *Contempt.* – Failure by any person without adequate cause to obey a subpoena served upon him or her shall be deemed a contempt of the court from which the subpoena is issued. If the subpoena was not issued by a court, the disobedience thereto shall be punished in accordance with the applicable law or Rule. (9a)

Section 10. *Exceptions.* – The provisions of [S]ections 8 and 9 of this Rule shall not apply to a witness who resides more than one hundred (100) kilometers from his or her residence to the place where he or she is to testify by the ordinary course of travel, or to a detention prisoner if no permission of the court in which his or her case is pending was obtained. (10a)

RULE 22
COMPUTATION OF TIME

Section 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. (1)

Section 2. *Effect of interruption.* – Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof.

The day of the act that caused the interruption shall be excluded in the computation of the period. (2)

RULE 23
DEPOSITIONS PENDING ACTION

Section 1. *Depositions pending action, when may be taken.* – Upon *ex parte* motion of a party, the testimony of any person, whether a party or not, may be taken by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. (1a)

Section 2. *Scope of examination.* – Unless otherwise ordered by the court as provided by [S]ection 16 or 18 of this Rule, the deponent may be examined regarding any matter, not privileged, which is relevant to

the subject of the pending action, whether relating to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. (2)

Section 3. *Examination and cross-examination.* – Examination and cross-examination of deponents may proceed as permitted at the trial under [S]ections 3 to 18 of Rule 132. (3)

Section 4. *Use of depositions.* – At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness;

(b) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose;

(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (1) that the witness is dead; or (2) that the witness resides at a distance more than one hundred (100) kilometers from the place of trial or hearing, or is out of the Philippines, unless it appears that his or her absence was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (5) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used; and

(d) If only part of a deposition is offered in evidence by a party, the adverse party may require him or her to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. (4a)

Section 5. *Effect of substitution of parties.* – Substitution of parties does not affect the right to use depositions previously taken; and, when an action has been dismissed and another action involving the same subject is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. (5)

Section 6. *Objections to admissibility.* – Subject to the provisions of [S]ection 29 of this Rule, objections may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. (6)

Section 7. *Effect of taking depositions.* – A party shall not be deemed to make a person his or her own witness for any purpose by taking his or her deposition. (7a)

Section 8. *Effect of using depositions.* – The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (b) of [S]ection 4 of this Rule. (8)

Section 9. *Rebutting deposition.* – At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or by any other party. (9a)

Section 10. *Persons before whom depositions may be taken within the Philippines.* – Within the Philippines, depositions may be taken before any judge, notary public, or the person referred to in [S]ection 14 hereof. (10)

Section 11. *Persons before whom depositions may be taken in foreign countries.* – In a foreign state or country, depositions may be taken (a) on notice before a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the Republic of the Philippines; (b) before such person or officer as may be appointed by commission or under letters rogatory; or (c) the person referred to in [S]ection 14 hereof. (11)

Section 12. *Commission or letters rogatory.* – A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such direction as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed to the appropriate judicial authority in the foreign country. (12)

Section 13. *Disqualification by interest.* – No deposition shall be taken before a person who is a relative within the sixth degree of consanguinity or affinity, or employee or counsel of any of the parties; or who is a relative within the same degree, or employee of such counsel; or who is financially interested in the action. (13)

Section 14. *Stipulations regarding taking of depositions.* – If the parties so stipulate in writing, depositions may be taken before any person authorized to administer oaths, at any time or place, in accordance with these Rules, and when so taken may be used like other depositions. (14)

Section 15. *Deposition upon oral examination; notice; time and place.* – A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or her or the particular class or group to which he or she belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time. (15a)

Section 16. *Orders for the protection of parties and deponents.* – After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and for good cause shown, the court in which the action is pending may make the following orders:

(a) That the deposition shall not be taken;

(b) That the deposition may be taken only at some designated place other than that stated in the notice;

(c) That the deposition may be taken only on written interrogatories;

(d) That certain matters shall not be inquired into;

(e) That the scope of the examination shall be held with no one present except the parties to the action and their officers or counsel;

(f) That after being sealed the deposition shall be opened only by order of the court;

(g) That secret processes, developments, or research need not be disclosed; or

(h) That the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

The court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. (16a)

Section 17. *Record of examination; oath; objections.* – The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by some one acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony shall be taken stenographically unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officers, who shall propound them to the witness and record the answers *verbatim*. (17a)

Section 18. *Motion to terminate or limit examination.* – At any time during the taking of the deposition, on motion or petition of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the Regional Trial Court of the place where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition, as provided in [S]ection 16 of this Rule. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a notice for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable. (18)

Section 19. *Submission to witness; changes; signing.* – When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him or her, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a

statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason given therefor, if any, and the deposition may then be used as fully as though signed, unless on a motion to suppress under [S]ection 29(f) of this Rule, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. (19a)

Section 20. *Certification and filing by officer.* – The officer shall certify on the deposition that the witness was duly sworn to by him or her and that the deposition is a true record of the testimony given by the witness. He or she shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert the name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing. (20a)

Section 21. *Notice of filing.* – The officer taking the deposition shall give prompt notice of its filing to all the parties. (21)

Section 22. *Furnishing copies.* – Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent. (22)

Section 23. *Failure to attend of party giving notice.* – If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another attends in person or by counsel pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him or her and his or her counsel in so attending, including reasonable attorney's fees. (23a)

Section 24. *Failure of party giving notice to serve subpoena.* – If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him or her and the witness because of such failure does not attend, and if another party attends in person or by counsel because he or she expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him or her and his or her counsel in so attending, including reasonable attorney's fees. (24a)

Section 25. *Deposition upon written interrogatories; service of notice and of interrogatories.* – A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within ten (10) calendar days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five (5) calendar days thereafter, the latter may serve re-direct interrogatories upon a party who has served cross-interrogatories. Within three (3) calendar days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the party proposing to take the deposition. (25a)

Section 26. *Officers to take responses and prepare record.* – A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in

the notice, who shall proceed promptly, in the manner provided by [S]ections 17, 19 and 20 of this Rule, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him or her. (26a)

Section 27. *Notice of filing and furnishing copies.* – When a deposition upon interrogatories is filed, the officer taking it shall promptly give notice thereof to all the parties, and may furnish copies to them or to the deponent upon payment of reasonable charges therefor. (27)

Section 28. *Orders for the protection of parties and deponents.* – After the service of the interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, and for good cause shown, may make any order specified in [S]ections 15, 16 and 18 of this Rule which is appropriate and just or an order that the deposition shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination. (28)

Section 29. *Effect of errors and irregularities in depositions.* –

(a) *As to notice.* – All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(b) *As to disqualification of officer.* – Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to competency or relevancy of evidence.* – Objections to the competency of a witness or the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(d) *As to oral examination and other particulars.* – Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, removed, or cured if promptly prosecuted, are waived unless reasonable objection thereto is made at the taking of the deposition.

(e) *As to form of written interrogatories.* – Objections to the form of written interrogatories submitted under [S]ections 25 and 26 of this Rule are waived unless served in writing upon the party propounding them within the time allowed for serving succeeding cross or other interrogatories and within three (3) calendar days after service of the last interrogatories authorized.

(f) *As to manner of preparation.* – Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under [S]ections 17, 19, 20 and 26 of this Rule are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (29a)

RULE 24
DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

Section 1. *Depositions before action; petition.* – A person who desires to perpetuate his or her own testimony or that of another person regarding any matter that may be cognizable in any court of the Philippines, may file a verified petition in the court of the place of the residence of any expected adverse party. (1a)

Section 2. *Contents of petition.* – The petition shall be entitled in the name of the petitioner and shall show: (a) that the petitioner expects to be a party to an action in a court of the Philippines but is presently unable to bring it or cause it to be brought; (b) the subject matter of the expected action and his or her interest therein; (c) the facts which he or she desires to establish by the proposed testimony and his or her reasons for desiring to perpetuate it; (d) the names or a description of the persons he or she expects will be adverse parties and their addresses so far as known; and (e) the names and addresses of the persons to be examined and the substance of the testimony which he or she expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition for the purpose of perpetuating their testimony. (2a)

Section 3. *Notice and service.* – The petitioner shall serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty (20) calendar days before the date of the hearing, the court shall cause notice thereof to be served on the parties and prospective deponents in the manner provided for service of summons. (3a)

Section 4. *Order and examination.* – If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose deposition may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with Rule 23 before the hearing. (4)

Section 5. *Reference to court.* – For the purpose of applying Rule 23 to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed. (5)

Section 6. *Use of deposition.* – If a deposition to perpetuate testimony is taken under this Rule, or if, although not so taken, it would be admissible in evidence, it may be used in any action involving the same subject matter subsequently brought in accordance with the provisions of [S]ections 4 and 5 of Rule 23. (6)

Section 7. *Depositions pending appeal.* – If an appeal has been taken from a judgment of a court, including the Court of Appeals in proper cases, or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the said court. In such case the party who desires to perpetuate the testimony may make a motion in the said court for leave to take the depositions, upon the same notice and service thereof as if the action was pending therein.

The motion shall state (a) the names and addresses of the persons to be examined and the substance of the testimony which he or she expects to elicit from each; and (b) the reason for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these Rules for depositions taken in pending actions. (7a)

RULE 25
INTERROGATORIES TO PARTIES

Section 1. *Interrogatories to parties; service thereof.* – Upon *ex parte* motion, any party desiring to elicit material and relevant facts from any adverse parties shall file and serve upon the latter written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. (1a)

Section 2. *Answer to interrogatories.* – The interrogatories shall be answered fully in writing and shall be signed and sworn to by the person making them. The party upon whom the interrogatories have been served shall file and serve a copy of the answers on the party submitting the interrogatories within fifteen (15) calendar days after service thereof, unless the court, on motion and for good cause shown, extends or shortens the time. (2a)

Section 3. *Objections to interrogatories.* – Objections to any interrogatories may be presented to the court within ten (10) calendar days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are resolved, which shall be at as early a time as is practicable. (3a)

Section 4. *Number of interrogatories.* – No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party. (4)

Section 5. *Scope and use of interrogatories.* – Interrogatories may relate to any matters that can be inquired into under [S]ection 2 of Rule 23, and the answers may be used for the same purposes provided in [S]ection 4 of the same Rule. (5)

Section 6. *Effect of failure to serve written interrogatories.* – Unless thereafter allowed by the court for good cause shown and to prevent a failure of justice, a party not served with written interrogatories may not be compelled by the adverse party to give testimony in open court, or to give a deposition pending appeal. (6)

RULE 26
ADMISSION BY ADVERSE PARTY

Section 1. *Request for admission.* – At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (1)

Section 2. *Implied admission.* – Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) calendar days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he or she cannot truthfully either admit or deny those matters.

Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his or her sworn statement as contemplated in the preceding paragraph and his or her compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (2a)

Section 3. *Effect of admission.* – Any admission made by a party pursuant to such request is for the purpose of the pending action only and shall not constitute an admission by him or her for any other purpose nor may the same be used against him or her in any other proceeding. (3a)

Section 4. *Withdrawal.* – The court may allow the party making an admission under this Rule, whether express or implied, to withdraw or amend it upon such terms as may be just. (4)

Section 5. *Effect of failure to file and serve request for admission.* – Unless otherwise allowed by the court for good cause shown and to prevent a failure of justice, a party who fails to file and serve a request for admission on the adverse party of material and relevant facts at issue which are, or ought to be, within the personal knowledge of the latter, shall not be permitted to present evidence on such facts. (5)

RULE 27
PRODUCTION OR INSPECTION OF DOCUMENTS OR THINGS

Section 1. *Motion for production or inspection; order.* – Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his or her possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his or her possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. (1a)

RULE 28
PHYSICAL AND MENTAL EXAMINATION OF PERSONS

Section 1. *When examination may be ordered.* – In an action in which the mental or physical condition of a party is in controversy, the court in which the action is pending may in its discretion order him or her to submit to a physical or mental examination by a physician. (1a)

Section 2. *Order for examination.* – The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. (2)

Section 3. *Report of findings.* – If requested by the party examined, the party causing the examination to be made shall deliver to him or her a copy of a detailed written report of the examining physician setting out his or her findings and conclusions. After such request and delivery, the party causing the examination to be made shall be entitled upon request to receive from the party examined a like report of any examination, previously or thereafter made, of the same mental or physical condition. If the party examined refuses to deliver such report, the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician fails or refuses to make such a report[,] the court may exclude his or her testimony if offered at the trial. (3a)

Section 4. *Waiver of privilege.* – By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he or she may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him or her in respect of the same mental or physical examination. (4a)

RULE 29
REFUSAL TO COMPLY WITH MODES OF DISCOVERY

Section 1. *Refusal to answer.* – If a party or other deponent refuses to answer any question upon oral examination, the examination may be completed on other matters or adjourned as the proponent of the question may prefer. The proponent may thereafter apply to the proper court of the place where the deposition is being taken, for an order to compel an answer. The same procedure may be availed of when a party or a witness refuses to answer any interrogatory submitted under Rules 23 or 25.

If the application is granted, the court shall require the refusing party or deponent to answer the question or interrogatory and if it also finds that the refusal to answer was without substantial justification, it may require the refusing party or deponent or the counsel advising the refusal, or both of them, to pay the proponent the amount of the reasonable expenses incurred in obtaining the order, including attorney's fees.

If the application is denied and the court finds that it was filed without substantial justification, the court may require the proponent or the counsel advising the filing of the application, or both of them, to pay to the refusing party or deponent the amount of the reasonable expenses incurred in opposing the application, including attorney's fees. (1)

Section 2. *Contempt of court.* – If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court of the place in which the deposition is being taken, the refusal may be considered a contempt of that court. (2)

Section 3. *Other consequences.* – If any party or an officer or managing agent of a party refuses to obey an order made under [S]ection 1 of this Rule requiring him or her to answer designated questions, or an

order under Rule 27 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 28 requiring him or her to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following:

(a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting him or her from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;

(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party; and

(d) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental examination. (3a)

Section 4. *Expenses on refusal to admit.* – If a party after being served with a request under Rule 26 to admit the genuineness of any document or the truth of any matter of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of such document or the truth of any such matter of fact, he or she may apply to the court for an order requiring the other party to pay him or her the reasonable expenses incurred in making such proof, including [reasonable] attorney's fees. Unless the court finds that there were good reasons for the denial or that admissions sought were of no substantial importance, such order shall be issued. (4a)

Section 5. *Failure of party to attend or serve answers.* – If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his or her deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 25 after proper service of such interrogatories, the court on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, and in its discretion, order him or her to pay reasonable expenses incurred by the other, including attorney's fees. (5a)

Section 6. *Expenses against the Republic of the Philippines.* – Expenses and attorney's fees are not to be imposed upon the Republic of the Philippines under this Rule. (6)

RULE 30
TRIAL

Section 1. *Schedule of trial.* – The parties shall strictly observe the scheduled hearings as agreed upon and set forth in the pre-trial order.

(a) The schedule of the trial dates, for both plaintiff and defendant, shall be continuous and within the following periods:

i. The initial presentation of plaintiff's evidence shall be set not later than thirty (30) calendar days after the termination of the pre-trial conference. Plaintiff shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days which shall include the date of the judicial dispute resolution, if necessary;

ii. The initial presentation of defendant's evidence shall be set not later than thirty (30) calendar days after the court's ruling on plaintiff's formal offer of evidence. The defendant shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days;

iii. The period for the presentation of evidence on the third (fourth, etc.)-party claim, counterclaim or cross-claim shall be determined by the court, the total of which shall in no case exceed ninety (90) calendar days; and

iv. If deemed necessary, the court shall set the presentation of the parties' respective rebuttal evidence, which shall be completed within a period of thirty (30) calendar days.

(b) The trial dates may be shortened depending on the number of witnesses to be presented, provided that the presentation of evidence of all parties shall be terminated within a period of ten (10) months or three hundred (300) calendar days. If there are no third (fourth, etc.)-party claim, counterclaim or cross-claim, the presentation of evidence shall be terminated within a period of six (6) months or one hundred eighty (180) calendar days.

(c) The court shall decide and serve copies of its decision to the parties within a period not exceeding ninety (90) calendar days from the submission of the case for resolution, with or without memoranda. (n)

Section 2. *Adjournments and postponements.* – A court may adjourn a trial from day to day, and to any stated time, as the expeditious and convenient transaction of business may require, but shall have no power to adjourn a trial for a longer period than one [(1)] month for each adjournment, nor more than three [(3)] months in all, except when authorized in writing by the Court Administrator, Supreme Court.

The party who caused the postponement is warned that the presentation of its evidence must still be terminated on the remaining dates previously agreed upon. (2a)

[Section 3. *Requisites of motion to postpone trial for absence of evidence.* – Deleted]

Section 3. *Requisites of motion to postpone trial for illness of party or counsel.* – A motion to postpone a trial on the ground of illness of a party or counsel may be granted if it appears upon affidavit or sworn certification that the presence of such party or counsel at the trial is indispensable and that the character of his or her illness is such as to render his or her non-attendance excusable. (4a)

Section 4. *Hearing days and calendar call.* – Trial shall be held from Monday to Thursday, and courts shall call the cases at exactly 8:30 a.m. and 2:00 p.m., pursuant to Administrative Circular No. 3-99. Hearing on motions shall be held on Fridays, pursuant to Section 8, Rule 15.

All courts shall ensure the posting of their court calendars outside their courtrooms at least one (1) day before the scheduled hearings, pursuant to OCA Circular No. 250-2015. (n)

Section 5. *Order of trial.* – Subject to the provisions of [S]ection 2 of Rule 31, and unless the court for special reasons otherwise directs, the trial shall be limited to the issues stated in the pre-trial order and shall proceed as follows:

(a) The plaintiff shall adduce evidence in support of his or her complaint;

(b) The defendant shall then adduce evidence in support of his or her defense, counterclaim, cross-claim and third-party complaint;

(c) The third-party defendant, if any, shall adduce evidence of his or her defense, counterclaim, cross-claim and fourth-party complaint;

(d) The fourth-party, and so forth, if any, shall adduce evidence of the material facts pleaded by them;

(e) The parties against whom any counterclaim or cross-claim has been pleaded, shall adduce evidence in support of their defense, in the order to be prescribed by the court;

(f) The parties may then respectively adduce rebutting evidence only, unless the court, for good reasons and in the furtherance of justice, permits them to adduce evidence upon their original case; and

(g) Upon admission of the evidence, the case shall be deemed submitted for decision, unless the court directs the parties to argue or to submit their respective memoranda or any further pleadings.

If several defendants or third-party defendants, and so forth, having separate defenses appear by different counsel, the court shall determine the relative order of presentation of their evidence. (5a)

Section 6. *Oral offer of exhibits.* – The offer of evidence, the comment or objection thereto, and the court ruling shall be made orally in accordance with Sections 34 to 40 of Rule 132. (n)

Section 7. *Agreed statement of facts.* – The parties to any action may agree, in writing, upon the facts involved in the litigation, and submit the case for judgment on the facts agreed upon, without the introduction of evidence.

If the parties agree only on some of the facts in issue, the trial shall be held as to the disputed facts in such order as the court shall prescribe. (6)

[Section 7. *Statement of judge.* – Deleted]

Section 8. *Suspension of actions.* – The suspension of actions shall be governed by the provisions of the Civil Code and other laws. (8a)

Section 9. *Judge to receive evidence; delegation to clerk of court.* – The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or *ex parte* hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar. The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be

resolved by the court upon submission of his or her report and the transcripts within ten (10) calendar days from termination of the hearing. (9a)

RULE 31
CONSOLIDATION OR SEVERANCE

Section 1. *Consolidation.* – When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (1)

Section 2. *Separate trials.* – The court, in furtherance of convenience or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, or third-party complaint, or of any separate issue or of any number of claims, cross[-]claims, counterclaims, third-party complaints or issues. (2)

RULE 32
TRIAL BY COMMISSIONER

Section 1. *Reference by consent.* – By written consent of both parties, the court may order any or all of the issues in a case to be referred to a commissioner to be agreed upon by the parties or to be appointed by the court. As used in these Rules, the word "commissioner" includes a referee, an auditor and an examiner. (1)

Section 2. *Reference ordered on motion.* – When the parties do not consent, the court may, upon the application of either or of its own motion, direct a reference to a commissioner in the following cases:

(a) When the trial of an issue of fact requires the examination of a long account on either side, in which case the commissioner may be directed to hear and report upon the whole issue or any specific question involved therein;

(b) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect;

(c) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect. (2)

Section 3. *Order of reference; powers of the commissioner.* – When a reference is made, the clerk shall forthwith furnish the commissioner with a copy of the order of reference. The order may specify or limit the powers of the commissioner, and may direct him or her to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his or her report. Subject to the specifications and limitations stated in the order, the commissioner has and shall exercise the power to regulate the proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of his or her duties under the order. He or she may issue subpoenas and subpoenas *duces tecum*, swear witnesses, and unless otherwise provided in the order of reference, he

or she may rule upon the admissibility of evidence. The trial or hearing before him or her shall proceed in all respects as it would if held before the court. (3a)

Section 4. *Oath of commissioner.* – Before entering upon his or her duties the commissioner shall be sworn to a faithful and honest performance thereof. (4a)

Section 5. *Proceedings before commissioner.* – Upon receipt of the order of reference and unless otherwise provided therein, the commissioner shall forthwith set a time and place for the first meeting of the parties or their counsel to be held within ten (10) calendar days after the date of the order of reference and shall notify the parties or their counsel. (5a)

Section 6. *Failure of parties to appear before commissioner.* – If a party fails to appear at the time and place appointed, the commissioner may proceed *ex parte* or, in his or her discretion, adjourn the proceedings to a future day, giving notice to the absent party or his or her counsel of the adjournment. (6a)

Section 7. *Refusal of witness.* – The refusal of a witness to obey a subpoena issued by the commissioner or to give evidence before him or her, shall be deemed a contempt of the court which appointed the commissioner. (7a)

Section 8. *Commissioner shall avoid delays.* – It is the duty of the commissioner to proceed with all reasonable diligence. Either party, on notice to the parties and commissioner, may apply to the court for an order requiring the commissioner to expedite the proceedings and to make his or her report. (8a)

Section 9. *Report of commissioner.* – Upon the completion of the trial or hearing or proceeding before the commissioner, he or she shall file with the court his or her report in writing upon the matters submitted to him or her by the order of reference. When his or her powers are not specified or limited, he or she shall set forth his or her findings of fact and conclusions of law in his or her report. He or she shall attach thereto all exhibits, affidavits, depositions, papers and the transcript, if any, of the testimonial evidence presented before him or her. (9a)

Section 10. *Notice to parties of the filing of report.* – Upon the filing of the report, the parties shall be notified by the clerk, and they shall be allowed ten (10) calendar days within which to signify grounds of objections to the findings of the report, if they so desire. Objections to the report based upon grounds which were available to the parties during the proceedings before the commissioner, other than objections to the findings and conclusions therein set forth, shall not be considered by the court unless they were made before the commissioner. (10a)

Section 11. *Hearing upon report.* – Upon the expiration of the period of ten (10) calendar days referred to in the preceding section, the report shall be set for hearing, after which the court shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the commissioner or the court. (11a)

Section 12. *Stipulations as to findings.* – When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (12)

Section 13. *Compensation of commissioner.* – The court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires. (13)

RULE 33
DEMURRER TO EVIDENCE

Section 1. *Demurrer to evidence.* – After the plaintiff has completed the presentation of his or her evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his or her motion is denied, he or she shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed, he or she shall be deemed to have waived the right to present evidence. (1a)

Section 2. *Action on demurrer to evidence.* – A demurrer to evidence shall be subject to the provisions of Rule 15.

The order denying the demurrer to evidence shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus* before judgment. (n)

RULE 34
JUDGMENT ON THE PLEADINGS

Section 1. *Judgment on the pleadings.* – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved. (1)

Section 2. *Action on motion for judgment on the pleadings.* – The court may *motu proprio* or on motion render judgment on the pleadings if it is apparent that the answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleadings. Otherwise, the motion shall be subject to the provisions of Rule 15 of these Rules.

Any action of the court on a motion for judgment on the pleadings shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (n)

RULE 35
SUMMARY JUDGMENTS

Section 1. *Summary judgment for claimant.* – A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor upon all or any part thereof. (1a)

Section 2. *Summary judgment for defending party.* – A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any time, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor as to all or any part thereof. (2a)

Section 3. *Motion and proceedings thereon.* – The motion shall cite the supporting affidavits, depositions or admissions, and the specific law relied upon. The adverse party may file a comment and serve opposing affidavits, depositions, or admissions within a non-extendible period of five (5) calendar days from receipt of the motion. Unless the court orders the conduct of a hearing, judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Any action of the court on a motion for summary judgment shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (3a)

Section 4. *Case not fully adjudicated on motion.* – If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court may, by examining the pleadings and the evidence before it and by interrogating counsel[,] ascertain what material facts exist without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and direct such further proceedings in the action as are just. The facts so ascertained shall be deemed established, and the trial shall be conducted on the controverted facts accordingly. (4a)

Section 5. *Form of affidavits and supporting papers.* – Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Certified true copies of all papers or parts thereof referred to in the affidavit shall be attached thereto or served therewith. (5)

Section 6. *Affidavits in bad faith.* – Should it appear to its satisfaction at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith, or solely for the purpose of delay, the court shall forthwith order the offending party or counsel to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him or her to incur, including attorney's fees[, i]t may, after hearing, further adjudge the offending party or counsel guilty of contempt. (6a)

RULE 36
JUDGMENTS, FINAL ORDERS AND ENTRY THEREOF

Section 1. *Rendition of judgments and final orders.* – A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court. (1a)

Section 2. *Entry of judgments and final orders.* – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment or final order and shall be signed by the clerk, with a certificate that such judgment or final order has become final and executory. (2a, 10, R51)

Section 3. *Judgment for or against one or more of several parties.* – Judgment may be given for or against one or more of several plaintiffs, and for or against one or more of several defendants. When justice so demands, the court may require the parties on each side to file adversary pleadings as between themselves and determine their ultimate rights and obligations. (3)

Section 4. *Several judgments.* – In an action against several defendants, the court may, when a several judgment is proper, render judgment against one or more of them, leaving the action to proceed against the others. (4)

Section 5. *Separate judgments.* – When more than one claim for relief is presented in an action, the court, at any stage, upon a determination of the issues material to a particular claim and all counterclaims arising out of the transaction or occurrence which is the subject matter of the claim, may render a separate judgment disposing of such claim. The judgment shall terminate the action with respect to the claim so disposed of and the action shall proceed as to the remaining claims. In case a separate judgment is rendered, the court by order may stay its enforcement until the rendition of a subsequent judgment or judgments and may prescribe such conditions as may be necessary to secure the benefit thereof to the party in whose favor the judgment is rendered. (5a)

Section 6. *Judgment against entity without juridical personality.* – When judgment is rendered against two or more persons sued as an entity without juridical personality, the judgment shall set out their individual or proper names, if known. (6a)

RULE 37
NEW TRIAL OR RECONSIDERATION

Section 1. *Grounds of and period for filing motion for new trial or reconsideration.* – Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. (1a)

Section 2. *Contents of motion for new trial or reconsideration and notice thereof.* – The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal. (2a)

Section 3. *Action upon motion for new trial or reconsideration.* – The trial court may set aside the judgment or final order and grant a new trial, upon such terms as may be just, or may deny the motion. If the court finds that excessive damages have been awarded or that the judgment or final order is contrary to the evidence or law, it may amend such judgment or final order accordingly. (3a, R37)

Section 4. *Resolution of motion.* – A motion for new trial or reconsideration shall be resolved within thirty (30) days from the time it is submitted for resolution. (n)

Section 5. *Second motion for new trial.* – A motion for new trial shall include all grounds then available and those not so included shall be deemed waived. A second motion for new trial, based on a ground not existing nor available when the first motion was made, may be filed within the time herein provided excluding the time during which the first motion had been pending.

No party shall be allowed a second motion for reconsideration of a judgment or final order. (4a, R37; 4, IRG)

Section 6. *Effect of granting of motion for new trial.* – If a new trial is granted in accordance with the provisions of this Rule, the original judgment or final order shall be vacated, and the action shall stand for trial *de novo*; but the recorded evidence taken upon the former trial, in so far as the same is material and competent to establish the issues, shall be used at the new trial without retaking the same. (5a)

Section 7. *Partial new trial or reconsideration.* – If the grounds for a motion under this Rule appear to the court to affect the issues as to only a part, or less than all of the matter in controversy, or only one, or less than all, of the parties to it, the court may order a new trial or grant reconsideration as to such issues if severable without interfering with the judgment or final order upon the rest. (6a)

Section 8. *Effect of order for partial new trial.* – When less than all of the issues are ordered retried, the court may either enter a judgment or final order as to the rest, or stay the enforcement of such judgment or final order until after the new trial. (7a)

Section 9. *Remedy against order denying a motion for new trial or reconsideration.* – An order denying a motion for new trial or reconsideration is not appealable, the remedy being an appeal from the judgment or final order. (n)

RULE 38
RELIEF FROM JUDGMENTS, ORDERS, OR OTHER PROCEEDINGS

Section 1. *Petition for relief from judgment, order, or other proceedings.* – When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside. (2a)

Section 2. *Petition for relief from denial of appeal.* – When a judgment or final order is rendered by any court in a case, and a party thereto, by fraud, accident, mistake, or excusable negligence, has been prevented from taking an appeal, he may file a petition in such court and in the same case praying that the appeal be given due course. (1a)

Section 3. *Time for filing petition; contents and verification.* – A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be. (3)

Section 4. *Order to file an answer.* – If the petition is sufficient in form and substance to justify relief, the court in which it is filed, shall issue an order requiring the adverse parties to answer the same within fifteen (15) days from the receipt thereof. The order shall be served in such manner as the court may direct, together with copies of the petition and the accompanying affidavits. (4a)

Section 5. *Preliminary injunction pending proceedings.* – The court in which the petition is filed, may grant such preliminary injunction as may be necessary for the preservation of the rights of the parties, upon the filing by the petitioner of a bond in favor of the adverse party, conditioned that if the petition is dismissed or the petitioner fails on the trial of the case upon its merits, he will pay the adverse party all damages and costs that may be awarded to him by reason of the issuance of such injunction or the other proceedings following the petition; but such injunction shall not operate to discharge or extinguish any lien which the adverse party may have acquired upon the property of the petitioner. (5a)

Section 6. *Proceedings after answer is filed.* – After the filing of the answer or the expiration of the period therefor, the court shall hear the petition and if after such hearing, it finds that the allegations thereof are not true, the petition shall be dismissed; but if it finds said allegations to be true, it shall set aside the judgment or final order or other proceeding complained of upon such terms as may be just. Thereafter the case shall stand as if such judgment, final order or other proceeding had never been rendered, issued or taken. The court shall then proceed to hear and determine the case as if a timely motion for a new trial or reconsideration had been granted by it. (6a)

Section 7. *Procedure where the denial of an appeal is set aside.* – Where the denial of an appeal is set aside, the lower court shall be required to give due course to the appeal and to elevate the record of the appealed case as if a timely and proper appeal had been made. (7a)

RULE 39
EXECUTION, SATISFACTION AND EFFECT OF JUDGMENTS

Section 1. *Execution upon judgments or final orders.* – Execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. (1a)

If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.

The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution. *(As amended by Cir. No. 24-94.)*

Section 2. *Discretionary execution.* –

(a) *Execution of a judgment or final order pending appeal.* – On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

(b) *Execution of several, separate or partial judgments.* – A several, separate or partial judgment may be executed under the same terms and conditions as execution of a judgment or final order pending appeal. (2a)

Section 3. *Stay of discretionary execution.* – Discretionary execution issued under the preceding section may be stayed upon approval by the proper court of a sufficient supersedeas bond filed by the party against whom it is directed, conditioned upon the performance of the judgment or order allowed to be executed in case it shall be finally sustained in whole or in part. The bond thus given may be proceeded against on motion with notice to the surety. (3a)

Section 4. *Judgments not stayed by appeal.* – Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.

The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party. (4a)

Section 5. *Effect of reversal of executed judgment.* – Where the executed judgment is reversed totally or partially, or annulled, on appeal or otherwise, the trial court may, on motion, issue such orders of restitution or reparation of damages as equity and justice may warrant under the circumstances. (5a)

Section 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations. (6a)

Section 7. *Execution in case of death of party.* – In case of the death of a party, execution may issue or be enforced in following manner:

(a) In case of the death of the judgment obligee, upon the application of his executor or administrator, or successor in interest;

(b) In case of the death of the judgment obligor, against his executor or administrator or successor in interest, if the judgment be for the recovery of real or personal property, or the enforcement of a lien thereon;

(c) In case of the death of the judgment obligor, after execution is actually levied upon any of his property, the same may be sold for the satisfaction of the judgment obligation, and the officer making the sale shall account to the corresponding executor or administrator for any surplus in his hands. (7a)

Section 8. *Issuance, form and contents of a writ of execution.* – The writ of execution shall: (1) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, the case number and title, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to enforce the writ according to its terms, in the manner hereinafter provided:

(a) If the execution be against the property of the judgment obligor, to satisfy the judgment, with interest, out of the real or personal property of such judgment obligor;

(b) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants, or trustees of the judgment obligor, to satisfy the judgment, with interest, out of such property;

(c) If it be for the sale of real or personal property, to sell such property, describing it, and apply the proceeds in conformity with the judgment, the material parts of which shall be recited in the writ of execution;

(d) If it be for the delivery of the possession of real or personal property, to deliver the possession of the same, describing it, to the party entitled thereto, and to satisfy any costs, damages, rents, or profits covered by the judgment out of the personal property of the person against whom it was rendered, and if sufficient personal property cannot be found, then out of the real property; and

(e) In all cases, the writ of execution shall specifically state the amount of the interest, costs, damages, rents, or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant. (8a)

Section 9. *Execution of judgments for money, how enforced.* – (a) *Immediate payment on demand.* – The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

(b) *Satisfaction by levy.* – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

(c) *Garnishment of debts and credits.* – The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits

to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash, or certified bank check issued in the name of the judgment obligee, shall be delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the court.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the judgment obligee.

The executing sheriff shall observe the same procedure under paragraph (a) with respect to delivery of payment to the judgment obligee. (8a, 15a)

Section 10. *Execution of judgments for specific act.* – (a) *Conveyance, delivery of deeds, or other specific acts; vesting title.* – If a judgment directs a party to execute a conveyance of land or personal property, or to deliver deeds or other documents, or to perform any other specific act in connection therewith, and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law. (10a)

(b) *Sale of real or personal property.* – If the judgment be for the sale of real or personal property, to sell such property, describing it, and apply the proceeds in conformity with the judgment. (8[c]a)

(c) *Delivery or restitution of real property.* – The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money. (13a)

(d) *Removal of improvements on property subject of execution.* – When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court. (14a)

(e) *Delivery of personal property.* – In judgments for the delivery of personal property, the officer shall take possession of the same and forthwith deliver it to the party entitled thereto and satisfy any judgment for money as therein provided. (8a)

Section 11. *Execution of special judgments.* – When a judgment requires the performance of any act other than those mentioned in the two preceding sections, a certified copy of the judgment shall be attached to the writ of execution and shall be served by the officer upon the party against whom the same is rendered, or upon any other person required thereby, or by law, to obey the same, and such party or person may be punished for contempt if he disobeys such judgment. (9a)

Section 12. *Effect of levy on execution as to third persons.* – The levy on execution shall create a lien in favor of the judgment obligee over the right, title and interest of the judgment obligor in such property at the time of the levy, subject to liens and encumbrances then existing. (16a)

Section 13. *Property exempt from execution.* – Except as otherwise expressly provided by law, the following property, and no other, shall be exempt from execution:

(a) The judgment obligor's family home as provided by law, or the homestead in which he resides, and land necessarily used in connection therewith;

(b) Ordinary tools and implements personally used by him in his trade, employment, or livelihood;

(c) Three horses, or three cows, or three carabaos, or other beasts of burden, such as the judgment obligor may select necessarily used by him in his ordinary occupation;

(d) His necessary clothing and articles for ordinary personal use, excluding jewelry;

(e) Household furniture and utensils necessary for housekeeping, and used for that purpose by the judgment obligor and his family, such as the judgment obligor may select, of a value not exceeding one hundred thousand pesos;

(f) Provisions for individual or family use sufficient for four months;

(g) The professional libraries and equipment of judges, lawyers, physicians, pharmacists, dentists, engineers, surveyors, clergymen, teachers, and other professionals, not exceeding three hundred thousand pesos in value;

(h) One fishing boat and accessories not exceeding the total value of one hundred thousand pesos owned by a fisherman and by the lawful use of which he earns his livelihood;

(i) So much of the salaries, wages, or earnings of the judgment obligor for his personal services within the four months preceding the levy as are necessary for the support of his family;

(j) Lettered gravestones;

(k) Monies, benefits, privileges, or annuities accruing or in any manner growing out of any life insurance;

(l) The right to receive legal support, or money or property obtained as such support, or any pension or gratuity from the Government;

(m) Properties specially exempted by law.

But no article or species of property mentioned in this section shall be exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage thereon. (12a)

Section 14. *Return of writ of execution.* – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties. (11a)

Section 15. *Notice of sale of property on execution.* – Before the sale of property on execution, notice thereof must be given as follows:

(a) In case of perishable property, by posting written notice of the time and place of the sale in three (3) public places, preferably in conspicuous areas of the municipal or city hall, post office and public market in the municipality or city where the sale is to take place, for such time as may be reasonable, considering the character and condition of the property;

(b) In case of other personal property, by posting a similar notice in the three (3) public places above-mentioned for not less than five (5) days;

(c) In case of real property, by posting for twenty (20) days in the three (3) public places above-mentioned a similar notice particularly describing the property and stating where the property is to be sold, and if the assessed value of the property exceeds fifty thousand (P50,000.00) pesos, by publishing a copy of the notice once a week for two (2) consecutive weeks in one newspaper selected by raffle, whether in English, Filipino, or any major regional language published, edited and circulated or, in the absence thereof, having general circulation in the province or city;

(d) In all cases, written notice of the sale shall be given to the judgment obligor, at least three (3) days before the sale, except as provided in paragraph (a) hereof where notice shall be given at any time before the sale, in the same manner as personal service of pleadings and other papers as provided by section 6 of Rule 13.

The notice shall specify the place, date and exact time of the sale which should not be earlier than nine o'clock in the morning and not later than two o'clock in the afternoon. The place of the sale may be agreed upon by the parties. In the absence of such agreement, the sale of real property or personal property not capable of manual delivery shall be held in the office of the clerk of court of the Regional Trial Court or the Municipal Trial Court which issued the writ or which was designated by the appellate court. In the case of personal property capable of manual delivery, the sale shall be held in the place where the property is located. (18a)

Section 16. *Proceedings where property claimed by third person.* – If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the

property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose. (17a)

Section 17. *Penalty for selling without notice, or removing or defacing notice.* – An officer selling without the notice prescribed by section 15 of this Rule shall be liable to pay punitive damages in the amount of five thousand (P5,000.00) pesos to any person injured thereby, in addition to his actual damages, both to be recovered by motion in the same action; and a person willfully removing or defacing the notice posted, if done before the sale, or before the satisfaction of the judgment if it be satisfied before the sale, shall be liable to pay five thousand (P5,000.00) pesos to any person injured by reason thereof, in addition to his actual damages, to be recovered by motion in the same action. (19a)

Section 18. *No sale if judgment and costs paid.* – At any time before the sale of property on execution, the judgment obligor may prevent the sale by paying the amount required by the execution and the costs that have been incurred therein. (20a)

Section 19. *How property sold on execution; who may direct manner and order of sale.* – All sales of property under execution must be made at public auction, to the highest bidder, to start at the exact time fixed in the notice. After sufficient property has been sold to satisfy the execution, no more shall be sold and any excess property or proceeds of the sale shall be promptly delivered to the judgment obligor or his authorized representative, unless otherwise directed by the judgment or order of the court. When the sale is of real property, consisting of several known lots, they must be sold separately; or, when a portion of such real property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within view of those attending the same and in such parcels as are likely to bring the highest price. The judgment obligor, if present at the sale, may direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels which can be sold to advantage separately. Neither the officer conducting the execution sale, nor his deputies, can become a purchaser, nor be interested directly or indirectly in any purchase at such sale. (21a)

Section 20. *Refusal of purchaser to pay.* – If a purchaser refuses to pay the amount bid by him for property struck off to him at a sale under execution, the officer may again sell the property to the highest bidder and shall not be responsible for any loss occasioned thereby; but the court may order the refusing

purchaser to pay into the court the amount of such loss, with costs, and may punish him for contempt if he disobeys the order. The amount of such payment shall be for the benefit of the person entitled to the proceeds of the execution, unless the execution has been fully satisfied, in which event such proceeds shall be for the benefit of the judgment obligor. The officer may thereafter reject any subsequent bid of such purchaser who refuses to pay. (22a)

Section 21. *Judgment obligee as purchaser.* – When the purchaser is the judgment obligee, and no third-party claim has been filed, he need not pay the amount of the bid if it does not exceed the amount of his judgment. If it does, he shall pay only the excess. (23a)

Section 22. *Adjournment of sale.* – By written consent of the judgment obligor and obligee, or their duly authorized representatives, the officer may adjourn the sale to any date and time agreed upon by them. Without such agreement, he may adjourn the sale from day to day if it becomes necessary to do so for lack of time to complete the sale on the day fixed in the notice or the day to which it was adjourned. (24a)

Section 23. *Conveyance to purchaser of personal property capable of manual delivery.* – When the purchaser of any personal property, capable of manual delivery, pays the purchase price, the officer making the sale must deliver the property to the purchaser and, if desired, execute and deliver to him a certificate of sale. The sale conveys to the purchaser all the rights which the judgment obligor had in such property as of the date of the levy on execution or preliminary attachment. (25a)

Section 24. *Conveyance to purchaser of personal property not capable of manual delivery.* – When the purchaser of any personal property, not capable of manual delivery, pays the purchase price, the officer making the sale must execute and deliver to the purchaser a certificate of sale. Such certificate conveys to the purchaser all the rights which the judgment obligor had in such property as of the date of the levy on execution or preliminary attachment. (26a)

Section 25. *Conveyance of real property; certificate thereof given to purchaser and filed with registry of deeds.* – Upon a sale of real property, the officer must give to the purchaser a certificate of sale containing:

(a) A particular description of the real property sold;

(b) The price paid for each distinct lot or parcel;

(c) The whole price paid by him;

(d) A statement that the right of redemption expires one (1) year from the date of the registration of the certificate of sale.

Such certificate must be registered in the registry of deeds of the place where the property is situated. (27a)

Section 26. *Certificate of sale where property claimed by third person.* – When a property sold by virtue of a writ of execution has been claimed by a third person, the certificate of sale to be issued by the sheriff pursuant to sections 23, 24 and 25 of this Rule shall make express mention of the existence of such third-party claim. (28a)

Section 27. *Who may redeem real property so sold.* – Real property sold as provided in the last preceding section, or any part thereof sold separately, may be redeemed in the manner hereinafter provided, by the following persons:

(a) The judgment obligor, or his successor in interest in the whole or any part of the property;

(b) A creditor having a lien by virtue of an attachment, judgment or mortgage on the property sold, or on some part thereof, subsequent to the lien under which the property was sold. Such redeeming creditor is termed a redemptioner. (29a)

Section 28. *Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed.* – The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one *per centum* per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two *per centum* thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two *per centum* thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own, with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registry of deeds of the place, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and filed with the registry of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens. (30a)

Section 29. *Effect of redemption by judgment obligor, and a certificate to be delivered and recorded thereupon; to whom payments on redemption made.* – If the judgment obligor redeems, he must make the same payments as are required to effect a redemption by a redemptioner, whereupon, no further redemption shall be allowed and he is restored to his estate. The person to whom the redemption payment is made must execute and deliver to him a certificate of redemption acknowledged before a notary public or other officer authorized to take acknowledgments of conveyances of real property. Such certificate must be filed and recorded in the registry of deeds of the place in which the property is situated, and the registrar of deeds must note the record thereof on the margin of the record of the certificate of sale. The payments mentioned in this and the last preceding sections may be made to the purchaser or redemptioner, or for him to the officer who made the sale. (31a)

Section 30. *Proof required of redemptioner.* – A redemptioner must produce to the officer, or person from whom he seeks to redeem, and serve with his notice to the officer a copy of the judgment or final order under which he claims the right to redeem, certified by the clerk of the court wherein the judgment or final order is entered; or, if he redeems upon a mortgage or other lien, a memorandum of the record thereof, certified by the registrar of deeds; or an original or certified copy of any assignment necessary to establish his claim; and an affidavit executed by him or his agent, showing the amount then actually due on the lien. (32a)

Section 31. *Manner of using premises pending redemption; waste restrained.* – Until the expiration of the time allowed for redemption, the court may, as in other proper cases, restrain the commission of waste on the property by injunction, on the application of the purchaser or the judgment obligee, with or without notice; but it is not waste for a person in possession of the property at the time of the sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use it in the ordinary course of husbandry; or to make the necessary repairs to buildings thereon while he occupies the property. (33a)

Section 32. *Rents, earnings and income of property pending redemption.* – The purchaser or a redemptioner shall not be entitled to receive the rents, earnings and income of the property sold on execution, or the value of the use and occupation thereof when such property is in the possession of a tenant. All rents, earnings and income derived from the property pending redemption shall belong to the judgment obligor until the expiration of his period of redemption. (34a)

Section 33. *Deed and possession to be given at expiration of redemption period; by whom executed or given.* – If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor. (35a)

Section 34. *Recovery of price if sale not effective; revival of judgment.* – If the purchaser of real property sold on execution, or his successor in interest, fails to recover the possession thereof, or is evicted therefrom, in consequence of irregularities in the proceedings concerning the sale, or because the judgment has been reversed or set aside, or because the property sold was exempt from execution, or because a third person has vindicated his claim to the property, he may on motion in the same action or in a separate action recover from the judgment obligee the price paid, with interest, or so much thereof as has not been delivered to the judgment obligor; or he may, on motion, have the original judgment revived in his name for the whole price with interest, or so much thereof as has been delivered to the

judgment obligor. The judgment so revived shall have the same force and effect as an original judgment would have as of the date of the revival and no more. (36a)

Section 35. *Right to contribution or reimbursement.* – When property liable to an execution against several persons is sold thereon, and more than a due proportion of the judgment is satisfied out of the proceeds of the sale of the property of one of them, or one of them pays, without a sale, more than his proportion, he may compel a contribution from the others; and when a judgment is upon an obligation of one of them, as security for another, and the surety pays the amount, or any part thereof, either by sale of his property or before sale, he may compel repayment from the principal. (37a)

Section 36. *Examination of judgment obligor when judgment unsatisfied.* – When the return of a writ of execution issued against property of a judgment obligor, or any one of several obligors in the same judgment, shows that the judgment remains unsatisfied, in whole or in part, the judgment obligee, at any time after such return is made, shall be entitled to an order from the court which rendered the said judgment, requiring such judgment obligor to appear and be examined concerning his property and income before such court or before a commissioner appointed by it, at a specified time and place; and proceedings may thereupon be had for the application of the property and income of the judgment obligor towards the satisfaction of the judgment. But no judgment obligor shall be so required to appear before a court or commissioner outside the province or city in which such obligor resides or is found. (38a)

Section 37. *Examination of obligor of judgment obligor.* – When the return of a writ of execution against the property of a judgment obligor shows that the judgment remains unsatisfied, in whole or in part, and upon proof to the satisfaction of the court which issued the writ, that a person, corporation, or other juridical entity has property of such judgment obligor or is indebted to him, the court may, by an order, require such person, corporation, or other juridical entity, or any officer or member thereof, to appear before the court or a commissioner appointed by it, at a time and place within the province or city where such debtor resides or is found, and be examined concerning the same. The service of the order shall bind all credits due the judgment obligor and all money and property of the judgment obligor in the possession or in the control of such person, corporation, or juridical entity from the time of service; and the court may also require notice of such proceedings to be given to any party to the action in such manner as it may deem proper. (39a)

Section 38. *Enforcement of attendance and conduct of examination.* – A party or other person may be compelled, by an order or subpoena, to attend before the court or commissioner to testify as provided in the two preceding sections, and upon failure to obey such order or subpoena or to be sworn, or to answer as a witness or to subscribe his deposition, may be punished for contempt as in other cases. Examinations shall not be unduly prolonged, but the proceedings may be adjourned from time to time, until they are completed. If the examination is before a commissioner, he must take it in writing and certify it to the court. All examinations and answers before a court or commissioner must be under oath, and when a corporation or other juridical entity answers, it must be on the oath of an authorized officer or agent thereof. (40a)

Section 39. *Obligor may pay execution against obligee.* – After a writ of execution against property has been issued, a person indebted to the judgment obligor may pay to the sheriff holding the writ of

execution the amount of his debt or so much thereof as may be necessary to satisfy the judgment, in the manner prescribed in section 9 of this Rule, and the sheriff's receipt shall be a sufficient discharge for the amount so paid or directed to be credited by the judgment obligee on the execution. (41a)

Section 40. *Order for application of property and income to satisfaction of judgment.* – The court may order any property of the judgment obligor, or money due him, not exempt from execution, in the hands of either himself or another person, or of a corporation or other juridical entity, to be applied to the satisfaction of the judgment, subject to any prior rights over such property.

If, upon investigation of his current income and expenses, it appears that the earnings of the judgment obligor for his personal services are more than necessary for the support of his family, the court may order that he pay the judgment in fixed monthly installments, and upon his failure to pay any such installment when due without good excuse, may punish him for indirect contempt. (42a)

Section 41. *Appointment of receiver.* – The court may appoint a receiver of the property of the judgment obligor; and it may also forbid a transfer or other disposition of, or any interference with, the property of the judgment obligor not exempt from execution. (43a)

Section 42. *Sale of ascertainable interest of judgment obligor in real estate.* – If it appears that the judgment obligor has an interest in real estate in the place in which proceedings are had, as mortgagor or mortgagee or otherwise, and his interest therein can be ascertained without controversy, the receiver may be ordered to sell and convey such real estate or the interest of the obligor therein; and such sale shall be conducted in all respects in the same manner as is provided for the sale of real estate upon execution, and the proceedings thereon shall be approved by the court before the execution of the deed. (44a)

Section 43. *Proceedings when indebtedness denied or another person claims the property.* – If it appears that a person or corporation, alleged to have property of the judgment obligor or to be indebted to him, claims an interest in the property adverse to him or denies the debt, the court may authorize, by an order made to that effect, the judgment obligee to institute an action against such person or corporation for the recovery of such interest or debt, forbid a transfer or other disposition of such interest or debt within one hundred twenty (120) days from notice of the order, and may punish disobedience of such order as for contempt. Such order may be modified or vacated at any time by the court which issued it, or by the court in which the action is brought, upon such terms as may be just. (45a)

Section 44. *Entry of satisfaction of judgment by clerk of court.* – Satisfaction of a judgment shall be entered by the clerk of court in the court docket, and in the execution book, upon the return of a writ of execution showing the full satisfaction of the judgment, or upon the filing of an admission to the satisfaction of the judgment executed and acknowledged in the same manner as a conveyance of real property by the judgment obligee or by his counsel unless a revocation of his authority is filed, or upon the endorsement of such admission by the judgment obligee or his counsel on the face of the record of the judgment. (46a)

Section 45. *Entry of satisfaction with or without admission.* – Whenever a judgment is satisfied in fact, or otherwise than upon an execution, on demand of the judgment obligor, the judgment obligee or his counsel must execute and acknowledge, or indorse, an admission of the satisfaction as provided in the

last preceding section, and after notice and upon motion the court may order either the judgment obligee or his counsel to do so, or may order the entry of satisfaction to be made without such admission. (47a)

Section 46. *When principal bound by judgment against surety.* – When a judgment is rendered against a party who stands as surety for another, the latter is also bound from the time that he has notice of the action or proceeding, and an opportunity at the surety's request to join in the defense. (48a)

Section 47. *Effect of judgments or final orders.* – The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

(a) In case of a judgment or final order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is conclusive upon the title to the thing, the will or administration, or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be *prima facie* evidence of the death of the testator or intestate;

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; and

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto. (49a)

Section 48. *Effect of foreign judgments or final orders.* – The effect of a judgment or final order of a tribunal of a foreign country, having jurisdiction to render the judgment or final order is as follows:

(a) In case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and

(b) In case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right as between the parties and their successors in interest by a subsequent title.

In either case, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud, or clear mistake of law or fact. (50a)

APPEALS

RULE 40
APPEAL FROM MUNICIPAL TRIAL COURTS TO THE REGIONAL TRIAL COURTS

Section 1. *Where to appeal.* – An appeal from a judgment or final order of a Municipal Trial Court may be taken to the Regional Trial Court exercising jurisdiction over the area to which the former pertains. The title of the case shall remain as it was in the court of origin, but the party appealing the case shall be further referred to as the appellant and the adverse party as the appellee. (n)

Section 2. *When to appeal.* – An appeal may be taken within fifteen (15) days after notice to the appellant of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days after notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed. (n)

Section 3. *How to appeal.* – The appeal is taken by filing a notice of appeal with the court that rendered the judgment or final order appealed from. The notice of appeal shall indicate the parties to the appeal, the judgment or final order or part thereof appealed from, and state the material dates showing the timeliness of the appeal.

A record on appeal shall be required only in special proceedings and in other cases of multiple or separate appeals.

The form and contents of the record on appeal shall be as provided in section 6, Rule 41.

Copies of the notice of appeal, and the record on appeal where required, shall be served on the adverse party. (n)

Section 4. *Perfection of appeal; effect thereof.* – The perfection of the appeal and the effect thereof shall be governed by the provisions of section 9, Rule 41. (n)

Section 5. *Appellate court docket and other lawful fees.* – Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from the full amount of the appellate court docket and other lawful fees. Proof of payment thereof shall be transmitted to the appellate court together with the original record or the record on appeal, as the case may be. (n)

Section 6. *Duty of the clerk of court.* – Within fifteen (15) days from the perfection of the appeal, the clerk of court or the branch clerk of court of the lower court shall transmit the original record or the record on appeal, together with the transcripts and exhibits, which he shall certify as complete, to the proper Regional Trial Court. A copy of his letter of transmittal of the records to the appellate court shall be furnished the parties. (n)

Section 7. *Procedure in the Regional Trial Court.* –

(a) Upon receipt of the complete record or the record on appeal, the clerk of court of the Regional Trial Court shall notify the parties of such fact.

(b) Within fifteen (15) days from such notice, it shall be the duty of the appellant to submit a memorandum which shall briefly discuss the errors imputed to the lower court, a copy of which shall be furnished by him to the adverse party. Within fifteen (15) days from receipt of the appellant's memorandum, the appellee may file his memorandum. Failure of the appellant to file a memorandum shall be a ground for dismissal of the appeal.

(c) Upon the filing of the memorandum of the appellee or the expiration of the period to do so, the case shall be considered submitted for decision. The Regional Trial Court shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed. (n)

Section 8. *Appeal from orders dismissing case without trial; lack of jurisdiction.* – If an appeal is taken from an order of the lower court dismissing the case without a trial on the merits, the Regional Trial Court may affirm or reverse it, as the case may be. In case of affirmance and the ground of dismissal is lack of jurisdiction over the subject matter, the Regional Trial Court, if it has jurisdiction thereover, shall try the case on the merits as if the case was originally filed with it. In case of reversal, the case shall be remanded for further proceedings.

If the case was tried on the merits by the lower court without jurisdiction over the subject matter, the Regional Trial Court on appeal shall not dismiss the case if it has original jurisdiction thereof, but shall decide the case in accordance with the preceding section, without prejudice to the admission of amended pleadings and additional evidence in the interest of justice. (n)

Section 9. *Applicability of Rule 41.* – The other provisions of Rule 41 shall apply to appeals provided for herein insofar as they are not inconsistent with or may serve to supplement the provisions of this Rule. (n)

RULE 41
APPEAL FROM THE REGIONAL TRIAL COURTS

Section 1. *Subject of appeal.* – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a petition for relief or any similar motion seeking relief from judgement;

(b) An interlocutory order;

(c) An order disallowing or dismissing an appeal;

(d) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;

(e) An order of execution;

(f) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and

(g) An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65. *(As amended by A.M. No. 07-7-12-SC, December 1, 2007.)*

Section 2. *Modes of appeal.* –

(a) *Ordinary appeal.* – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b) *Petition for review.* – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c) *Appeal by certiorari.* – In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45. (n)

Section 3. *Period of ordinary appeal; appeal in habeas corpus cases.* – The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellants shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order. However, on appeal in habeas corpus cases shall be taken within forty-eight (48) hours from notice of the judgment or final order appealed from. *(A.M. No. 01-1-03-SC, June 19, 2001.)*

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed. (n)

Section 4. *Appellate court docket and other lawful fees.* – Within the period for taking an appeal, the appellant shall pay to the clerk of the court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees. Proof of payment of said fees shall be transmitted to the appellate court together with the original record or the record on appeal. (n)

Section 5. *Notice of appeal.* – The notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal. (4a)

Section 6. *Record on appeal; form and contents thereof.* – The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the judgment or

final order from which the appeal is taken and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed judgment or final order for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. If an issue of fact is to be raised on appeal, the record on appeal shall include by reference all the evidence, testimonial and documentary, taken upon the issue involved. The reference shall specify the documentary evidence by the exhibit numbers or letters by which it was identified when admitted or offered at the hearing, and the testimonial evidence by the names of the corresponding witnesses. If the whole testimonial and documentary evidence in the case is to be included, a statement to that effect will be sufficient without mentioning the names of the witnesses or the numbers or letters of exhibits. Every record on appeal exceeding twenty (20) pages must contain a subject index. (6a)

Section 7. *Approval of record on appeal.* – Upon the filing of the record on appeal for approval and if no objection is filed by the appellee within five (5) days from receipt of a copy thereof, the trial court may approve it as presented or upon its own motion or at the instance of the appellee, may direct its amendment by the inclusion of any omitted matters which are deemed essential to the determination of the issue of law or fact involved in the appeal. If the trial court orders the amendment of the record, the appellant, within the time limited in the order, or such extension thereof as may be granted, or if no time is fixed by the order within ten (10) days from receipt thereof, shall redraft the record by including therein, in their proper chronological sequence, such additional matters as the court may have directed him to incorporate, and shall thereupon submit the redrafted record for approval, upon notice to the appellee, in like manner as the original draft. (7a)

Section 8. *Joint record on appeal.* – Where both parties are appellants, they may file a joint record on appeal within the time fixed by section 3 of this Rule, or that fixed by the court. (8a)

Section 9. *Perfection of appeal; effect thereof.* – A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

In appeals by record on appeal, the court loses jurisdiction only over the subject matter thereof upon the approval of the records on appeal filed in due time and the expiration of the time to appeal of the other parties.

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with section 2 of Rule 39, and allow withdrawal of the appeal. (9a)

Section 10. *Duty of clerk of court of the lower court upon perfection of appeal.* – Within thirty (30) days after perfection of all the appeals in accordance with the preceding section, it shall be the duty of the clerk of court of the lower court:

(a) To verify the correctness of the original record or the record on appeal, as the case may be, and to make a certification of its correctness;

(b) To verify the completeness of the records that will be transmitted to the appellate court;

(c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and

(d) To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

The clerk of court shall furnish the parties with copies of his letter of transmittal of the records to the appellate court. (10a)

Section 11. *Transcript.* – Upon the perfection of the appeal, the clerk shall immediately direct the stenographers concerned to attach to the record of the case five (5) copies of the transcripts of the testimonial evidence referred to in the record on appeal. The stenographers concerned shall transcribe such testimonial evidence and shall prepare and affix to their transcripts an index containing the names of the witnesses and the pages wherein their testimonies are found, and a list of the exhibits and the pages wherein each of them appears to have been offered and admitted or rejected by the trial court. The transcripts shall be transmitted to the clerk of the trial court who shall thereupon arrange the same in the order in which the witnesses testified at the trial, and shall cause the pages to be numbered consecutively. (12a)

Section 12. *Transmittal.* – The clerk of the trial court shall transmit to the appellate court the original record or the approved record on appeal within thirty (30) days from the perfection of the appeal, together with the proof of payment of the appellate court docket and other lawful fees, a certified true copy of the minutes of the proceedings, the order of approval, the certificate of correctness, the original documentary evidence referred to therein, and the original and three (3) copies of the transcripts. Copies of the transcripts and certified true copies of the documentary evidence shall remain in the lower court for the examination of the parties. (11a)

Section 13. *Dismissal of appeal.* – Prior to the transmittal of the original record or the record on appeal to the appellate court, the trial court may, *motu proprio* or on motion, dismiss the appeal for having been taken out of time or for non-payment of the docket and other lawful fees within the reglementary period. *(As amended by A.M. No. 00-2-10-SC, May 1, 2000.)*

RULE 42

PETITION FOR REVIEW FROM THE REGIONAL TRIAL COURTS TO THE COURT OF APPEALS

Section 1. *How appeal taken; time for filing.* – A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket

and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (n)

Section 2. *Form and contents.* – The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (n)

Section 3. *Effect of failure to comply with requirements.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. (n)

Section 4. *Action on the petition.* – The Court of Appeals may require the respondent to file a comment on the petition, not a motion to dismiss, within ten (10) days from notice, or dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (n)

Section 5. *Contents of comment.* – The comment of the respondent shall be filed in seven (7) legible copies, accompanied by certified true copies of such material portions of the record referred to therein together with other supporting papers and shall (a) state whether or not he accepts the statement of matters involved in the petition; (b) point out such insufficiencies or inaccuracies as he believes exist in petitioner's statement of matters involved but without repetition; and (c) state the reasons why the petition should not be given due course. A copy thereof shall be served on the petitioner. (n)

Section 6. *Due course.* – If upon the filing of the comment or such other pleadings as the court may allow or require, or after the expiration of the period for the filing thereof without such comment or pleading having been submitted, the Court of Appeals finds *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may accordingly give due course to the petition. (n)

Section 7. *Elevation of record.* – Whenever the Court of Appeals deems it necessary, it may order the clerk of court of the Regional Trial Court to elevate the original record of the case including the oral and documentary evidence within fifteen (15) days from notice. (n)

Section 8. *Perfection of appeal; effect thereof.* –

(a) Upon the timely filing of a petition for review and the payment of the corresponding docket and other lawful fees, the appeal is deemed perfected as to the petitioner.

The Regional Trial Court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

However, before the Court of Appeals gives due course to the petition, the Regional Trial Court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with section 2 of Rule 39, and allow withdrawal of the appeal. (9a, R41)

(b) Except in civil cases decided under the Rule on Summary Procedure, the appeal shall stay the judgment or final order unless the Court of Appeals, the law, or these Rules shall provide otherwise. (n)

Section 9. *Submission for decision.* – If the petition is given due course, the Court of Appeals may set the case for oral argument or require the parties to submit memoranda within a period of fifteen (15) days from notice. The case shall be deemed submitted for decision upon the filing of the last pleading or memorandum required by these Rules or by the court itself. (n)

RULE 43

APPEALS FROM THE COURT OF TAX APPEALS AND QUASI-JUDICIAL AGENCIES TO THE COURT OF APPEALS

Section 1. *Scope.* – This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board

of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law. (n)

Section 2. *Cases not covered.* – This Rule shall not apply to judgments or final orders issued under the Labor Code of Philippines. (n)

Section 3. *Where to appeal.* – An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law. (n)

Section 4. *Period of appeal.* – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (n)

Section 5. *How appeal taken.* – Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, with proof of service of a copy thereof on the adverse party and on the court or agency *a quo*. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner.

Upon the filing of the petition, the petitioner shall pay to the clerk of court of the Court of Appeals the docketing and other lawful fees and deposit the sum of P500.00 for costs. Exemption from payment of docketing and other lawful fees and the deposit for costs may be granted by the Court of Appeals upon a verified motion setting forth valid grounds therefor. If the Court of Appeals denies the motion, the petitioner shall pay the docketing and other lawful fees and deposit for costs within fifteen (15) days from notice of the denial. (n)

Section 6. *Contents of the petition.* – The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (2a)

Section 7. *Effect of failure to comply with requirements.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. (n)

Section 8. *Action on the petition.* – The Court of Appeals may require the respondent to file a comment on the petition, not a motion to dismiss, within ten (10) days from notice, or dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (6a)

Section 9. *Contents of comment.* – The comment shall be filed within ten (10) days from notice in seven (7) legible copies and accompanied by clearly legible certified true copies of such material portions of the record referred to therein together with other supporting papers. The comment shall (a) point out insufficiencies or inaccuracies in petitioner's statement of facts and issues; and (b) state the reasons why the petition should be denied or dismissed. A copy thereof shall be served on the petitioner, and proof of such service shall be filed with the Court of Appeals. (9a)

Section 10. *Due course.* – If upon the filing of the comment or such other pleadings or documents as may be required or allowed by the Court of Appeals or upon the expiration of the period for the filing thereof, and on the basis of the petition or the records the Court of Appeals finds *prima facie* that the court or agency concerned has committed errors of fact or law that would warrant reversal or modification of the award, judgment, final order or resolution sought to be reviewed, it may give due course to the petition; otherwise, it shall dismiss the same. The findings of fact of the court or agency concerned, when supported by substantial evidence, shall be binding on the Court of Appeals. (n)

Section 11. *Transmittal of record.* – Within fifteen (15) days from notice that the petition has been given due course, the Court of Appeals may require the court or agency concerned to transmit the original or a legible certified true copy of the entire record of the proceeding under review. The record to be transmitted may be abridged by agreement of all parties to the proceeding. The Court of Appeals may require or permit subsequent correction of or addition to the record. (8a)

Section 12. *Effect of appeal.* – The appeal shall not stay the award, judgment, final order or resolution sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just. (10a)

Section 13. *Submission for decision.* – If the petition is given due course, the Court of Appeals may set the case for oral argument or require the parties to submit memoranda within a period of fifteen (15) days from notice. The case shall be deemed submitted for decision upon the filing of the last pleading or memorandum required by these Rules or by the Court of Appeals. (n)

PROCEDURE IN THE COURT OF APPEALS

RULE 44
ORDINARY APPEALED CASES

Section 1. *Title of cases.* – In all cases appealed to the Court of Appeals under Rule 41, the title of the case shall remain as it was in the court of origin, but the party appealing the case shall be further referred to as the appellant and the adverse party as the appellee. (1a, R46)

Section 2. *Counsel and guardians.* – The counsel and guardians *ad litem* of the parties in the court of origin shall be respectively considered as their counsel and guardians *ad litem* in the Court of Appeals. When others appear or are appointed, notice thereof shall be served immediately on the adverse party and filed with the court. (2a, R46)

Section 3. *Order of transmittal of record.* – If the original record or the record on appeal is not transmitted to the Court of Appeals within thirty (30) days after the perfection of the appeal, either party may file a motion with the trial court, with notice to the other, for the transmittal of such record or record on appeal. (3a, R46)

Section 4. *Docketing of case.* – Upon receiving the original record or the record on appeal and the accompanying documents and exhibits transmitted by the lower court, as well as the proof of payment of the docket and other lawful fees, the clerk of court of the Court of Appeals shall docket the case and notify the parties thereof. (4a, R46)

Within ten (10) days from receipt of said notice, the appellant, in appeals by record on appeal, shall file with the clerk of court seven (7) clearly legible copies of the approved record on appeal, together with the proof of service of two (2) copies thereof upon the appellee.

Any unauthorized alteration, omission or addition in the approved record on appeal shall be a ground for dismissal of the appeal. (n)

Section 5. *Completion of record.* – Where the record of the docketed case is incomplete, the clerk of court of the Court of Appeals shall so inform said court and recommend to it measures necessary to complete the record. It shall be the duty of said court to take appropriate action towards the completion of the record within the shortest possible time. (n)

Section 6. *Dispensing with complete record.* – Where the completion of the record could not be accomplished within a sufficient period allotted for said purpose due to insuperable or extremely difficult causes, the court, on its own motion or on motion of any of the parties, may declare that the record and its accompanying transcripts and exhibits so far available are sufficient to decide the issues raised in the appeal, and shall issue an order explaining the reasons for such declaration. (n)

Section 7. *Appellant's brief.* – It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee. (10a, R46)

Section 8. *Appellee's brief.* – Within forty-five (45) days from receipt of the appellant's brief, the appellee shall file with the court seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellant. (11a, R46)

Section 9. *Appellant's reply brief.* – Within twenty (20) days from receipt of the appellee's brief, the appellant may file a reply brief answering points in the appellee's brief not covered in his main brief. (12, R46)

Section 10. *Time for filing memoranda in special cases.* – In certiorari, prohibition, mandamus, quo warranto and habeas corpus cases, the parties shall file, in lieu of briefs, their respective memoranda within a non-extendible period of thirty (30) days from receipt of the notice issued by the clerk that all the evidence, oral and documentary, is already attached to the record. (13a, R46)

The failure of the appellant to file his memorandum within the period therefor may be a ground for dismissal of the appeal. (n)

Section 11. *Several appellants or appellees or several counsel for each party.* – Where there are several appellants or appellees, each counsel representing one or more but not all of them shall be served with only one copy of the briefs. When several counsel represent one appellant or appellee, copies of the brief may be served upon any of them. (14a, R46)

Section 12. *Extension of time for filing briefs.* – Extension of time for the filing of briefs will not be allowed, except for good and sufficient cause, and only if the motion for extension is filed before the expiration of the time sought to be extended. (15, R46)

Section 13. *Contents of appellant's brief.* – The appellant's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;

(c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

(e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;

(f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;

(g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and

(h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from. (16a, R46)

Section 14. *Contents of appellee's brief.* – The appellee's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) Under the heading "Statement of Facts," the appellee shall state that he accepts the statement of facts in the appellant's brief, or under the heading "Counter-Statement of Facts," he shall point out such insufficiencies or inaccuracies as he believes exist in the appellant's statement of facts with references to the pages of the record in support thereof, but without repetition of matters in the appellant's statement of facts; and

(c) Under the heading "Argument," the appellee shall set forth his arguments in the case on each assignment of error with page references to the record. The authorities relied on shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found. (17a, R46)

Section 15. *Questions that may be raised on appeal.* – Whether or not the appellant has filed a motion for new trial court below, he may include in his assignment of errors any question of law or fact that has been raised in the court below and which is within the issues framed by the parties. (18, R46)

RULE 45
APPEAL BY CERTIORARI TO THE SUPREME COURT

Section 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

Section 2. *Time for filing; extension.* – The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition. (1a, 5a)

Section 3. *Docket and other lawful fees; proof of service of petition.* – Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of P500.00 for costs at the time of the filing of the petition. Proof of service of a copy thereof on the lower court concerned and on the adverse party shall be submitted together with the petition. (1a)

Section 4. *Contents of petition.* – The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (2a)

Section 5. *Dismissal or denial of petition.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (3a)

Section 6. *Review discretionary.* – A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

(a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or

(b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision. (4a)

Section 7. *Pleadings and documents that may be required; sanctions.* – For purposes of determining whether the petition should be dismissed or denied pursuant to section 5 of this Rule, or where the petition is given due course under section 8 hereof, the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate, and impose the corresponding sanctions in case of non-filing or unauthorized filing of such pleadings and documents or non-compliance with the conditions therefor. (n)

Section 8. *Due course; elevation of records.* – If the petition is given due course, the Supreme Court may require the elevation of the complete record of the case or specified parts thereof within fifteen (15) days from notice. (2a)

Section 9. *Rule applicable to both civil and criminal cases.* – The mode of appeal prescribed in this Rule shall be applicable to both civil and criminal cases, except in criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment. (n)

RULE 46
ORIGINAL CASES

Section 1. *Title of cases.* – In all cases originally filed in the Court of Appeals, the party instituting the action shall be called the petitioner and the opposing party the respondent. (1a)

Section 2. *To what actions applicable.* – This Rule shall apply to original actions for certiorari, prohibition, mandamus and quo warranto.

Except as otherwise provided, the actions for annulment of judgment shall be governed by Rule 47, for certiorari, prohibition and mandamus by Rule 65, and for quo warranto by Rule 66. (n)

Section 3. *Contents and filing of petition; effect of non-compliance with requirements.* – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed when notice of the denial thereof was received. *(Cir. No. 39-98.)*

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (n)

Section 4. *Jurisdiction over person of respondent, how acquired.* – The court shall acquire jurisdiction over the person of the respondent by the service on him of its order or resolution indicating its initial action on the petition or by his voluntary submission to such jurisdiction. (n)

Section 5. *Action by the court.* – The court may dismiss the petition outright with specific reasons for such dismissal or require the respondent to file a comment on the same within ten (10) days from notice. Only pleadings required by the court shall be allowed. All other pleadings and papers may be filed only with leave of court. (n)

Section 6. *Determination of factual issues.* – Whenever necessary to resolve factual issues, the court itself may conduct hearings thereon or delegate the reception of the evidence on such issues to any of its members or to an appropriate court, agency or office. (n)

Section 7. *Effect of failure to file comment.* – When no comment is filed by any of the respondents, the case may be decided on the basis of the record, without prejudice to any disciplinary action which the court may take against the disobedient party. (n)

RULE 47
ANNULMENT OF JUDGMENTS OR FINAL ORDERS AND RESOLUTIONS

Section 1. *Coverage.* – This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. (n)

Section 2. *Grounds for annulment.* – The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief. (n)

Section 3. *Period for filing action.* – If based on extrinsic fraud, the action must be filed within four (4) years from its discovery; and if based on lack of jurisdiction, before it is barred by laches or estoppel. (n)

Section 4. *Filing and contents of petition.* – The action shall be commenced by filing a verified petition alleging therein with particularity the facts and the law relied upon for annulment, as well as those supporting the petitioner's good and substantial cause of action or defense, as the case may be.

The petition shall be filed in seven (7) clearly legible copies, together with sufficient copies corresponding to the number of respondents. A certified true copy of the judgment or final order or resolution shall be attached to the original copy of the petition intended for the court and indicated as such by the petitioner.

The petitioner shall also submit together with the petition affidavits of witnesses or documents supporting the cause of action or defense and a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different

divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same, and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom. (n)

Section 5. *Action by the court.* – Should the court find no substantial merit in the petition, the same may be dismissed outright with specific reasons for such dismissal.

Should *prima facie* merit be found in the petition, the same shall be given due course and summons shall be served on the respondent. (n)

Section 6. *Procedure.* – The procedure in ordinary civil cases shall be observed. Should a trial be necessary, the reception of the evidence may be referred to a member of the court or a judge of a Regional Trial Court. (n)

Section 7. *Effect of judgment.* – A judgment of annulment shall set aside the questioned judgment or final order or resolution and render the same null and void, without prejudice to the original action being refiled in the proper court. However, where the judgment or final order or resolution is set aside on the ground of extrinsic fraud, the court may on motion order the trial court to try the case as if a timely motion for new trial had been granted therein. (n)

Section 8. *Suspension of prescriptive period.* – The prescriptive period for the refiling of the aforesaid original action shall be deemed suspended from the filing of such original action until the finality of the judgment of annulment. However, the prescriptive period shall not be suspended where the extrinsic fraud is attributable to the plaintiff in the original action. (n)

Section 9. *Relief available.* – The judgment of annulment may include the award of damages, attorney's fees and other relief.

If the questioned judgment or final order or resolution had already been executed, the court may issue such orders of restitution or other relief as justice and equity may warrant under the circumstances. (n)

Section 10. *Annulment of judgments or final orders of Municipal Trial Courts.* – An action to annul a judgment or final order of a Municipal Trial Court shall be filed in the Regional Trial Court having jurisdiction over the former. It shall be treated as an ordinary civil action and sections 2, 3 4, 7, 8 and 9 of this Rule shall be applicable thereto. (n)

RULE 48
PRELIMINARY CONFERENCE

Section 1. *Preliminary conference.* – At any time during the pendency of a case, the court may call the parties and their counsel to a preliminary conference:

(a) To consider the possibility of an amicable settlement, except when the case is not allowed by law to be compromised;

(b) To define, simplify and clarify the issues for determination;

(c) To formulate stipulations of facts and admissions of documentary exhibits, limit the number of witnesses to be presented in cases falling within the original jurisdiction of the court, or those within its appellate jurisdiction where a motion for new trial is granted on the ground of newly discovered evidence; and

(d) To take up such other matters which may aid the court in the prompt disposition of the case. (Rule 7, CA Internal Rules) (n)

Section 2. *Record of the conference.* – The proceedings at such conference shall be recorded and, upon the conclusion thereof, a resolution shall be issued embodying all the actions taken therein, the stipulations and admissions made, and the issues defined. (n)

Section 3. *Binding effect of the results of the conference.* – Subject to such modifications which may be made to prevent manifest injustice, the resolution in the preceding section shall control the subsequent proceedings in the case unless, within five (5) days from notice thereof, any party shall satisfactorily show valid cause why the same should not be followed. (n)

RULE 49
ORAL ARGUMENT

Section 1. *When allowed.* – At its own instance or upon motion of a party, the court may hear the parties in oral argument on the merits of a case, or on any material incident in connection therewith. (n)

The oral argument shall be limited to such matters as the court may specify in its order or resolution. (1a, R48)

Section 2. *Conduct of oral argument.* – Unless authorized by the court, only one counsel may argue for a party. The duration allowed for each party, the sequence of the argumentation, and all other related matters shall be as directed by the court. (n)

Section 3. *No hearing or oral argument for motions.* – Motions shall not be set for hearing and, unless the court otherwise directs, no hearing or oral argument shall be allowed in support thereof. The adverse party may file objections to the motion within five (5) days from service, upon the expiration of which such motion shall be deemed submitted for resolution. (2a, R49)

RULE 50
DISMISSAL OF APPEAL

Section 1. *Grounds for dismissal of appeal.* – An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

(a) Failure of the record on appeal to show on its face that the appeal was taken within the period fixed by these Rules;

(b) Failure to file the notice of appeal or the record on appeal within the period prescribed by these Rules;

(c) Failure of the appellant to pay the docket and other lawful fees as provided in section 5 of Rule 40 and section 4 of Rule 41;

(d) Unauthorized alterations, omissions or additions in the approved record on appeal as provided in section 4 of Rule 44;

(e) Failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by these Rules;

(f) Absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44;

(g) Failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the court in its order;

(h) Failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause; and

(i) The fact that the order or judgment appealed from is not appealable. (1a; *En Banc* Resolution, February 17, 1998.)

Section 2. *Dismissal of improper appeal to the Court of Appeals.* – An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed. (n)

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright. (3a)

Section 3. *Withdrawal of appeal.* – An appeal may be withdrawn as of right at any time before the filing of the appellee's brief. Thereafter, the withdrawal may be allowed in the discretion of the court. (4a)

RULE 51
JUDGMENT

Section 1. *When case deemed submitted for judgment.* – A case shall be deemed submitted for judgment:

A. In ordinary appeals.

1) Where no hearing on the merits of the main case is held, upon the filing of the last pleading, brief, or memorandum required by the Rules or by the court itself, or the expiration of the period for its filing.

2) Where such a hearing is held, upon its termination or upon the filing of the last pleading or memorandum as may be required or permitted to be filed by the court, or the expiration of the period for its filing.

B. In original actions and petitions for review.

1) Where no comment is filed, upon the expiration of the period to comment.

2) Where no hearing is held, upon the filing of the last pleading required or permitted to be filed by the court, or the expiration of the period for its filing.

3) Where a hearing on the merits of the main case is held, upon its termination or upon the filing of the last pleading or memorandum as may be required or permitted to be filed by the court, or the expiration of the period for its filing. (n)

Section 2. *By whom rendered.* – The judgment shall be rendered by the members of the court who participated in the deliberation on the merits of the case before its assignment to a member for the writing of the decision. (n)

Section 3. *Quorum and voting in the court.* – The participation of all three Justices of a division shall be necessary at the deliberation and the unanimous vote of the three Justices shall be required for the pronouncement of a judgment or final resolution. If the three Justices do not reach a unanimous vote, the clerk shall enter the votes of the dissenting Justices in the record. Thereafter, the Chairman of the division shall refer the case, together with the minutes of the deliberation, to the Presiding Justice who shall designate two Justices chosen by raffle from among all the other members of the court to sit temporarily with them, forming a special division of five Justices. The participation of all the five members of the special division shall be necessary for the deliberation required in section 2 of this Rule and the concurrence of a majority of such division shall be required for the pronouncement of a judgment or final resolution. (2a)

Section 4. *Disposition of a case.* – The Court of Appeals, in the exercise of its appellate jurisdiction, may affirm, reverse, or modify the judgment or final order appealed from, and may direct a new trial or further proceedings to be had. (3a)

Section 5. *Form of decision.* – Every decision or final resolution of the court in appealed cases shall clearly and distinctly state the findings of fact and the conclusions of law on which it is based, which may be contained in the decision or final resolution itself, or adopted from those set forth in the decision, order, or resolution appealed from. (Sec. 40, BP Blg. 129) (n)

Section 6. *Harmless error.* – No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the trial court or by any of the parties is ground for granting a new trial or for setting aside, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect which does not affect the substantial rights of the parties. (5a)

Section 7. *Judgment where there are several parties.* – In all actions or proceedings, an appealed judgment may be affirmed as to some of the appellants, and reversed as to others, and the case shall thereafter be proceeded with, so far as necessary, as if separate actions had been begun and prosecuted; and execution of the judgment of affirmance may be had accordingly, and costs may be adjudged in such cases, as the court shall deem proper. (6)

Section 8. *Questions that may be decided.* – No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors. (7a)

Section 9. *Promulgation and notice of judgment.* – After the judgment or final resolution and dissenting or separate opinions, if any, are signed by the Justices taking part, they shall be delivered for filing to the clerk who shall indicate thereon the date of promulgation and cause true copies thereof to be served upon the parties or their counsel. (n)

Section 10. *Entry of judgments and final resolutions.* – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. The record shall contain the dispositive part of the judgment or final resolution and shall be signed by the clerk, with a certificate that such judgment or final resolution has become final and executory. (2a, R36)

Section 11. *Execution of judgment.* – Except where the judgment or final order or resolution, or a portion thereof, is ordered to be immediately executory, the motion for its execution may only be filed in the proper court after its entry.

In original actions in the Court of Appeals, its writ of execution shall be accompanied by a certified true copy of the entry of judgment or final resolution and addressed to any appropriate officer for its enforcement.

In appealed cases, where the motion for execution pending appeal is filed in the Court of Appeals at a time that it is in possession of the original record or the record on appeal, the resolution granting such motion shall be transmitted to the lower court from which the case originated, together with a certified true copy of the judgment or final order to be executed, with a directive for such court of origin to issue the proper writ for its enforcement. (n)

RULE 52
MOTION FOR RECONSIDERATION

Section 1. *Period for filing.* – A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party. (n)

Section 2. *Second motion for reconsideration.* – No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. (n)

Section 3. *Resolution of motion.* – In the Court of Appeals, a motion for reconsideration shall be resolved within ninety (90) days from the date when the court declares it submitted for resolution. (n)

Section 4. *Stay of execution.* – The pendency of a motion for reconsideration filed on time and by the proper party shall stay the execution of the judgment or final resolution sought to be reconsidered unless the court, for good reasons, shall otherwise direct. (n)

RULE 53
NEW TRIAL

Section 1. *Period for filing; ground.* – At any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case, a party may file a motion for a new trial on the ground of newly discovered evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such a character as would probably change the result. The motion shall be accompanied by affidavits showing the facts constituting the grounds therefor and the newly discovered evidence. (1a)

Section 2. *Hearing and order.* – The Court of Appeals shall consider the new evidence together with that adduced at the trial below, and may grant or refuse a new trial, or may make such order, with notice to both parties, as to the taking of further testimony, either orally in court, or by depositions, or render such other judgment as ought to be rendered upon such terms as it may deem just. (2a)

Section 3. *Resolution of motion.* – In the Court of Appeals, a motion for new trial shall be resolved within ninety (90) days from the date when the court declares it submitted for resolution. (n)

Section 4. *Procedure in new trial.* – Unless the court otherwise directs, the procedure in the new trial shall be the same as that granted by a Regional Trial Court. (3a)

RULE 54
INTERNAL BUSINESS

Section 1. *Distribution of cases among divisions.* – All the cases of the Court of Appeals shall be allotted among the different divisions thereof for hearing and decision. The Court of Appeals, sitting *en banc,* shall make proper orders or rules to govern the allotment of cases among the different divisions, the constitution of such divisions, the regular rotation of Justices among them, the filling of vacancies occurring therein, and other matters relating to the business of the court; and such rules shall continue in force until repealed or altered by it or by the Supreme Court. (1a)

Section 2. *Quorum of the court.* – A majority of the actual members of the court shall constitute a quorum for its sessions *en banc.* Three members shall constitute a quorum for the sessions of a division. The affirmative votes of the majority of the members present shall be necessary to pass a resolution of the court *en banc.* The affirmative votes of three members of a division shall be necessary for the pronouncement of a judgment or final resolution, which shall be reached in consultation before the writing of the opinion by any member of the division. *(Section 11, first paragraph of Batas Pambansa Blg. 129, as amended by Section 6 of Executive Order 33)* (3a)

RULE 55
PUBLICATION OF JUDGMENTS AND FINAL RESOLUTIONS

Section 1. *Publication.* – The judgments and final resolutions of the court shall be published in the Official Gazette and in the Reports officially authorized by the court in the language in which they have been originally written, together with the syllabi therefor prepared by the reporter in consultation with the writers thereof. Memoranda of all other judgments and final resolutions not so published shall be made by the reporter and published in the Official Gazette and the authorized reports. (1a)

Section 2. *Preparation of opinions for publication.* – The reporter shall prepare and publish with each reported judgment and final resolution a concise synopsis of the facts necessary for a clear understanding of the case, the names of counsel, the material and controverted points involved, the authorities cited therein, and a syllabus which shall be confined to points of law. (Sec. 22a, RA No. 296) (n)

Section 3. *General make-up of volumes.* – The published decisions and final resolutions of the Supreme Court shall be called "Philippine Reports," while those of the Court of Appeals shall be known as the "Court of Appeals Reports." Each volume thereof shall contain a table of the cases reported and the cases cited in the opinions, with a complete alphabetical index of the subject matters of the volume. It shall consist of not less than seven hundred pages printed upon good paper, well bound and numbered consecutively in the order of the volumes published. (Sec. 23a, RA No. 296) (n)

PROCEDURE IN THE SUPREME COURT

RULE 56
A. ORIGINAL CASES

Section 1. *Original cases cognizable.* – Only petitions for certiorari, prohibition, mandamus, quo warranto, habeas corpus, disciplinary proceedings against members of the judiciary and attorneys, and cases affecting ambassadors, other public ministers and consuls may be filed originally in the Supreme Court. (n)

Section 2. *Rules applicable.* – The procedure in original cases for certiorari, prohibition, mandamus, quo warranto and habeas corpus shall be in accordance with the applicable provisions of the Constitution, laws, and Rules 46, 48, 49, 51, 52 and this Rule, subject to the following provisions:

a) All references in said Rules to the Court of Appeals shall be understood to also apply to the Supreme Court;

b) The portions of said Rules dealing strictly with and specifically intended for appealed cases in the Court of Appeals shall not be applicable; and

c) Eighteen (18) clearly legible copies of the petition shall be filed, together with proof of service on all adverse parties.

The proceedings for disciplinary action against members of the judiciary shall be governed by the laws and Rules prescribed therefor, and those against attorneys by Rule 139-B, as amended. (n)

B. APPEALED CASES

Section 3. *Mode of appeal.* – An appeal to the Supreme Court may be taken only by a petition for review on certiorari, except in criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment. (n)

Section 4. *Procedure.* – The appeal shall be governed by and disposed of in accordance with the applicable provisions of the Constitution, laws, Rules 45, 48, sections 1, 2, and 5 to 11 of Rule 51, 52 and this Rule. (n)

Section 5. *Grounds for dismissal of appeal.* – The appeal may be dismissed *motu proprio* or on motion of the respondent on the following grounds:

(a) Failure to take the appeal within the reglementary period;

(b) Lack of merit in the petition;

(c) Failure to pay the requisite docket fee and other lawful fees or to make a deposit for costs;

(d) Failure to comply with the requirements regarding proof of service and contents of and the documents which should accompany the petition;

(e) Failure to comply with any circular, directive or order of the Supreme Court without justifiable cause;

(f) Error in the choice or mode of appeal; and

(g) The fact that the case is not appealable to the Supreme Court. (n)

Section 6. *Disposition of improper appeal.* – Except as provided in section 3, Rule 122 regarding appeals in criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment, an appeal taken to the Supreme Court by notice of appeal shall be dismissed.

An appeal by certiorari taken to the Supreme Court from the Regional Trial Court submitting issues of fact may be referred to the Court of Appeals for decision or appropriate action. The determination of the Supreme Court on whether or not issues of fact are involved shall be final. (n)

Section 7. *Procedure if opinion is equally divided.* – Where the court *en banc* is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied. (11a)

PROVISIONAL REMEDIES

RULE 57
PRELIMINARY ATTACHMENT

Section 1. *Grounds upon which attachment may issue.* – At the commencement of the action or at any time before entry of judgment, a plaintiff or any proper party may have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:

(a) In an action for the recovery of a specified amount of money or damages, other than moral and exemplary, on a cause of action arising from law, contract, quasi-contract, delict or quasi-delict against a party who is about to depart from the Philippines with intent to defraud his creditors;

(b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent, or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;

(c) In an action to recover the possession of property unjustly or fraudulently taken, detained or converted, when the property, or any part thereof, has been concealed, removed, or disposed of to prevent its being found or taken by the applicant or an authorized person;

(d) In an action against a party who has been guilty of a fraud in contracting the debt or incurring the obligation upon which the action is brought, or in the performance thereof;

(e) In an action against a party who has removed or disposed of his property, or is about to do so, with intent to defraud his creditors; or

(f) In an action against a party who does not reside and is not found in the Philippines, or on whom summons may be served by publication. (1a)

Section 2. *Issuance and contents of order.* – An order of attachment may be issued either *ex parte* or upon motion with notice and hearing by the court in which the action is pending, or by the Court of Appeals or the Supreme Court, and must require the sheriff of the court to attach so much of the property in the Philippines of the party against whom it is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless such party makes deposit or gives a bond as hereinafter provided in an amount equal to that fixed in the order, which may be the amount sufficient to satisfy the applicant's demand or the value of the property to be attached as stated by the applicant, exclusive of costs. Several writs may be issued at the same time to the sheriffs of the courts of different judicial regions. (2a)

Section 3. *Affidavit and bond required.* – An order of attachment shall be granted only when it appears by the affidavit of the applicant, or of some other person who personally knows the facts, that a sufficient cause of action exists, that the case is one of those mentioned in section 1 hereof, that there is no other sufficient security for the claim sought to be enforced by the action, and that the amount due to the applicant, or the value of the property the possession of which he is entitled to recover, is as much as the sum for which the order is granted above all legal counterclaims. The affidavit, and the bond required by the next succeeding section, must be duly filed with the court before the order issues. (3a)

Section 4. *Condition of applicant's bond.* – The party applying for the order must thereafter give a bond executed to the adverse party in the amount fixed by the court in its order granting the issuance of the writ, conditioned that the latter will pay all the costs which may be adjudged to the adverse party and all damages which he may sustain by reason of the attachment, if the court shall finally adjudge that the applicant was not entitled thereto. (4a)

Section 5. *Manner of attaching property.* – The sheriff enforcing the writ shall without delay and with all reasonable diligence attach, to await judgment and execution in the action, only so much of the property in the Philippines of the party against whom the writ is issued, not exempt from execution, as may be sufficient to satisfy the applicant's demand, unless the former makes a deposit with the court from which the writ is issued, or gives a counter-bond executed to the applicant, in an amount equal to the bond fixed by the court in the order of attachment or to the value of the property to be attached, exclusive of costs. No levy on attachment pursuant to the writ issued under section 2 hereof shall be enforced unless it is preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint, the application for attachment, the applicant's affidavit and bond, and the order and writ of attachment, on the defendant within the Philippines.

The requirement of prior or contemporaneous service of summons shall not apply where the summons could not be served personally or by substituted service despite diligent efforts, or the defendant is a resident of the Philippines temporarily absent therefrom, or the defendant is a non-resident of the Philippines, or the action is one in *rem* or *quasi in rem*. (5a)

Section 6. *Sheriff's return.* – After enforcing the writ, the sheriff must likewise without delay make a return thereon to the court from which the writ issued, with a full statement of his proceedings under the writ and a complete inventory of the property attached, together with any counter-bond given by the party against whom attachment is issued, and serve copies thereof on the applicant. (6a)

Section 7. *Attachment of real and personal property; recording thereof.* – Real and personal property shall be attached by the sheriff executing the writ in the following manner:

(a) Real property, or growing crops thereon, or any interest therein, standing upon the record of the registry of deeds of the province in the name of the party against whom attachment is issued, or not appearing at all upon such records, or belonging to the party against whom attachment is issued and held by any other person, or standing on the records of the registry of deeds in the name of any other person, by filing with the registry of deeds a copy of the order, together with a description of the property attached, and a notice that it is attached, or that such real property and any interest therein held by or standing in the name of such other person are attached, and by leaving a copy of such order, description, and notice with the occupant of the property, if any, or with such other person or his agent if found within the province. Where the property has been brought under the operation of either the Land Registration Act or the Property Registration Decree, the notice shall contain a reference to the number of the certificate of title, the volume and page in the registration book where the certificate is registered, and the registered owner or owners thereof.

The registrar of deeds must index attachments filed under this section in the names of the applicant, the adverse party, or the person by whom the property is held or in whose name it stands in the records. If the attachment is not claimed on the entire area of the land covered

by the certificate of title, a description sufficiently accurate for the identification of the land or interest to be affected shall be included in the registration of such attachment;

(b) Personal property capable of manual delivery, by taking and safely keeping it in his custody, after issuing the corresponding receipt therefor;

(c) Stocks or shares, or an interest in stocks or shares, of any corporation or company, by leaving with the president or managing agent thereof, a copy of the writ, and a notice stating that the stock or interest of the party against whom the attachment is issued is attached in pursuance of such writ;

(d) Debts and credits, including bank deposits, financial interest, royalties, commissions and other personal property not capable of manual delivery, by leaving with the person owing such debts, or having in his possession or under his control, such credits or other personal property, or with his agent, a copy of the writ, and notice that the debts owing by him to the party against whom attachment is issued, and the credits and other personal property in his possession, or under his control, belonging to said party, are attached in pursuance of such writ;

(e) The interest of the party against whom attachment is issued in property belonging to the estate of the decedent, whether as heir, legatee, or devisee, by serving the executor or administrator or other personal representative of the decedent with a copy of the writ and notice that said interest is attached. A copy of said writ of attachment and of said notice shall also be filed in the office of the clerk of the court in which said estate is being settled and served upon the heir, legatee or devisee concerned.

If the property sought to be attached is in *custodia legis*, a copy of the writ of attachment shall be filed with the proper court or quasi-judicial agency, and notice of the attachment served upon the custodian of such property. (7a)

Section 8. *Effect of attachment of debts, credits and all other similar personal property.* – All persons having in their possession or under their control any credits or other similar personal property belonging to the party against whom attachment is issued, or owing any debts to him, at the time of service upon them of the copy of the writ of attachment and notice as provided in the last preceding section, shall be liable to the applicant for the amount of such credits, debts or other similar personal property, until the attachment is discharged, or any judgment recovered by him is satisfied, unless such property is delivered or transferred, or such debts are paid, to the clerk, sheriff, or other proper officer of the court issuing the attachment. (8a)

Section 9. *Effect of attachment of interest in property belonging to the estate of a decedent.* – The attachment of the interest of an heir, legatee, or devisee in the property belonging to the estate of a decedent shall not impair the powers of the executor, administrator, or other personal representative of the decedent over such property for the purpose of administration. Such personal representative, however, shall report the attachment to the court when any petition for distribution is filed, and in the order made upon such petition, distribution may be awarded to such heir, legatee, or devisee, but the property attached shall be ordered delivered to the sheriff making the levy, subject to the claim of such heir, legatee, or devisee, or any person claiming under him. (9a)

Section 10. *Examination of party whose property is attached and persons indebted to him or controlling his property; delivery of property to sheriff.* – Any person owing debts to the party whose property is attached or having in his possession or under his control any credit or other personal property belonging to such party, may be required to attend before the court in which the action is pending, or before a commissioner appointed by the court, and be examined on oath respecting the same. The party whose property is attached may also be required to attend for the purpose of giving information respecting his property, and may be examined on oath. The court may, after such examination, order personal property capable of manual delivery belonging to him, in the possession of the person so required to attend before the court, to be delivered to the clerk of the court or sheriff on such terms as may be just, having reference to any lien thereon or claim against the same, to await the judgment in the action. (10a)

Section 11. *When attached property may be sold after levy on attachment and before entry of judgment.* – Whenever it shall be made to appear to the court in which the action is pending, upon hearing with notice to both parties, that the property attached is perishable, or that the interests of all the parties to the action will be subserved by the sale thereof, the court may order such property to be sold at public auction in such manner as it may direct, and the proceeds of such sale to be deposited in court to abide the judgment in the action. (11a)

Section 12. *Discharge of attachment upon giving counter-bond.* – After a writ of attachment has been enforced, the party whose property has been attached, or the person appearing on his behalf, may move for the discharge of the attachment wholly or in part on the security given. The court shall, after due notice and hearing, order the discharge of the attachment if the movant makes a cash deposit, or files a counter-bond executed to the attaching party with the clerk of the court where the application is made, in an amount equal to that fixed by the court in the order of attachment, exclusive of costs. But if the attachment is sought to be discharged with respect to a particular property, the counter-bond shall be equal to the value of that property as determined by the court. In either case, the cash deposit or the counter-bond shall secure the payment of any judgment that the attaching party may recover in the action. A notice of the deposit shall forthwith be served on the attaching party. Upon the discharge of an attachment in accordance with the provisions of this section, the property attached, or the proceeds of any sale thereof, shall be delivered to the party making the deposit or giving the counter-bond, or to the person appearing on his behalf, the deposit or counter-bond aforesaid standing in place of the property so released. Should such counter-bond for any reason be found to be or become insufficient, and the party furnishing the same fail to file an additional counter-bond, the attaching party may apply for a new order of attachment. (12a)

Section 13. *Discharge of attachment on other grounds.* – The party whose property has been ordered attached may file a motion with the court in which the action is pending, before or after levy or even after the release of the attached property, for an order to set aside or discharge the attachment on the ground that the same was improperly or irregularly issued or enforced, or that the bond is insufficient. If the attachment is excessive, the discharge shall be limited to the excess. If the motion be made on affidavits on the part of the movant but not otherwise, the attaching party may oppose the motion by counter-affidavits or other evidence in addition to that on which the attachment was made. After due notice and hearing, the court shall order the setting aside or the corresponding discharge of the attachment if it appears that it was improperly or irregularly issued or enforced, or that the bond is insufficient, or that the attachment is excessive, and the defect is not cured forthwith. (13a)

Section 14. *Proceedings where property claimed by third person.* – If the property attached is claimed by any person other than the party against whom attachment had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds of such right or title, and serves such affidavit upon the sheriff while the latter has possession of the attached property, and a copy thereof upon the attaching party, the sheriff shall not be bound to keep the property under attachment, unless the attaching party or his agent, on demand of the sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied upon. In case of disagreement as to such value, the same shall be decided by the court issuing the writ of attachment. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The sheriff shall not be liable for damages for the taking or keeping of such property, to any such third-party claimant, if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the attaching party from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of attachment is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the attachment, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of the funds to be appropriated for the purpose. (14a)

Section 15. *Satisfaction of judgment out of property attached; return of sheriff.* – If judgment be recovered by the attaching party and execution issue thereon, the sheriff may cause the judgment to be satisfied out of the property attached, if it be sufficient for that purpose in the following manner:

(a) By paying to the judgment obligee the proceeds of all sales of perishable or other property sold in pursuance of the order of the court, or so much as shall be necessary to satisfy the judgment;

(b) If any balance remains due, by selling so much of the property, real or personal, as may be necessary to satisfy the balance, if enough for that purpose remain in the sheriffs hands, or in those of the clerk of the court;

(c) By collecting from all persons having in their possession credits belonging to the judgment obligor, or owing debts to the latter at the time of the attachment of such credits or debts, the amount of such credits and debts as determined by the court in the action, and stated in the judgment, and paying the proceeds of such collection over to the judgment obligee.

The sheriff shall forthwith make a return in writing to the court of his proceedings under this section and furnish the parties with copies thereof. (15a)

Section 16. *Balance due collected upon an execution; excess delivered to judgment obligor.* – If after realizing upon all the property attached, including the proceeds of any debts or credits collected, and applying the proceeds to the satisfaction of the judgment, less the expenses of proceedings upon the judgment, any balance shall remain due, the sheriff must proceed to collect such balance as upon

ordinary execution. Whenever the judgment shall have been paid, the sheriff, upon reasonable demand, must return to the judgment obligor the attached property remaining in his hands, and any proceeds of the sale of the property attached not applied to the judgment. (16a)

Section 17. *Recovery upon the counter-bond.* – When the judgment has become executory, the surety or sureties on any counter-bond given pursuant to the provisions of this Rule to secure the payment of the judgment shall become charged on such counter-bond and bound to pay the judgment obligee upon demand the amount due under the judgment, which amount may be recovered from such surety or sureties after notice and summary hearing in the same action. (17a)

Section 18. *Disposition of money deposited.* – Where the party against whom attachment had been issued has deposited money instead of giving counter-bond, it shall be applied under the direction of the court to the satisfaction of any judgment rendered in favor of the attaching party, and after satisfying the judgment the balance shall be refunded to the depositor or his assignee. If the judgment is in favor of the party against whom attachment was issued, the whole sum deposited must be refunded to him or his assignee. (18a)

Section 19. *Disposition of attached property where judgment is for party against whom attachment was issued.* – If judgment be rendered against the attaching party, all the proceeds of sales and money collected or received by the sheriff, under the order of attachment, and all property attached remaining in any such officer's hands, shall be delivered to the party against whom attachment was issued, and the order of attachment discharged. (19a)

Section 20. *Claim for damages on account of improper, irregular or excessive attachment.* – An application for damages on account of improper, irregular or excessive attachment must be filed before the trial or before appeal is perfected or before the judgment becomes executory, with due notice to the attaching party and his surety or sureties, setting forth the facts showing his right to damages and the amount thereof. Such damages may be awarded only after proper hearing and shall be included in the judgment on the main case.

If the judgment of the appellate court be favorable to the party against whom the attachment was issued, he must claim damages sustained during the pendency of the appeal by filing an application in the appellate court, with notice to the party in whose favor the attachment was issued or his surety or sureties, before the judgment of the appellate court becomes executory. The appellate court may allow the application to be heard and decided by the trial court.

Nothing herein contained shall prevent the party against whom the attachment was issued from recovering in the same action the damages awarded to him from any property of the attaching party not exempt from execution should the bond or deposit given by the latter be insufficient or fail to fully satisfy the award. (20a)

RULE 58
PRELIMINARY INJUNCTION

Section 1. *Preliminary injunction defined; classes.* – A preliminary injunction is an order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency

or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction. (1a)

Section 2. *Who may grant preliminary injunction.* – A preliminary injunction may be granted by the court where the action or proceeding is pending. If the action or proceeding is pending in the Court of Appeals or in the Supreme Court, it may be issued by said court or any member thereof. (2a)

Section 3. *Grounds for issuance of preliminary injunction.* – A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual. (3a)

Section 4. *Verified application and bond for preliminary injunction or temporary restraining order.* – A preliminary injunction or temporary restraining order may be granted only when:

(a) The application in the action or proceeding is verified, and shows facts entitling the applicant to the relief demanded; and

(b) Unless exempted by the court, the applicant files with the court where the action or proceeding is pending, a bond executed to the party or person enjoined, in an amount to be fixed by the court, to the effect that the applicant will pay to such party or person all damages which he may sustain by reason of the injunction or temporary restraining order if the court should finally decide that the applicant was not entitled thereto. Upon approval of the requisite bond, a writ of preliminary injunction shall be issued. (4a)

(c) When an application for a writ of preliminary injunction or a temporary restraining order is included in a complaint or any initiatory pleading, the case, if filed in a multiple-sala court, shall be raffled only after notice to and in the presence of the adverse party or the person to be enjoined. In any event, such notice shall be preceded, or contemporaneously accompanied, by service of summons, together with a copy of the complaint or initiatory pleading and the applicant's affidavit and bond, upon the adverse party in the Philippines.

However, where the summons could not be served personally or by substituted service despite diligent efforts, or the adverse party is a resident of the Philippines temporarily absent therefrom or is a nonresident thereof, the requirement of prior or contemporaneous service of summons shall not apply.

(d) The application for a temporary restraining order shall thereafter be acted upon only after all parties are heard in a summary hearing which shall be conducted within twenty-four

(24) hours after the sheriff's return of service and/or the records are received by the branch selected by raffle and to which the records shall be transmitted immediately.

Section 5. *Preliminary injunction not granted without notice; exception.* – No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. If it shall appear from facts shown by affidavits or by the verified application that great or irreparable injury would result to the applicant before the matter can be heard on notice, the court to which the application for preliminary injunction was made, may issue a temporary restraining order to be effective only for a period of twenty (20) days from service on the *ex parte* or person sought to be enjoined, except as herein provided. Within the said twenty-day period, the court must order said party or person to show cause, at a specified time and place, why the injunction should not be granted, determine within the same period whether or not the preliminary injunction shall be granted, and accordingly issue the corresponding order.

However, and subject to the provisions of the preceding sections, if the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of a multiple-sala court or the presiding judge of a single-sala court may issue *ex parte* a temporary restraining order effective for only seventy-two (72) hours from issuance but he shall immediately comply with the provisions of the next preceding section as to service of summons and the documents to be served therewith. Thereafter, within the aforesaid seventy-two (72) hours, the judge before whom the case is pending shall conduct a summary hearing to determine whether the temporary restraining order shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the temporary restraining order exceed twenty (20) days, including the original seventy-two hours provided herein.

In the event that the application for preliminary injunction is denied or not resolved within the said period, the temporary restraining order is deemed automatically vacated. The effectivity of a temporary restraining order is not extendible without need of any judicial declaration to that effect and no court shall have authority to extend or renew the same on the same ground for which it was issued.

However, if issued by the Court of Appeals or a member thereof, the temporary restraining order shall be effective for sixty (60) days from service on the party or person sought to be enjoined. A restraining order issued by the Supreme Court or a member thereof shall be effective until further orders. (5a)

The trial court, the Court of Appeals, the Sandiganbayan or the Court of Tax Appeals that issued a writ of preliminary injunction against a lower court, board, officer, or quasi-judicial agency shall decide the main case or petition within six (6) months from the issuance of the writ. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

Section 6. *Grounds for objection to, or for motion of dissolution of, injunction or restraining order.* – The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also by affidavits. It may further be denied, or, if granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed

by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified. (6a)

Section 7. *Service of copies of bonds; effect of disapproval of same.* – The party filing a bond in accordance with the provisions of this Rule shall forthwith serve a copy of such bond on the other party, who may except to the sufficiency of the bond, or of the surety or sureties thereon. If the applicant's bond is found to be insufficient in amount, or if the surety or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be dissolved. If the bond of the adverse party is found to be insufficient in amount, or the surety or sureties thereon fail to justify a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the injunction shall be granted or restored, as the case may be. (8a)

Section 8. *Judgment to include damages against party and sureties.* – At the trial, the amount of damages to be awarded to either party, upon the bond of the adverse party, shall be claimed, ascertained, and awarded under the same procedure prescribed in section 20 of Rule 57. (9a)

Section 9. *When final injunction granted.* – If after the trial of the action it appears that the applicant is entitled to have the act or acts complained of permanently enjoined, the court shall grant a final injunction perpetually restraining the party or person enjoined from the commission or continuance of the act or acts or confirming the preliminary mandatory injunction. (10a)

RULE 59
RECEIVERSHIP

Section 1. *Appointment of receiver.* – Upon a verified application, one or more receivers of the property subject of the action or proceeding may be appointed by the court where the action is pending, or by the Court of Appeals or by the Supreme Court, or a member thereof, in the following cases:

(a) When it appears from the verified application, and such other proof as the court may require, that the party applying for the appointment of a receiver has an interest in the property or fund which is the subject of the action or proceeding, and that such property or fund is in danger of being lost, removed, or materially injured unless a receiver be appointed to administer and preserve it;

(b) When it appears in an action by the mortgagee for the foreclosure of a mortgage that the property is in danger of being wasted or dissipated or materially injured, and that its value is probably insufficient to discharge the mortgage debt, or that the parties have so stipulated in the contract of mortgage;

(c) After judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment, or to aid execution when the execution has been returned unsatisfied or the judgment obligor refuses to apply his property in satisfaction of the judgment, or otherwise to carry the judgment into effect;

(d) Whenever in other cases it appears that the appointment of a receiver is the most convenient and feasible means of preserving, administering, or disposing of the property in litigation.

During the pendency of an appeal, the appellate court may allow an application for the appointment of a receiver to be filed in and decided by the court of origin and the receiver appointed to be subject to the control of said court. (1a)

Section 2. *Bond on appointment of receiver.* – Before issuing the order appointing a receiver the court shall require the applicant to file a bond executed to the party against whom the application is presented, in an amount to be fixed by the court, to the effect that the applicant will pay such party all damages he may sustain by reason of the appointment of such receiver in case the applicant shall have procured such appointment without sufficient cause; and the court may, in its discretion, at any time after the appointment, require an additional bond as further security for such damages. (3a)

Section 3. *Denial of application or discharge of receiver.* – The application may be denied, or the receiver discharged, when the adverse party files a bond executed to the applicant, in an amount to be fixed by the court, to the effect that such party will pay the applicant all damages he may suffer by reason of the acts, omissions, or other matters specified in the application as ground for such appointment. The receiver may also be discharged if it is shown that his appointment was obtained without sufficient cause. (4a)

Section 4. *Oath and bond of receiver.* – Before entering upon his duties, the receiver shall be sworn to perform them faithfully, and shall file a bond, executed to such person and in such sum as the court may direct, to the effect that he will faithfully discharge his duties in the action or proceeding and obey the orders of the court. (5a)

Section 5. *Service of copies of bonds; effect of disapproval of same.* – The person filing a bond in accordance with the provisions of this Rule shall forthwith serve a copy thereof on each interested party, who may except to its sufficiency or of the surety or sureties thereon. If either the applicant's or the receiver's bond is found to be insufficient in amount, or if the surety or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the application shall be denied or the receiver discharged, as the case may be. If bond of the adverse party is found to be insufficient in amount or the surety or sureties thereon fail to justify, and a bond sufficient in amount with sufficient sureties approved after justification is not filed forthwith, the receiver shall be appointed or re-appointed, as the case may be. (6a)

Section 6. *General powers of receiver.* – Subject to the control of the court in which the action or proceeding is pending, a receiver shall have the power to bring and defend, in such capacity, actions in his own name; to take and keep possession of the property in controversy; to receive rents; to collect debts due to himself as receiver or to the fund, property, estate, person, or corporation of which he is the receiver; to compound for and compromise the same; to make transfers; to pay outstanding debts; to divide the money and other property that shall remain among the persons legally entitled to receive the same; and generally to do such acts respecting the property as the court may authorize. However, funds in the hands of a receiver may be invested only by order of the court upon the written consent of all the parties to the action. (7a)

No action may be filed by or against a receiver without leave of the court which appointed him. (n)

Section 7. *Liability for refusal or neglect to deliver property to receiver.* – A person who refuses or neglects, upon reasonable demand, to deliver to the receiver all the property, money, books, deeds, notes, bills, documents and papers within his power or control, subject of or involved in the action or proceeding, or in case of disagreement, as determined and ordered by the court, may be punished for contempt and shall be liable to the receiver for the money or the value of the property and other things so refused or neglected to be surrendered, together with all damages that may have been sustained by the party or parties entitled thereto as a consequence of such refusal or neglect. (n)

Section 8. *Termination of receivership; compensation of receiver.* – Whenever the court, *motu proprio* or on motion of either party, shall determine that the necessity for a receiver no longer exists, it shall, after due notice to all interested parties and hearing, settle the accounts of the receiver, direct the delivery of the funds and other property in his possession to the person adjudged to be entitled to receive them, and order the discharge of the receiver from further duty as such. The court shall allow the receiver such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires. (8a)

Section 9. *Judgment to include recovery against sureties.* – The amount, if any, to be awarded to any party upon any bond filed in accordance with the provisions of this Rule, shall be claimed, ascertained, and granted under the same procedure prescribed in section 20 of Rule 57. (9a)

RULE 60
REPLEVIN

Section 1. *Application.* – A party praying for the recovery of possession of personal property may, at the commencement of the action or at any time before answer, apply for an order for the delivery of such property to him, in the manner hereinafter provided. (1a)

Section 2. *Affidavit and bond.* – The applicant must show by his own affidavit or that of some other person who personally knows the facts:

(a) That the applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;

(b) That the property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information, and belief;

(c) That the property has not been distrained or taken for a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under *custodia legis,* or if so seized, that it is exempt from such seizure or custody; and

(d) The actual market value of the property.

The applicant must also give a bond, executed to the adverse party in double the value of the property as stated in the affidavit aforementioned, for the return of the property to the adverse party if such return be adjudged, and for the payment to the adverse party of such sum as he may recover from the applicant in the action. (2a)

Section 3. *Order.* – Upon the filing of such affidavit and approval of the bond, the court shall issue an order and the corresponding writ of replevin describing the personal property alleged to be wrongfully detained and requiring the sheriff forthwith to take such property into his custody. (3a)

Section 4. *Duty of the sheriff.* – Upon receiving such order, the sheriff must serve a copy thereof on the adverse party, together with a copy of the application, affidavit and bond, and must forthwith take the property, if it be in the possession of the adverse party, or his agent, and retain it in his custody. If the property or any part thereof be concealed in a building or enclosure, the sheriff must demand its delivery, and if it be not delivered, he must cause the building or enclosure to be broken open and take the property into his possession. After the sheriff has taken possession of the property as herein provided, he must keep it in a secure place and shall be responsible for its delivery to the party entitled thereto upon receiving his fees and necessary expenses for taking and keeping the same. (4a)

Section 5. *Return of property.* – If the adverse party objects to the sufficiency of the applicant's bond, or of the surety or sureties thereon, he cannot immediately require the return of the property, but if he does not so object, he may, at any time before the delivery of the property to the applicant, require the return thereof, by filing with the court where the action is pending a bond executed to the applicant, in double the value of the property as stated in the applicant's affidavit for the delivery thereof to the applicant, if such delivery be adjudged, and for the payment of such sum to him as may be recovered against the adverse party, and by serving a copy of such bond on the applicant. (5a)

Section 6. *Disposition of property by sheriff.* – If within five (5) days after the taking of the property by the sheriff, the adverse party does not object to the sufficiency of the bond, or of the surety or sureties thereon; or if the adverse party so objects and the court affirms its approval of the applicant's bond or approves a new bond, or if the adverse party requires the return of the property but his bond is objected to and found insufficient and he does not forthwith file an approved bond, the property shall be delivered to the applicant. If for any reason the property is not delivered to the applicant, the sheriff must return it to the adverse party. (6a)

Section 7. *Proceedings where property claimed by third person.* – If the property taken is claimed by any person other than the party against whom the writ of replevin had been issued or his agent, and such person makes an affidavit of his title thereto, or right to the possession thereof, stating the grounds therefor, and serves such affidavit upon the sheriff while the latter has possession of the property and a copy thereof upon the applicant, the sheriff shall not be bound to keep the property under replevin or deliver it to the applicant unless the applicant or his agent, on demand of said sheriff, shall file a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property under replevin as provided in section 2 hereof. In case of disagreement as to such value, the court shall determine the same. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The sheriff shall not be liable for damages, for the taking or keeping of such property, to any such third-party claimant if such bond shall be filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property, or prevent the applicant from claiming damages against a third-party claimant who filed a frivolous or plainly spurious claim, in the same or a separate action.

When the writ of replevin is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff is sued for damages as a result of the replevin, he shall be represented by the Solicitor General, and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of the funds to be appropriated for the purpose. (7a)

Section 8. *Return of papers.* – The sheriff must file the order, with his proceedings indorsed thereon, with the court within ten (10) days after taking the property mentioned therein. (8a)

Section 9. *Judgment.* – After trial of the issues, the court shall determine who has the right of possession to and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to the same, or for its value in case delivery cannot be made, and also for such damages as either party may prove, with costs. (9a)

Section 10. *Judgment to include recovery against sureties.* – The amount, if any, to be awarded to any party upon any bond filed in accordance with the provisions of this Rule, shall be claimed, ascertained, and granted under the same procedure as prescribed in section 20 of Rule 57. (10a)

RULE 61
SUPPORT *PENDENTE LITE*

Section 1. *Application.* – At the commencement of the proper action or proceeding, or at any time prior to the judgment or final order, a verified application for support *pendente lite* may be filed by any party stating the grounds for the claim and the financial conditions of both parties, and accompanied by affidavits, depositions or other authentic documents in support thereof. (1a)

Section 2. *Comment.* – A copy of the application and all supporting documents shall be served upon the adverse party, who shall have five (5) days to comment thereon unless a different period is fixed by the court upon his motion. The comment shall be verified and shall be accompanied by affidavits, depositions or other authentic documents in support thereof. (2a, 3a)

Section 3. *Hearing.* – After the comment is filed, or after the expiration of the period for its filing, the application shall be set for hearing not more than three (3) days thereafter. The facts in issue shall be proved in the same manner as is provided for evidence on motions. (4a)

Section 4. *Order.* – The court shall determine provisionally the pertinent facts, and shall render such orders as justice and equity may require, having due regard to the probable outcome of the case and such other circumstances as may aid in the proper resolution of the question involved. If the application is granted, the court shall fix the amount of money to be provisionally paid or such other forms of support as should be provided, taking into account the necessities of the applicant and the resources or means of the adverse party, and the terms of payment or mode for providing the support. If the application is denied, the principal case shall be tried and decided as early as possible. (5a)

Section 5. *Enforcement of order.* – If the adverse party fails to comply with an order granting support *pendente lite,* the court shall, *motu proprio* or upon motion, issue an order of execution against him, without prejudice to his liability for contempt. (6a)

When the person ordered to give support *pendente lite* refuses or fails to do so, any third person who furnished that support to the applicant may, after due notice and hearing in the same case, obtain a writ of execution to enforce his right of reimbursement against the person ordered to provide such support. (n)

Section 6. *Support in criminal cases.* – In criminal actions where the civil liability includes support for the offspring as a consequence of the crime and the civil aspect thereof has not been waived, reserved or instituted prior to its filing, the accused may be ordered to provide support *pendente lite* to the child born to the offended party allegedly because of the crime. The application therefor may be filed successively by the offended party, her parents, grandparents or guardian and the State in the corresponding criminal case during its pendency, in accordance with the procedure established under this Rule. (n)

Section 7. *Restitution.* – When the judgment or final order of the court finds that the person who has been providing support *pendente lite* is not liable therefor, it shall order the recipient thereof to return to the former the amounts already paid with legal interest from the dates of actual payment, without prejudice to the right of the recipient to obtain reimbursement in a separate action from the person legally obliged to give the support. Should the recipient fail to reimburse said amounts, the person who provided the same may likewise seek reimbursement thereof in a separate action from the person legally obliged to give such support. (n)

SPECIAL CIVIL ACTIONS

RULE 62
INTERPLEADER

Section 1. *When interpleader proper.* – Whenever conflicting claims upon the same subject matter are or may be made against a person who claims no interest whatever in the subject matter, or an interest which in whole or in part is not disputed by the claimants, he may bring an action against the conflicting claimants to compel them to interplead and litigate their several claims among themselves. (1a, R63)

Section 2. *Order.* – Upon the filing of the complaint, the court shall issue an order requiring the conflicting claimants to interplead with one another. If the interests of justice so require, the court may direct in such order that the subject matter be paid or delivered to the court. (2a, R63)

Section 3. *Summons.* – Summons shall be served upon the conflicting claimants, together with a copy of the complaint and order. (3, R63)

Section 4. *Motion to dismiss.* – Within the time for filing an answer, each claimant may file a motion to dismiss on the ground of impropriety of the interpleader action or on other appropriate grounds specified in Rule 16. The period to file the answer shall be tolled and if the motion is denied, the movant may

file his answer within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial. (n)

Section 5. *Answer and other pleadings.* – Each claimant shall file his answer setting forth his claim within fifteen (15) days from service of the summons upon him, serving a copy thereof upon each of the other conflicting claimants who may file their reply thereto as provided by these Rules. If any claimant fails to plead within the time herein fixed, the court may, on motion, declare him in default and thereafter render judgment barring him from any claim in respect to the subject matter.

The parties in an interpleader action may file counterclaims, cross-claims, third-party complaints and responsive pleadings thereto, as provided by these Rules. (4a, R63)

Section 6. *Determination.* – After the pleadings of the conflicting claimants have been filed, and pre-trial has been conducted in accordance with the Rules, the court shall proceed to determine their respective rights and adjudicate their several claims. (5a, R63)

Section 7. *Docket and other lawful fees, costs and litigation expenses as liens.* – The docket and other lawful fees paid by the party who filed a complaint under this Rule, as well as the costs and litigation expenses, shall constitute a lien or charge upon the subject matter of the action, unless the court shall order otherwise. (6a, R63)

RULE 63
DECLARATORY RELIEF AND SIMILAR REMEDIES

Section 1. *Who may file petition.* – Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

An action for the reformation of an instrument, to quiet title to real property or remove clouds therefrom, or to consolidate ownership under Article 1607 of the Civil Code, may be brought under this Rule. (1a, R64; *En Banc* Resolution, February 17, 1998.)

Section 2. *Parties.* – All persons who have or claim any interest which would be affected by the declaration shall be made parties; and no declaration shall, except as otherwise provided in these Rules, prejudice the rights of persons not parties to the action. (2a, R64)

Section 3. *Notice on Solicitor General.* – In any action which involves the validity of a statute, executive order or regulation, or any other governmental regulation, the Solicitor General shall be notified by the party assailing the same and shall be entitled to be heard upon such question. (3a, R64)

Section 4. *Local government ordinances.* – In any action involving the validity of a local government ordinance, the corresponding prosecutor or attorney of the local governmental unit involved shall be similarly notified and entitled to be heard. If such ordinance is alleged to be unconstitutional, the Solicitor General shall also be notified and entitled to be heard. (4a, R64)

Section 5. *Court action discretionary.* – Except in actions falling under the second paragraph of section 1 of this Rule, the court, *motu proprio* or upon motion, may refuse to exercise the power to declare rights and to construe instruments in any case where a decision would not terminate the uncertainty or controversy which gave rise to the action, or in any case where the declaration or construction is not necessary and proper under the circumstances. (5a, R64)

Section 6. *Conversion into ordinary action.* – If before the final termination of the case, a breach or violation of an instrument or a statute, executive order or regulation, ordinance, or any other governmental regulation should take place, the action may thereupon be converted into an ordinary action, and the parties shall be allowed to file such pleadings as may be necessary or proper. (6a, R64)

RULE 64

REVIEW OF JUDGMENTS AND FINAL ORDERS OR RESOLUTIONS OF THE COMMISSION ON ELECTIONS AND THE COMMISSION ON AUDIT

Section 1. *Scope.* – This Rule shall govern the review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit. (n)

Section 2. *Mode of review.* – A judgment or final order or resolution of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided. (n)

Section 3. *Time to file petition.* – The petition shall be filed within thirty (30) days from notice of the judgment or final order or resolution sought to be reviewed. The filing of a motion for new trial or reconsideration of said judgment or final order or resolution, if allowed under the procedural rules of the Commission concerned, shall interrupt the period herein fixed. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of denial. (n)

Section 4. *Docket and other lawful fees.* – Upon the filing of the petition, the petitioner shall pay to the clerk of court the docket and other lawful fees and deposit the amount of P500.00 for costs. (n)

Section 5. *Form and contents of petition.* – The petition shall be verified and filed in eighteen (18) legible copies. The petition shall name the aggrieved party as petitioner and shall join as respondents the Commission concerned and the person or persons interested in sustaining the judgment, final order or resolution *a quo.* The petition shall state the facts with certainty, present clearly the issues involved, set forth the grounds and brief arguments relied upon for review, and pray for judgment annulling or modifying the questioned judgment, final order or resolution. Findings of fact of the Commission supported by substantial evidence shall be final and non-reviewable.

The petition shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, final order or resolution subject thereof, together with certified true copies of such material portions of the record as are referred to therein and other documents relevant and pertinent thereto. The requisite number of copies of the petition shall contain plain copies of all documents attached to the original copy of said petition.

The petition shall state the specific material dates showing that it was filed within the period fixed herein, and shall contain a sworn certification against forum shopping as provided in the third paragraph of section 3, Rule 46.

The petition shall further be accompanied by proof of service of a copy thereof on the Commission concerned and on the adverse party, and of the timely payment of docket and other lawful fees.

The failure of petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition. (n)

Section 6. *Order to comment.* – If the Supreme Court finds the petition sufficient in form and substance, it shall order the respondents to file their comments on the petition within ten (10) days from notice thereof; otherwise, the Court may dismiss the petition outright. The Court may also dismiss the petition if it was filed manifestly for delay, or the questions raised are too unsubstantial to warrant further proceedings. (n)

Section 7. *Comments of respondents.* – The comments of the respondents shall be filed in eighteen (18) legible copies. The original shall be accompanied by certified true copies of such material portions of the record as are referred to therein together with other supporting papers. The requisite number of copies of the comments shall contain plain copies of all documents attached to the original and a copy thereof shall be served on the petitioner.

No other pleading may be filed by any party unless required or allowed by the Court. (n)

Section 8. *Effect of filing.* – The filing of a petition for certiorari shall not stay the execution of the judgment or final order or resolution sought to be reviewed, unless the Supreme Court shall direct otherwise upon such terms as it may deem just. (n)

Section 9. *Submission for decision.* – Unless the Court sets the case for oral argument, or requires the parties to submit memoranda, the case shall be deemed submitted for decision upon the filing of the comments on the petition, or of such other pleadings or papers as may be required or allowed, or the expiration of the period to do so. (n)

RULE 65
CERTIORARI, PROHIBITION AND MANDAMUS

Section 1. *Petition for certiorari.* – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (1a)

Section 2. *Petition for prohibition.* – When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (2a)

Section 3. *Petition for mandamus.* – When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46. (3a)

Section 4. *When and where to file the petition.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

Section 5. *Respondents and costs in certain cases.* – When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the

petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person impleaded as public respondent or respondents.

Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein. (5a)

Section 6. *Order to comment.* – If the petition is sufficient in form and substance to justify such process, the court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

In petitions for certiorari before the Supreme Court and the Court of Appeals, the provisions of section 2, Rule 56, shall be observed. Before giving due course thereto, the court may require the respondents to file their comment to, and not a motion to dismiss, the petition. Thereafter, the court may require the filing of a reply and such other responsive or other pleadings as it may deem necessary and proper. (6a)

Section 7. *Expediting proceedings; injunctive relief.* – The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case, unless a temporary restraining order or a writ of preliminary injunction has been issued, enjoining the public respondent from further proceeding in the case. (7a)

The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

Section 8. *Proceedings after comment is filed.* – After the comment or other pleadings required by the court are filed, or the time for the filing thereof has expired, the court may hear the case or require the parties to submit memoranda. If, after such hearing or filing of memoranda or upon the expiration of the period for filing, the court finds that the allegations of the petition are true, it shall render judgment for such relief to which the petitioner is entitled.

However, the court may dismiss the petition if it finds the same patently without merit or prosecuted manifestly for delay, or if the questions raised therein are too unsubstantial to require consideration. In such event, the court may award in favor of the respondent treble costs solidarily against the petitioner and counsel, in addition to subjecting counsel to administrative sanctions under Rules 139 and 139-B of the Rules of Court.

The Court may impose *motu proprio,* based on *res ipsa loquitur*, other disciplinary sanctions or measures on erring lawyers for patently dilatory and unmeritorious petitions for certiorari. *(As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*

Section 9. *Service and enforcement of order or judgment.* – A certified copy of the judgment rendered in accordance with the last preceding section shall be served upon the court, quasi-judicial agency, tribunal, corporation, board, officer or person concerned in such manner as the court may direct, and disobedience thereto shall be punished as contempt. An execution may issue for any damages or costs awarded in accordance with section 1 of Rule 39. (9a)

RULE 66
QUO WARRANTO

Section 1. *Action by Government against individuals.* – An action for the usurpation of a public office, position or franchise may be commenced by a verified petition brought in the name of the Republic of the Philippines against:

(a) A person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise;

(b) A public officer who does or suffers an act which, by the provision of law, constitutes a ground for the forfeiture of his office; or

(c) An association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act. (1a)

Section 2. *When Solicitor General or public prosecutor must commence action.* – The Solicitor General or a public prosecutor, when directed by the President of the Philippines, or when upon complaint or otherwise he has good reason to believe that any case specified in the preceding section can be established by proof, must commence such action. (3a)

Section 3. *When Solicitor General or public prosecutor may commence action with permission of court.* – The Solicitor General or a public prosecutor may, with the permission of the court in which the action is to be commenced, bring such an action at the request and upon the relation of another person; but in such case the officer bringing it may first require an indemnity for the expenses and costs of the action in an amount approved by and to be deposited in the court by the person at whose request and upon whose relation the same is brought. (4a)

Section 4. *When hearing had on application for permission to commence action.* – Upon application for permission to commence such action in accordance with the next preceding section, the court shall direct that notice be given to the respondent so that he may be heard in opposition thereto; and if permission is granted, the court shall issue an order to that effect, copies of which shall be served on all interested parties, and the petition shall then be filed within the period ordered by the court. (5a)

Section 5. *When an individual may commence such an action.* – A person claiming to be entitled to a public office or position usurped or unlawfully held or exercised by another may bring an action therefor in his own name. (6)

Section 6. *Parties and contents of petition against usurpation.* – When the action is against a person for usurping a public office, position or franchise, the petition shall set forth the name of the person who

claims to be entitled thereto, if any, with an averment of his right to the same and that the respondent is unlawfully in possession thereof. All persons who claim to be entitled to the public office, position or franchise may be made parties, and their respective rights to such public office, position or franchise determined, in the same action. (7a)

Section 7. *Venue.* – An action under the preceding six sections can be brought only in the Supreme Court, the Court of Appeals, or in the Regional Trial Court exercising jurisdiction over the territorial area where the respondent or any of the respondents resides, but when the Solicitor General commences the action, it may be brought in a Regional Trial Court in the City of Manila, in the Court of Appeals, or in the Supreme Court. (8a)

Section 8. *Period for pleadings and proceedings may be reduced; action given precedence.* – The court may reduce the period provided by these Rules for filing pleadings and for all other proceedings in the action in order to secure the most expeditious determination of the matters involved therein consistent with the rights of the parties. Such action may be given precedence over any other civil matter pending in the court. (9a)

Section 9. *Judgment where usurpation found.* – When the respondent is found guilty of usurping, intruding into, or unlawfully holding or exercising a public office, position or franchise, judgment shall be rendered that such respondent be ousted and altogether excluded therefrom, and that the petitioner or relator, as the case may be, recover his costs. Such further judgment may be rendered determining the respective rights in and to the public office, position or franchise of all the parties to the action as justice requires. (10a)

Section 10. *Rights of persons adjudged entitled to public office; delivery of books and papers; damages.* – If judgment be rendered in favor of the person averred in the complaint to be entitled to the public office he may, after taking the oath of office and executing any official bond required by law, take upon himself the execution of the office, and may immediately thereafter demand of the respondent all the books and papers in the respondent's custody or control appertaining to the office to which the judgment relates. If the respondent refuses or neglects to deliver any book or paper pursuant to such demand, he may be punished for contempt as having disobeyed a lawful order of the court. The person adjudged entitled to the office may also bring action against the respondent to recover the damages sustained by such person by reason of the usurpation. (15a)

Section 11. *Limitations.* – Nothing contained in this Rule shall be construed to authorize an action against a public officer or employee for his ouster from office unless the same be commenced within one (1) year after the cause of such ouster, or the right of the petitioner to hold such office or position, arose; nor to authorize an action for damages in accordance with the provisions of the next preceding section unless the same be commenced within one (1) year after the entry of the judgment establishing the petitioner's right to the office in question. (16a)

Section 12. *Judgment for costs.* – In an action brought in accordance with the provisions of this Rule, the court may render judgment for costs against either the petitioner, the relator, or the respondent, or the person or persons claiming to be a corporation, or may apportion the costs, as justice requires. (17a)

RULE 67
EXPROPRIATION

Section 1. *The complaint.* – The right of eminent domain shall be exercised by the filing of a verified complaint which shall state with certainty the right and purpose of expropriation, describe the real or personal property sought to be expropriated, and join as defendants all persons owning or claiming to own, or occupying, any part thereof or interest therein, showing, so far as practicable, the separate interest of each defendant. If the title to any property sought to be expropriated appears to be in the Republic of the Philippines, although occupied by private individuals, or if the title is otherwise obscure or doubtful so that the plaintiff cannot with accuracy or certainty specify who are the real owners, averment to that effect shall be made in the complaint. (1a)

Section 2. *Entry of plaintiff upon depositing value with authorized government depositary.* – Upon the filing of the complaint or at any time thereafter and after due notice to the defendant, the plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the authorized government depositary an amount equivalent to the assessed value of the property for purposes of taxation to be held by such bank subject to the orders of the court. Such deposit shall be in money, unless in lieu thereof the court authorizes the deposit of a certificate of deposit of a government bank of the Republic of the Philippines payable on demand to the authorized government depositary.

If personal property is involved, its value shall be provisionally ascertained and the amount to be deposited shall be promptly fixed by the court.

After such deposit is made the court shall order the sheriff or other proper officer to forthwith place the plaintiff in possession of the property involved and promptly submit a report thereof to the court with service of copies to the parties. (2a)

Section 3. *Defenses and objections.* – If a defendant has no objection or defense to the action or the taking of his property, he may file and serve a notice of appearance and a manifestation to that effect, specifically designating or identifying the property in which he claims to be interested, within the time stated in the summons. Thereafter, he shall be entitled to notice of all proceedings affecting the same.

If a defendant has any objection to the filing of or the allegations in the complaint, or any objection or defense to the taking of his property, he shall serve his answer within the time stated in the summons. The answer shall specifically designate or identify the property in which he claims to have an interest, state the nature and extent of the interest claimed, and adduce all his objections and defenses to the taking of his property. No counterclaim, cross-claim or third-party complaint shall be alleged or allowed in the answer or any subsequent pleading.

A defendant waives all defenses and objections not so alleged but the court, in the interest of justice, may permit amendments to the answer to be made not later than ten (10) days from the filing thereof. However, at the trial of the issue of just compensation, whether or not a defendant has previously appeared or answered, he may present evidence as to the amount of the compensation to be paid for his property, and he may share in the distribution of the award. (n)

Section 4. *Order of expropriation.* – If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled, or when no party appears to defend as required by this Rule,

the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.

A final order sustaining the right to expropriate the property may be appealed by any party aggrieved thereby. Such appeal, however, shall not prevent the court from determining the just compensation to be paid.

After the rendition of such an order, the plaintiff shall not be permitted to dismiss or discontinue the proceeding except on such terms as the court deems just and equitable. (4a)

Section 5. *Ascertainment of compensation.* – Upon the rendition of the order of expropriation, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to ascertain and report to the court the just compensation for the property sought to be taken. The order of appointment shall designate the time and place of the first session of the hearing to be held by the commissioners and specify the time within which their report shall be submitted to the court.

Copies of the order shall be served on the parties. Objections to the appointment of any of the commissioners shall be filed with the court within ten (10) days from service, and shall be resolved within thirty (30) days after all the commissioners shall have received copies of the objections. (5a)

Section 6. *Proceedings by commissioners.* – Before entering upon the performance of their duties, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. Evidence may be introduced by either party before the commissioners who are authorized to administer oaths on hearings before them, and the commissioners shall, unless the parties consent to the contrary, after due notice to the parties to attend, view and examine the property sought to be expropriated and its surroundings, and may measure the same, after which either party may, by himself or counsel, argue the case. The commissioners shall assess the consequential damages to the property not taken and deduct from such consequential damages the consequential benefits to be derived by the owner from the public use or purpose of the property taken, the operation of its franchise by the corporation or the carrying on of the business of the corporation or person taking the property. But in no case shall the consequential benefits assessed exceed the consequential damages assessed, or the owner be deprived of the actual value of his property so taken. (6a)

Section 7. *Report by commissioners and judgment thereupon.* – The court may order the commissioners to report when any particular portion of the real estate shall have been passed upon by them, and may render judgment upon such partial report, and direct the commissioners to proceed with their work as to subsequent portions of the property sought to be expropriated, and may from time to time so deal with such property. The commissioners shall make a full and accurate report to the court of all their proceedings, and such proceedings shall not be effectual until the court shall have accepted their report and rendered judgment in accordance with their recommendations. Except as otherwise expressly ordered by the court, such report shall be filed within sixty (60) days from the date the commissioners were notified of their appointment, which time may be extended in the discretion of the court. Upon the filing of such report, the clerk of the court shall serve copies thereof on all interested parties, with notice

that they are allowed ten (10) days within which to file objections to the findings of the report, if they so desire. (7a)

Section 8. *Action upon commissioners' report.* – Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after all the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, after hearing, accept the report and render judgment in accordance therewith; or, for cause shown, it may recommit the same to the commissioners for further report of facts; or it may set aside the report and appoint new commissioners; or it may accept the report in part and reject it in part; and it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of his right of expropriation, and to the defendant just compensation for the property so taken. (8a)

Section 9. *Uncertain ownership; conflicting claims.* – If the ownership of the property taken is uncertain, or there are conflicting claims to any part thereof, the court may order any sum or sums awarded as compensation for the property to be paid to the court for the benefit of the person adjudged in the same proceeding to be entitled thereto. But the judgment shall require the payment of the sum or sums awarded to either the defendant or the court before the plaintiff can enter upon the property, or retain it for the public use or purpose if entry has already been made. (9a)

Section 10. *Rights of plaintiff after judgment and payment.* – Upon payment by the plaintiff to the defendant of the compensation fixed by the judgment, with legal interest thereon from the taking of the possession of the property, or after tender to him of the amount so fixed and payment of the costs, the plaintiff shall have the right to enter upon the property expropriated and to appropriate it for the public use or purpose defined in the judgment, or to retain it should he have taken immediate possession thereof under the provisions of section 2 hereof. If the defendant and his counsel absent themselves from the court, or decline to receive the amount tendered, the same shall be ordered to be deposited in court and such deposit shall have the same effect as actual payment thereof to the defendant or the person ultimately adjudged entitled thereto. (10a)

Section 11. *Entry not delayed by appeal; effect of reversal.* – The right of the plaintiff to enter upon the property of the defendant and appropriate the same for public use or purpose shall not be delayed by an appeal from the judgment. But if the appellate court determines that plaintiff has no right of expropriation, judgment shall be rendered ordering the Regional Trial Court to forthwith enforce the restoration to the defendant of the possession of the property, and to determine the damages which the defendant sustained and may recover by reason of the possession taken by the plaintiff. (11a)

Section 12. *Costs, by whom paid.* – The fees of the commissioners shall be taxed as a part of the costs of the proceedings. All costs, except those of rival claimants litigating their claims, shall be paid by the plaintiff, unless an appeal is taken by the owner of the property and the judgment is affirmed, in which event the costs of the appeal shall be paid by the owner. (12a)

Section 13. *Recording judgment, and its effect.* – The judgment entered in expropriation proceedings shall state definitely, by an adequate description, the particular property or interest therein expropriated, and the nature of the public use or purpose for which it is expropriated. When real estate is expropriated, a certified copy of such judgment shall be recorded in the registry of deeds of the place in which the

property is situated, and its effect shall be to vest in the plaintiff the title to the real estate so described for such public use or purpose. (13a)

Section 14. *Power of guardian in such proceedings.* – The guardian or guardian *ad litem* of a minor or of a person judicially declared to be incompetent may, with the approval of the court first had, do and perform on behalf of his ward any act, matter, or thing respecting the expropriation for public use or purpose of property belonging to such minor or person judicially declared to be incompetent, which such minor or person judicially declared to be incompetent could do in such proceedings if he were of age or competent. (14a)

RULE 68
FORECLOSURE OF REAL ESTATE MORTGAGE

Section 1. *Complaint in action for foreclosure.* – In an action for the foreclosure of a mortgage or other encumbrance upon real estate, the complaint shall set forth the date and due execution of the mortgage; its assignments, if any; the names and residences of the mortgagor and the mortgagee; a description of the mortgaged property; a statement of the date of the note or other documentary evidence of the obligation secured by the mortgage, the amount claimed to be unpaid thereon; and the names and residences of all persons having or claiming an interest in the property subordinate in right to that of the holder of the mortgage, all of whom shall be made defendants in the action. (1a)

Section 2. *Judgment on foreclosure for payment or sale.* – If upon the trial in such action the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and other charges as approved by the court, and costs, and shall render judgment for the sum so found due and order that the same be paid to the court or to the judgment obligee within a period of not less than ninety (90) days nor more than one hundred twenty (120) days from the entry of judgment, and that in default of such payment the property shall be sold at public auction to satisfy the judgment. (2a)

Section 3. *Sale of mortgaged property; effect.* – When the defendant, after being directed to do so as provided in the next preceding section, fails to pay the amount of the judgment within the period specified therein, the court, upon motion, shall order the property to be sold in the manner and under the provisions of Rule 39 and other regulations governing sales of real estate under execution. Such sale shall not affect the rights of persons holding prior encumbrances upon the property or a part thereof, and when confirmed by an order of the court, also upon motion, it shall operate to divest the rights in the property of all the parties to the action and to vest their rights in the purchaser, subject to such rights of redemption as may be allowed by law.

Upon the finality of the order of confirmation or upon the expiration of the period of redemption when allowed by law, the purchaser at the auction sale or last redemptioner, if any, shall be entitled to the possession of the property unless a third party is actually holding the same adversely to the judgment obligor. The said purchaser or last redemptioner may secure a writ of possession, upon motion, from the court which ordered the foreclosure. (3a)

Section 4. *Disposition of proceeds of sale.* – The amount realized from the foreclosure sale of the mortgaged property shall, after deducting the costs of the sale, be paid to the person foreclosing the

mortgage, and when there shall be any balance or residue, after paying off the mortgage debt due, the same shall be paid to junior encumbrancers in the order of their priority, to be ascertained by the court, or if there be no such encumbrancers or there be a balance or residue after payment to them, then to the mortgagor or his duly authorized agent, or to the person entitled to it. (4a)

Section 5. *How sale to proceed in case the debt is not all due.* – If the debt for which the mortgage or encumbrance was held is not all due as provided in the judgment, as soon as a sufficient portion of the property has been sold to pay the total amount and the costs due, the sale shall terminate; and afterwards, as often as more becomes due for principal or interest and other valid charges, the court may, on motion, order more to be sold. But if the property cannot be sold in portions without prejudice to the parties, the whole shall be ordered to be sold in the first instance, and the entire debt and costs shall be paid, if the proceeds of the sale be sufficient therefor, there being a rebate of interest where such rebate is proper. (5a)

Section 6. *Deficiency judgment.* – If upon the sale of any real property as provided in the next preceding section there be a balance due to the plaintiff after applying the proceeds of the sale, the court, upon motion, shall render judgment against the defendant for any such balance for which, by the record of the case, he may be personally liable to the plaintiff, upon which execution may issue immediately if the balance is all due at the time of the rendition of the judgment; otherwise, the plaintiff shall be entitled to execution at such time as the balance remaining becomes due under the terms of the original contract, which time shall be stated in the judgment. (6a)

Section 7. *Registration.* – A certified copy of the final order of the court confirming the sale shall be registered in the registry of deeds. If no right of redemption exists, the certificate of title in the name of the mortgagor shall be cancelled, and a new one issued in the name of the purchaser.

Where a right of redemption exists, the certificate of title in the name of the mortgagor shall not be cancelled, but the certificate of sale and the order confirming the sale shall be registered and a brief memorandum thereof made by the registrar of deeds upon the certificate of title. In the event the property is redeemed, the deed of redemption shall be registered with the registry of deeds, and a brief memorandum thereof shall be made by the registrar of deeds on said certificate of title.

If the property is not redeemed, the final deed of sale executed by the sheriff in favor of the purchaser at the foreclosure sale shall be registered with the registry of deeds; whereupon the certificate of title in the name of the mortgagor shall be cancelled and a new one issued in the name of the purchaser. (n)

Section 8. *Applicability of other provisions.* – The provisions of sections 31, 32 and 34 of Rule 39 shall be applicable to the judicial foreclosure of real estate mortgages under this Rule insofar as the former are not inconsistent with or may serve to supplement the provisions of the latter. (8a)

RULE 69
PARTITION

Section 1. *Complaint in action for partition of real estate.* – A person having the right to compel the partition of real estate may do so as provided in this Rule, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all other persons interested in the property. (1a)

Section 2. *Order for partition, and partition by agreement thereunder.* – If after the trial the court finds that the plaintiff has the right thereto, it shall order the partition of the real estate among all the parties in interest. Thereupon the parties may, if they are able to agree, make the partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon by all the parties, and such partition, together with the order of the court confirming the same, shall be recorded in the registry of deeds of the place in which the property is situated. (2a)

A final order decreeing partition and accounting may be appealed by any party aggrieved thereby. (n)

Section 3. *Commissioners to make partition when parties fail to agree.* – If the parties are unable to agree upon the partition, the court shall appoint not more than three (3) competent and disinterested persons as commissioners to make the partition, commanding them to set off to the plaintiff and to each party in interest such part and proportion of the property as the court shall direct. (3a)

Section 4. *Oath and duties of commissioners.* – Before making such partition, the commissioners shall take and subscribe an oath that they will faithfully perform their duties as commissioners, which oath shall be filed in court with the other proceedings in the case. In making the partition, the commissioners shall view and examine the real estate, after due notice to the parties to attend at such view and examination, and shall hear the parties as to their preference in the portion of the property to be set apart to them and the comparative value thereof, and shall set apart the same to the parties in lots or parcels as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts thereof. (4a)

Section 5. *Assignment or sale of real estate by commissioners.* – When it is made to appear to the commissioners that the real estate, or a portion thereof, cannot be divided without prejudice to the interests of the parties, the court may order it assigned to one of the parties willing to take the same, provided he pays to the other parties such amounts as the commissioners deem equitable, unless one of the interested parties asks that the property be sold instead of being so assigned, in which case the court shall order the commissioners to sell the real estate at public sale under such conditions and within such time as the court may determine. (5a)

Section 6. *Report of commissioners; proceedings not binding until confirmed.* – The commissioners shall make a full and accurate report to the court of all their proceedings as to the partition, or the assignment of real estate to one of the parties, or the sale of the same. Upon the filing of such report, the clerk of court shall serve copies thereof on all the interested parties with notice that they are allowed ten (10) days within which to file objections to the findings of the report, if they so desire. No proceeding had before or conducted by the commissioners shall pass the title to the property or bind the parties until the court shall have accepted the report of the commissioners and rendered judgment thereon. (6a)

Section 7. *Action of the court upon commissioners' report.* – Upon the expiration of the period of ten (10) days referred to in the preceding section, or even before the expiration of such period but after the interested parties have filed their objections to the report or their statement of agreement therewith, the court may, upon hearing, accept the report and render judgment in accordance therewith; or, for cause shown, recommit the same to the commissioners for further report of facts; or set aside the report and appoint new commissioners; or accept the report in part and reject it in part; and may make such order

and render such judgment as shall effectuate a fair and just partition of the real estate, or of its value, if assigned or sold as above provided, between the several owners thereof. (7)

Section 8. *Accounting for rent and profits in action for partition.* – In an action for partition in accordance with this Rule, a party shall recover from another his just share of rents and profits received by such other party from the real estate in question, and the judgment shall include an allowance for such rents and profits. (8a)

Section 9. *Power of guardian in such proceedings.* – The guardian or guardian *ad litem* of a minor or person judicially declared to be incompetent may, with the approval of the court first had, do and perform on behalf of his ward any act, matter, or thing respecting the partition of real estate, which the minor or person judicially declared to be incompetent could do in partition proceedings if he were of age or competent. (9a)

Section 10. *Costs and expenses to be taxed and collected.* – The court shall equitably tax and apportion between or among the parties the costs and expenses which accrue in the action, including the compensation of the commissioners, having regard to the interests of the parties, and execution may issue therefor as in other cases. (10a)

Section 11. *The judgment and its effect; copy to be recorded in registry of deeds.* – If actual partition of property is made, the judgment shall state definitely, by metes and bounds and adequate description, the particular portion of the real estate assigned to each party, and the effect of the judgment shall be to vest in each party to the action in severalty the portion of the real estate assigned to him. If the whole property is assigned to one of the parties upon his paying to the others the sum or sums ordered by the court, the judgment shall state the fact of such payment and of the assignment of the real estate to the party making the payment, and the effect of the judgment shall be to vest in the party making the payment the whole of the real estate free from any interest on the part of the other parties to the action. If the property is sold and the sale confirmed by the court, the judgment shall state the name of the purchaser or purchasers and a definite description of the parcels of real estate sold to each purchaser, and the effect of the judgment shall be to vest the real estate in the purchaser or purchasers making the payment or payments, free from the claims of any of the parties to the action. A certified copy of the judgment shall in either case be recorded in the registry of deeds of the place in which the real estate is situated, and the expenses of such recording shall be taxed as part of the costs of the action. (11a)

Section 12. *Neither paramount rights nor amicable partition affected by this Rule.* – Nothing in this Rule contained shall be construed so as to prejudice, defeat, or destroy the right or title of any person claiming the real estate involved by title under any other person, or by title paramount to the title of the parties among whom the partition may have been made; nor so as to restrict or prevent persons holding real estate jointly or in common from making an amicable partition thereof by agreement and suitable instruments of conveyance without recourse to an action. (12a)

Section 13. *Partition of personal property.* – The provisions of this Rule shall apply to partitions of estates composed of personal property, or of both real and personal property, insofar as the same may be applicable. (13)

RULE 70
FORCIBLE ENTRY AND UNLAWFUL DETAINER

Section 1. *Who may institute proceedings, and when.* – Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs. (1a)

Section 2. *Lessor to proceed against lessee only after demand.* – Unless otherwise stipulated, such action by the lessor shall be commenced only after demand to pay or comply with the conditions of the lease and to vacate is made upon the lessee, or by serving written notice of such demand upon the person found on the premises, or by posting such notice on the premises if no person be found thereon, and the lessee fails to comply therewith after fifteen (15) days in the case of land or five (5) days in the case of buildings. (2a)

Section 3. *Summary procedure.* – Except in cases covered by the agricultural tenancy laws or when the law otherwise expressly provides, all actions for forcible entry and unlawful detainer, irrespective of the amount of damages or unpaid rentals sought to be recovered, shall be governed by the summary procedure hereunder provided. (n)

Section 4. *Pleadings allowed.* – The only pleadings allowed to be filed are the complaint, compulsory counterclaim and cross-claim pleaded in the answer, and the answers thereto. All pleadings shall be verified. (3a, RSP)

Section 5. *Action on complaint.* – The court may, from an examination of the allegations in the complaint and such evidence as may be attached thereto, dismiss the case outright on any of the grounds for the dismissal of a civil action which are apparent therein. If no ground for dismissal is found, it shall forthwith issue summons. (n)

Section 6. *Answer.* – Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. Affirmative and negative defenses not pleaded therein shall be deemed waived, except lack of jurisdiction over the subject matter. Cross-claims and compulsory counterclaims not asserted in the answer shall be considered barred. The answer to counterclaims or cross-claims shall be served and filed within ten (10) days from service of the answer in which they are pleaded. (5, RSP)

Section 7. *Effect of failure to answer.* – Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio* or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein. The

court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable, without prejudice to the applicability of section 3 (c), Rule 9 if there are two or more defendants. (6, RSP)

Section 8. *Preliminary conference; appearance of parties.* – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The provisions of Rule 18 on pre-trial shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with the next preceding section. All cross-claims shall be dismissed. (7, RSP)

If a sole defendant shall fail to appear, the plaintiff shall likewise be entitled to judgment in accordance with the next preceding section. This procedure shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.

No postponement of the preliminary conference shall be granted except for highly meritorious grounds and without prejudice to such sanctions as the court in the exercise of sound discretion may impose on the movant. (n)

Section 9. *Record of preliminary conference.* – Within five (5) days after the termination of the preliminary conference, the court shall issue an order stating the matters taken up therein, including but not limited to:

1. Whether the parties have arrived at an amicable settlement, and if so, the terms thereof;
2. The stipulations or admissions entered into by the parties;
3. Whether, on the basis of the pleadings and the stipulations and admissions made by the parties, judgment may be rendered without the need of further proceedings, in which event the judgment shall be rendered within thirty (30) days from issuance of the order;
4. A clear specification of material facts which remain controverted; and
5. Such other matters intended to expedite the disposition of the case. (8, RSP)

Section 10. *Submission of affidavits and position papers.* – Within ten (10) days from receipt of the order mentioned in the next preceding section, the parties shall submit the affidavits of their witnesses and other evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them. (9, RSP)

Section 11. *Period for rendition of judgment.* – Within thirty (30) days after receipt of the affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However, should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last affidavit or the expiration of the period for filing the same.

The court shall not resort to the foregoing procedure just to gain time for the rendition of the judgment. (n)

Section 12. *Referral for conciliation.* – Cases requiring referral for conciliation, where there is no showing of compliance with such requirement, shall be dismissed without prejudice, and may be revived only after that requirement shall have been complied with. (18a, RSP)

Section 13. *Prohibited pleadings and motions.* – The following petitions, motions, or pleadings shall not be allowed:

1. Motion to dismiss the complaint except on the ground of lack of jurisdiction over the subject matter, or failure to comply with section 12;
2. Motion for a bill of particulars;
3. Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
4. Petition for relief from judgment;
5. Motion for extension of time to file pleadings, affidavits or any other paper;
6. Memoranda;
7. Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;
8. Motion to declare the defendant in default;
9. Dilatory motions for postponement;
10. Reply;
11. Third-party complaints;
12. Interventions. (19a, RSP)

Section 14. *Affidavits.* – The affidavits required to be submitted under this Rule shall state only facts of direct personal knowledge of the affiants which are admissible in evidence, and shall show their competence to testify to the matters stated therein.

A violation of this requirement may subject the party or the counsel who submits the same to disciplinary action, and shall be cause to expunge the inadmissible affidavit or portion thereof from the record. (20, RSP)

Section 15. *Preliminary injunction.* – The court may grant preliminary injunction, in accordance with the provisions of Rule 58 hereof, to prevent the defendant from committing further acts of dispossession against the plaintiff.

A possessor deprived of his possession through forcible entry or unlawful detainer may, within five (5) days from the filing of the complaint, present a motion in the action for forcible entry or unlawful detainer for the issuance of a writ of preliminary mandatory injunction to restore him in his possession. The court shall decide the motion within thirty (30) days from the filing thereof. (3a)

Section 16. *Resolving defense of ownership.* – When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession. (4a)

Section 17. *Judgment.* – If after trial the court finds that the allegations of the complaint are true, it shall render judgment in favor of the plaintiff for the restitution of the premises, the sum justly due as arrears of rent or as reasonable compensation for the use and occupation of the premises, attorney's fees and costs. If it finds that said allegations are not true, it shall render judgment for the defendant to recover his costs. If a counterclaim is established, the court shall render judgment for the sum found in arrears from either party and award costs as justice requires. (6a)

Section 18. *Judgment conclusive only on possession; not conclusive in actions involving title or ownership.* – The judgment rendered in an action for forcible entry or detainer shall be conclusive with respect to the possession only and shall in no wise bind the title or affect the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building.

The judgment or final order shall be appealable to the appropriate Regional Trial Court which shall decide the same on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Court. (7a)

Section 19. *Immediate execution of judgment; how to stay same.* – If judgment is rendered against the defendant, execution shall issue immediately upon motion, unless an appeal has been perfected and the defendant to stay execution files a sufficient supersedeas bond, approved by the Municipal Trial Court and executed in favor of the plaintiff to pay the rents, damages, and costs accruing down to the time of the judgment appealed from, and unless, during the pendency of the appeal, he deposits with the appellate court the amount of rent due from time to time under the contract, if any, as determined by the judgment of the Municipal Trial Court. In the absence of a contract, he shall deposit with the Regional Trial Court the reasonable value of the use and occupation of the premises for the preceding month or period at the rate determined by the judgment of the lower court on or before the tenth day of each succeeding month or period. The supersedeas bond shall be transmitted by the Municipal Trial Court, with the other papers, to the clerk of the Regional Trial Court to which the action is appealed.

All amounts so paid to the appellate court shall be deposited with said court or authorized government depositary bank, and shall be held there until the final disposition of the appeal, unless the court, by agreement of the interested parties, or in the absence of reasonable grounds of opposition to a motion to withdraw, or for justifiable reasons, shall decree otherwise. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the appellate court, upon motion of the plaintiff, and upon proof of such failure, shall order the execution of the judgment appealed from with respect to the restoration of possession, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on the merits.

After the case is decided by the Regional Trial Court, any money paid to the court by the defendant for purposes of the stay of execution shall be disposed of in accordance with the provisions of the judgment of the Regional Trial Court. In any case wherein it appears that the defendant has been

deprived of the lawful possession of land or building pending the appeal by virtue of the execution of the judgment of the Municipal Trial Court, damages for such deprivation of possession and restoration of possession may be allowed the defendant in the judgment of the Regional Trial Court disposing of the appeal. (8a)

Section 20. *Preliminary mandatory injunction in case of appeal.* – Upon motion of the plaintiff, within ten (10) days from the perfection of the appeal to the Regional Trial Court, the latter may issue a writ of preliminary mandatory injunction to restore the plaintiff in possession if the court is satisfied that the defendant's appeal is frivolous or dilatory, or that the appeal of the plaintiff is *prima facie* meritorious. (9a)

Section 21. *Immediate execution on appeal to Court of Appeals or Supreme Court.* – The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. (10a)

RULE 71
CONTEMPT

Section 1. *Direct contempt punished summarily.* – A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court. (1a)

Section 2. *Remedy therefrom.* – The person adjudged in direct contempt by any court may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of the judgment shall be suspended pending resolution of such petition, provided such person files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him. (2a)

Section 3. *Indirect contempt to be punished after charge and hearing.* – After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings. (3a)

Section 4. *How proceedings commenced.* – Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision. (n)

Section 5. *Where charge to be filed.* – Where the charge for indirect contempt has been committed against a Regional Trial Court or a court of equivalent or higher rank, or against an officer appointed by it, the charge may be filed with such court. Where such contempt has been committed against a lower court, the charge may be filed with the Regional Trial Court of the place in which the lower court is sitting; but the proceedings may also be instituted in such lower court subject to appeal to the Regional Trial Court of such place in the same manner as provided in section 11 of this Rule. (4a; *En Banc* Resolution, July 21, 1998.)

Section 6. *Hearing; release on bail.* – If the hearing is not ordered to be had forthwith, the respondent may be released from custody upon filing a bond, in an amount fixed by the court, for his appearance at the hearing of the charge. On the day set therefor, the court shall proceed to investigate the charge and consider such comment, testimony or defense as the respondent may make or offer. (5a)

Section 7. *Punishment for indirect contempt.* – If the respondent is adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank, he may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both. If he is adjudged guilty of contempt committed against a lower court, he may be punished by a fine not exceeding five thousand pesos or imprisonment not exceeding one (1) month, or both. If the contempt consists in the violation of a writ of injunction, temporary restraining order or *status quo* order, he may also be ordered to make complete restitution to the party injured by such violation of the property involved or such amount as may be alleged and proved.

The writ of execution, as in ordinary civil actions, shall issue for the enforcement of a judgment imposing a fine unless the court otherwise provides. (6a)

Section 8. *Imprisonment until order obeyed.* – When the contempt consists in the refusal or omission to do an act which is yet in the power of the respondent to perform, he may be imprisoned by order of the court concerned until he performs it. (7a)

Section 9. *Proceeding when party released on bail fails to answer.* – When a respondent released on bail fails to appear on the day fixed for the hearing, the court may issue another order of arrest or may order the bond for his appearance to be forfeited and confiscated, or both; and, if the bond be proceeded against, the measure of damages shall be the extent of the loss or injury sustained by the aggrieved party by reason of the misconduct for which the contempt charge was prosecuted, with the costs of the proceedings, and such recovery shall be for the benefit of the party injured. If there is no aggrieved party, the bond shall be liable and disposed of as in criminal cases. (8a)

Section 10. *Court may release respondent.* – The court which issued the order imprisoning a person for contempt may discharge him from imprisonment when it appears that public interest will not be prejudiced by his release. (9a)

Section 11. *Review of judgment or final order; bond for stay.* – The judgment or final order of a court in a case of indirect contempt may be appealed to the proper court as in criminal cases. But execution of the judgment or final order shall not be suspended until a bond is filed by the person adjudged in contempt, in an amount fixed by the court from which the appeal is taken, conditioned that if the appeal be decided against him he will abide by and perform the judgment or final order. (10a)

Section 12. *Contempt against quasi-judicial entities.* – Unless otherwise provided by law, this Rule shall apply to contempt committed against persons, entities, bodies or agencies exercising quasi-judicial functions, or shall have suppletory effect to such rules as they may have adopted pursuant to authority granted to them by law to punish for contempt. The Regional Trial Court of the place wherein the contempt has been committed shall have jurisdiction over such charges as may be filed therefor. (n)

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RULE 144
EFFECTIVENESS

These [R]ules shall take effect on January 1, 1964. They shall govern all cases brought after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which even[t] the former procedure shall apply.

The 2019 Proposed Amendments to the 1997 Rules of Civil Procedure shall govern all cases filed after their effectivity on May 1, 2020, and also all pending proceedings, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern. (n)

The application and adherence to the said amendments shall be subject to periodic monitoring by the Subcommittee, through the Office of the Court Administrator (OCA). For this purpose, all courts covered by the said amendments shall accomplish and submit a periodic report of data in a form to be generated and distributed by the OCA. (n)

All rules, resolutions, regulations or circulars of the Supreme Court or parts thereof that are inconsistent with any provision of the said amendments are hereby deemed repealed or modified accordingly. (n)

PRESCRIBED FORM NO. 1

NOTICE OF PRE-TRIAL

The parties are hereby required to appear personally or through their duly authorized representative, and their counsel in the Pre-Trial on _____ at _____ o'clock A.M./P.M., and in the following proceedings:

1. COURT-ANNEXED MEDIATION: (To be scheduled at pre-trial)
2. JUDICIAL DISPUTE RESOLUTION: (To be scheduled at pre-trial if deemed necessary by the court.)

The parties and their counsels are required to be present at the pre-trial and to file with the court and serve on the adverse parties at least three (3) days before the date of the pre-trial their respective pre-trial briefs which shall contain, among others:

(a) A concise statement of the case and the reliefs prayed for;

(b) A summary of admitted facts and proposed stipulation of facts;

(c) The main factual and legal issues to be tried or resolved;

(d) The propriety of referral of factual issues to commissioners;

(e) The documents or other object evidence to be marked, stating the purpose thereof;

(f) The names of the witnesses, and the summary of their respective testimonies; and

(g) Brief statement of points of law and citation of authorities.

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

Non-appearance at the Pre-Trial or any of the foregoing settings shall merit the sanction of dismissal of the action, for the plaintiff's and his or her counsel's non-appearance, and allowance of plaintiff's *ex parte* evidence presentation and *ex parte* judgment, for defendant's and his or her counsel's non-appearance. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability.

A representative, through a special power of attorney, may appear on behalf of a party, but shall be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admission of facts and documents.

The parties and their counsel, who are required to attend the Pre-Trial shall be ready.

No reservation of evidence not available during the Pre-Trial shall be allowed unless done in the following manner:

(a) For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness;

(b) For documentary evidence and other object evidence, and electronic evidence, by giving a particular description of the evidence.

The failure without just cause of a party and counsel to appear at the Pre-Trial, despite notice, shall result in a waiver of any objections to the faithfulness of the reproductions marked, or their genuineness and due execution.

The failure without just cause of a party and counsel to bring the evidence required at the Pre-Trial shall be deemed a waiver of the presentation of such evidence.

WITNESS, the HON. _____, Presiding Judge of this Court, this ____ day of _____, 20__ at _____.

_____

Branch Clerk of Court

PRESCRIBED FORM NO. 2

PRE-TRIAL ORDER

I. PLAINTIFF'S EVIDENCE

A. Documentary and other Object Evidence:

Exhibit "A" – Description;
Exhibit "B" – Description;
Exhibit "C" – Description;

B. Testimonial Evidence

Judicial Affidavit of _____;
Judicial Affidavit of _____;
Judicial Affidavit of _____;

C. Reserved Evidence;

Description;

II. DEFENDANT'S EVIDENCE

A. Documentary and other Object Evidence:

Exhibit "A" – Description;
Exhibit "B" – Description;
Exhibit "C" – Description;

B. Testimonial Evidence:

Judicial Affidavit of _____;
Judicial Affidavit of _____;
Judicial Affidavit of _____;

C. Reserved Evidence:

Description;

Evidence not pre-marked and listed herein shall not be allowed during trial.

III. ADMITTED FACTS AND STIPULATION OF FACTS

IV. ISSUES TO BE TRIED OR RESOLVED

In case there are no more controverted facts or genuine issues to be resolved, the court shall so declare in the pre-trial order and shall *motu proprio* consider the case submitted, without prejudice to a party moving, for judgment on the pleadings or summary judgment, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial. However, if there are controverted facts or genuine issues to be resolved, the court shall first refer the case to the Philippine Mediation Center Unit for mediation purposes.

V. MANIFESTATION OF PARTIES HAVING AVAILED OR THEIR INTENTION TO AVAIL OF DISCOVERY PROCEDURES OR REFERRAL TO COMMISSIONERS

VI. NUMBER AND NAMES OF WITNESSES, THE SUBSTANCE OF THEIR TESTIMONIES, AND APPROXIMATE NUMBER OF HOURS THAT WILL BE REQUIRED BY THE PARTIES FOR THE PRESENTATION OF THEIR RESPECTIVE WITNESSES

VII. SCHEDULE OF CONTINUOUS TRIAL DATES FOR BOTH PLAINTIFF AND DEFENDANT

Trial shall proceed on _____, all at 8:30 A.M. and 2:00 P.M., for the plaintiff or claiming party to present and terminate its evidence; and on _____, all at 8:30 A.M. and 2:00 P.M., for the defendant or defending party to present and terminate its evidence.*[*This will depend on the number of witnesses listed. It is suggested that for every witness, at least two (2) trial dates should be allotted. The trial dates may likewise be one (1) day apart.*]

The trial dates are final and intransferrable, and no motions for postponement that are dilatory in character shall be entertained by the court. If such motions are granted in exceptional cases, the postponement/s by either party shall be deducted from such party's allotted time to present evidence.

The parties are hereby ordered to immediately proceed and personally appear at the Philippine Mediation Center located at _____ (PMC Unit) today, (*date today*) with or without their counsel/s, for mediation proceedings. The assigned Mediator is ordered to submit a report to this court on the results of the mediation based on the factual and legal issues to be resolved within a non-extendible period of thirty (30) calendar days from the date of the court's referral of this case to the PMC Unit.

Should mediation fail after the lapse of the said 30-day period, the parties are ordered to appear before the court so that the trial shall proceed on the trial dates indicated above. Only if the judge of the court to which the case was originally raffled is convinced that settlement is possible that the case may be referred to another court for judicial dispute resolution, which shall be conducted within a non-extendible period of fifteen (15) calendar days from notice of the court-annexed mediation. If judicial dispute resolution fails, trial before the original court shall proceed on the dates agreed upon.

Failure of the party or his or her counsel to comply with the abovementioned schedule of hearings and deadlines shall be a ground for imposition of fines and other sanctions by the court.

The parties and their counsel are hereby notified hereof, and the court shall no longer issue a subpoena to the parties present today.

CONFORMITY

_____ _____

Plaintiff *Defendant*

_____ _____

Plaintiff's Counsel *Defendant's Counsel*

ATTESTED:

_____

Branch Clerk of Court

NOTED BY:

_____

Presiding Judge

4

Comparative Table of the 1997 Rules of Civil Procedure and the 2019 Amendments

Comparative Table of the 1997 Rules of Civil Procedure and the 2019 Amendments

RULE 6
KINDS OF PLEADINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Pleadings defined.* – Pleadings are the written statements of the respective claims and defenses of the parties submitted to the court for appropriate judgment. (1a)	Section 1. *Pleadings defined*. – Pleadings are the written statements of the respective claims and defenses of the parties submitted to the court for appropriate judgment. (1)
Section 2. *Pleadings allowed*. – The claims of a party are asserted in a complaint, counterclaim, cross-claim, third (fourth, etc.)-party complaint, or complaint-in-intervention. The defenses of a party are alleged in the answer to the pleading asserting a claim against him. An answer may be responded to by a reply. (n)	Section 2. *Pleadings allowed*. – The claims of a party are asserted in a complaint, counterclaim, cross-claim, third (fourth, etc.)-party complaint, or complaint-in-intervention. The defenses of a party are alleged in the answer to the pleading asserting a claim against him <u>or her</u>. An answer may be responded to by a reply <u>only if the defending party attaches an actionable document to the answer.</u> (2a)
Section 3. *Complaint*. – The complaint is the pleading alleging the plaintiff's cause or causes of action. The names and residences of the plaintiff and defendant must be stated in the complaint. (3a)	Section 3. *Complaint*. – The complaint is the pleading alleging the plaintiff's <u>or claiming party's</u> cause or causes of action. The names and residences of the plaintiff and defendant must be stated in the complaint. (3a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Answer*. – An answer is a pleading in which a defending party sets forth his defenses. (4a)	Section 4. *Answer*. – An answer is a pleading in which a defending party sets forth his or her defenses. (4a)
Section 5. *Defenses*. – Defenses may either be negative or affirmative. (a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his cause or causes of action. (b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance. (5a)	Section 5. *Defenses*. – Defenses may either be negative or affirmative. (a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his or her cause or causes of action. (b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him or her. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance. Affirmative defenses may also include grounds for the dismissal of a complaint, specifically, that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment. (5a)
Section 6. *Counterclaim*. – A counterclaim is any claim which a defending party may have against an opposing party. (6a)	Section 6. *Counterclaim*. – A counterclaim is any claim which a defending party may have against an opposing party. (6)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 7. *Compulsory counterclaim*. – A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counterclaim may be considered compulsory regardless of the amount. (n)	Section 7. *Compulsory counterclaim*. – A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counterclaim may be considered compulsory regardless of the amount. A compulsory counterclaim not raised in the same action is barred, unless otherwise allowed by these Rules. (7a)
Section 8. *Cross-claim*. – A cross-claim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein. Such cross-claim may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant. (7)	Section 8. *Cross-claim*. – A cross-claim is any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein. Such cross-claim may cover all or part of the original claim. (8a)
Section 9. *Counter-counterclaims and counter-cross-claims*. – A counterclaim may be asserted against an original counter-claimant. A cross-claim may also be filed against an original cross-claimant. (n)	Section 9. *Counter-counterclaims and counter-cross-claims*. – A counterclaim may be asserted against an original counter-claimant. A cross-claim may also be filed against an original cross-claimant. (9)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 10. *Reply*. – A reply is a pleading, the office or function of which is to deny, or allege facts in denial or avoidance of new matters alleged by way of defense in the answer and thereby join or make issue as to such new matters. If a party does not file such reply, all the new matters alleged in the answer are deemed controverted. If the plaintiff wishes to interpose any claims arising out of the new matters so alleged, such claims shall be set forth in an amended or supplemental complaint. (11)	Section 10. *Reply*. – All new matters alleged in the answer are deemed controverted. If the plaintiff wishes to interpose any claims arising out of the new matters so alleged, such claims shall be set forth in an amended or supplemental complaint. However, the plaintiff may file a reply only if the defending party attaches an actionable document to his or her answer. A reply is a pleading, the office or function of which is to deny, or allege facts in denial or avoidance of new matters alleged in, or relating to, said actionable document. In the event of an actionable document attached to the reply, the defendant may file a rejoinder if the same is based solely on an actionable document. (10a)
Section 11. *Third, (fourth, etc.)*[-]*party complaint.* – A third (fourth, etc.)[-]party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant for contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim. (12a)	Section 11. *Third, (fourth, etc.)-party complaint.* – A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant for contribution, indemnity, subrogation or any other relief, in respect of his or her opponent's claim. The third (fourth, etc.)-party complaint shall be denied admission, and the court shall require the defendant to institute a separate action, where: (a) the third (fourth, etc.)-party defendant cannot be located within thirty (30) calendar days from the grant of such leave; (b) matters extraneous to the issue in the principal case are raised; or (c) the effect would be to introduce a new and separate controversy into the action. (11a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 12. *Bringing new parties*. – When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants, if jurisdiction over them can be obtained. (14)	Section 12. *Bringing new parties*. – When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross-claim, the court shall order them to be brought in as defendants, if jurisdiction over them can be obtained. (12)
Section 13. *Answer to third (fourth, etc.)-party complaint*. – A third (fourth, etc.)-party defendant may allege in his answer his defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff. (n)	Section 13. *Answer to third (fourth, etc.)-party complaint*. – A third (fourth, etc.)-party defendant may allege in his <u>or her</u> answer his <u>or her</u> defenses, counterclaims or cross-claims, including such defenses that the third (fourth, etc.)-party plaintiff may have against the original plaintiff's claim. In proper cases, he [<u>or she</u>] may also assert a counterclaim against the original plaintiff in respect of the latter's claim against the third-party plaintiff. (13a)

RULE 7
PARTS <u>AND CONTENTS</u> OF A PLEADING

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Caption*. – The caption sets forth the name of the court, the title of the action, and the docket number if assigned. The title of the action indicates the names of the parties. They shall all be named in the original complaint or petition; but in subsequent pleadings, it shall be sufficient if the name of the first party on each side be stated with an appropriate indication when there are other parties. Their respective participation in the case shall be indicated. (1a, 2a)	Section 1. *Caption*. – The caption sets forth the name of the court, the title of the action, and the docket number if assigned. The title of the action indicates the names of the parties. They shall all be named in the original complaint or petition; but in subsequent pleadings, it shall be sufficient if the name of the first party on each side be stated with an appropriate indication when there are other parties. Their respective participation in the case shall be indicated. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *The body*. – The body of the pleading sets forth its designation, the allegations of the party's claims or defenses, the relief prayed for, and the date of the pleading. (n)	Section 2. *The body*. – The body of the pleading sets forth its designation, the allegations of the party's claims or defenses, the relief prayed for, and the date of the pleading.
(a) *Paragraphs*. – The allegations in the body of a pleading shall be divided into paragraphs so numbered to be readily identified, each of which shall contain a statement of a single set of circumstances so far as that can be done with convenience. A paragraph may be referred to by its number in all succeeding pleadings. (3a)	(a) *Paragraphs*. – The allegations in the body of a pleading shall be divided into paragraphs so numbered to be readily identified, each of which shall contain a statement of a single set of circumstances so far as that can be done with convenience. A paragraph may be referred to by its number in all succeeding pleadings.
(b) *Headings*. – When two or more causes of action are joined, the statement of the first shall be prefaced by the words "first cause of action,'' of the second by "second cause of action," and so on for the others. When one or more paragraphs in the answer are addressed to one of several causes of action in the complaint, they shall be prefaced by the words "answer to the first cause of action" or "answer to the second cause of action" and so on; and when one or more paragraphs of the answer are addressed to several causes of action, they shall be prefaced by words to that effect. (4)	(b) *Headings*. – When two or more causes of action are joined, the statement of the first shall be prefaced by the words "first cause of action,'' of the second by "second cause of action," and so on for the others. When one or more paragraphs in the answer are addressed to one of several causes of action in the complaint, they shall be prefaced by the words "answer to the first cause of action" or "answer to the second cause of action" and so on; and when one or more paragraphs of the answer are addressed to several causes of action, they shall be prefaced by words to that effect.
(c) *Relief*. – The pleading shall specify the relief sought, but it may add a general prayer for such further or other relief as may be deemed just or equitable. (3a, R6)	(c) *Relief*. – The pleading shall specify the relief sought, but it may add a general prayer for such further or other relief as may be deemed just or equitable.
(d) *Date*. – Every pleading shall be dated. (n)	(d) *Date*. – Every pleading shall be dated. (4)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Signature and address*. – Every pleading must be signed by the party or counsel representing him, stating in either case his address which should not be a post office box. The signature of counsel constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. An unsigned pleading produces no legal effect. However, the court may, in its discretion, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading, or signs a pleading in violation of this Rule, or alleges scandalous or indecent matter therein, or fails to promptly report to the court a change of his address, shall be subject to appropriate disciplinary action. (5a)	Section 3. *Signature and address*. – (a) Every pleading and other written submissions [to the court] must be signed by the party or counsel representing him or her. (b) The signature of counsel constitutes a certificate by him or her that he or she has read the pleading and document; that to the best of his or her knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) It is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) The claims, defenses, and other legal contentions are warranted by existing law or jurisprudence, or by a non-frivolous argument for extending, modifying, or reversing existing jurisprudence; (3) The factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after availment of the modes of discovery under these [R]ules; and (4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information. (c) If the court determines, on motion or *motu proprio* and after notice and hearing, that this [R]ule has been violated, it may impose an appropriate sanction or refer such violation to the proper office for disciplinary action, on any attorney, law firm, or party that violated the rule, or is responsible for the violation. Absent exceptional circumstances, a law firm shall be held jointly and severally liable for a violation committed by its partner, associate, or employee. The sanction may include, but shall not be limited to, non-monetary directive or sanction; an order to pay a penalty in court; or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of part or all of the reasonable attorney's fees and other expenses directly resulting from the violation, including attorney's fees for the filing of the motion for sanction. The lawyer or law firm cannot pass on the monetary penalty to the client. (3a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Verification*. – Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit. (5a) A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records. A pleading required to be verified which contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. *(As amended by A.M. No. 00-2-10-SC, May 1, 2000.)*	Section 4. *Verification*. – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified. A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations: (a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents; (b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and (c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery. The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading. A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (4a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Certification against forum shopping*. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed. Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)	Section 5. *Certification against forum shopping*. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his [or her] knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading. Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (5a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 6. *Contents*. – Every pleading stating a party's claims or defenses shall, in addition to those mandated by Section 2, Rule 7, state the following: (a) Names of witnesses who will be presented to prove a party's claim or defense; (b) Summary of the witnesses' intended testimonies, provided that the judicial affidavits of said witnesses shall be attached to the pleading and form an integral part thereof. Only witnesses whose judicial affidavits are attached to the pleading shall be presented by the parties during trial. Except if a party presents meritorious reasons as basis for the admission of additional witnesses, no other witness or affidavit shall be heard or admitted by the court; and (c) Documentary and object evidence in support of the allegations contained in the pleading. (n)

RULE 8
MANNER OF MAKING ALLEGATIONS IN PLEADINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *In general*. – Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts on which the party pleading relies for his claim or defense, as the case may be, omitting the statement of mere evidentiary facts. (1) If a defense relied on is based on law, the pertinent provisions thereof and their applicability to him shall be clearly and concisely stated. (n)	Section 1. *In general*. – Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts, including the evidence on which the party pleading relies for his [or her] claim or defense, as the case may be. If a cause of action [or] defense relied on is based on law, the pertinent provisions thereof and their applicability to him or her shall be clearly and concisely stated. (1a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Alternative causes of action or defenses*. – A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one cause of action or defense or in separate causes of action or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. (2)	Section 2. *Alternative causes of action or defenses*. – A party may set forth two or more statements of a claim or defense alternatively or hypothetically, either in one cause of action or defense or in separate causes of action or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. (2)
Section 3. *Conditions precedent*. – In any pleading a general averment of the performance or occurrence of all conditions precedent shall be sufficient. (3)	Section 3. *Conditions precedent*. – In any pleading, a general averment of the performance or occurrence of all conditions precedent shall be sufficient. (3)
Section 4. *Capacity*. – Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (4)	Section 4. *Capacity*. – Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. (4)
Section 5. *Fraud, mistake, condition of the mind*. – In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge, or other condition of the mind of a person may be averred generally. (5a)	Section 5. *Fraud, mistake, condition of the mind*. – In all averments of fraud or mistake, the circumstances constituting fraud or mistake must be stated with particularity. Malice, intent, knowledge, or other condition of the mind of a person may be averred generally. (5)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 6. *Judgment*. – In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it. (6)	Section 6. *Judgment*. – In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it. An authenticated copy of the judgment or decision shall be attached to the pleading. (6a)
Section 7. *Action or defense based on document*. – Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading, or said copy may with like effect be set forth in the pleading. (7)	Section 7. *Action or defense based on document*. – Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading. (7a)
Section 8. *How to contest such documents*. – When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath specifically denies them, and sets forth what he claims to be the facts, but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused. (8a)	Section 8. *How to contest such documents*. – When an action or defense is founded upon a written instrument, or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath specifically denies them, and sets forth what he or she claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused. (8a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 9. *Official document or act*. – In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law. (9)	Section 9. *Official document or act*. – In pleading an official document or official act, it is sufficient to aver that the document was issued or the act was done in compliance with law. (9)
Section 10. *Specific denial*. – A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial. (10a)	Section 10. *Specific denial*. – A defendant must specify each material allegation of fact the truth of which he or she does not admit and, whenever practicable, shall set forth the substance of the matters upon which he or she relies to support his or her denial. Where a defendant desires to deny only a part of an averment, he or she shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made [to] the complaint, he or she shall so state, and this shall have the effect of a denial. (10a)
Section 11. *Allegations not specifically denied deemed admitted*. – Material averment in the complaint, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. Allegations of usury in a complaint to recover usurious interest are deemed admitted if not denied under oath. (1a, R9)	Section 11. *Allegations not specifically denied deemed admitted*. – Material averments in a pleading asserting a claim or claims, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. (11a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 12. *Affirmative defenses*. – (a) A defendant shall raise his or her affirmative defenses in his or her answer, which shall be limited to the reasons set forth under Section 5(b), Rule 6, and the following grounds: 1. That the court has no jurisdiction over the person of the defending party; 2. That venue is improperly laid; 3. That the plaintiff has no legal capacity to sue; 4. That the pleading asserting the claim states no cause of action; and 5. That a condition precedent for filing the claim has not been complied with. (b) Failure to raise the affirmative defenses at the earliest opportunity shall constitute a waiver thereof. (c) The court shall *motu proprio* resolve the above affirmative defenses within thirty (30) calendar days from the filing of the answer. (d) As to the other affirmative defenses under the first paragraph of Section 5(b), Rule 6, the court may conduct a summary hearing within fifteen (15) calendar days from the filing of the answer. Such affirmative defenses shall be resolved by the court within thirty (30) calendar days from the termination of the summary hearing. (e) Affirmative defenses, if denied, shall not be the subject of a motion for reconsideration or petition for *certiorari*, prohibition or *mandamus*, but may be among the matters to be raised on appeal after a judgment on the merits. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 12. *Striking out of pleading or matter contained therein*. – Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within twenty (20) days after the service of the pleading upon him, or upon the court's own initiative at any time, the court may order any pleading to be stricken out or that any sham or false, redundant, immaterial, impertinent, or scandalous matter be stricken out therefrom. (5, R9)	Section 13. *Striking out of pleading or matter contained therein*. – Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within twenty (20) calendar days after the service of the pleading upon him or her, or upon the court's own initiative at any time, the court may order any pleading to be stricken out or that any sham or false, redundant, immaterial, impertinent, or scandalous matter be stricken out therefrom. (12a)

RULE 9
EFFECT OF FAILURE TO PLEAD

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Defenses and objections not pleaded*. – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (2a)	Section 1. *Defenses and objections not pleaded*. – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim. (1)
Section 2. *Compulsory counterclaim, or cross-claim, not set up barred*. – A compulsory counterclaim, or a cross-claim, not set up shall be barred. (4a)	Section 2. *Compulsory counterclaim, or cross-claim, not set up barred*. – A compulsory counterclaim, or a cross-claim, not set up shall be barred. (2)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Default*; *declaration of.* – If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court. (1a, R18)	Section 3. *Default*; *[d]eclaration of.* – If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his or her pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.
(a) *Effect of order of default*. – A party in default shall be entitled to notice of subsequent proceedings but not to take part in the trial. (2a, R18)	(a) *Effect of order of default*. – A party in default shall be entitled to notice[s] of subsequent proceedings but shall not take part in the trial.
(b) *Relief from order of default*. – A party declared in default may at any time after notice thereof and before judgment file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable negligence and that he has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice. (3a, R18)	(b) *Relief from order of default*. – A party declared in default may at any time after notice thereof and before judgment, file a motion under oath to set aside the order of default upon proper showing that his or her failure to answer was due to fraud, accident, mistake or excusable negligence and that he or she has a meritorious defense. In such case, the order of default may be set aside on such terms and conditions as the judge may impose in the interest of justice.
(c) *Effect of partial default*. – When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented. (4a, R18)	(c) *Effect of partial default*. – When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented.
(d) *Extent of relief to be awarded*. – A judgment rendered against a party in default shall not exceed the amount or be different in kind from that prayed for nor award unliquidated damages. (5a, R18)	(d) *Extent of relief to be awarded*. – A judgment rendered against a party in default shall [neither] exceed the amount or be different in kind from that prayed for nor award unliquidated damages.
(e) *Where no defaults allowed*. – If the defending party in an action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the prosecuting attorney to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated. (6a, R18)	(e) *Where no defaults allowed*. – If the defending party in an action for annulment or declaration of nullity of marriage or for legal separation fails to answer, the court shall order the Solicitor General or his or her deputized public prosecutor, to investigate whether or not a collusion between the parties exists, and if there is no collusion, to intervene for the State in order to see to it that the evidence submitted is not fabricated. (3a)

RULE 10
AMENDED AND SUPPLEMENTAL PLEADINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Amendments in general*. – Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, and in the most expeditious and inexpensive manner. (1)	Section 1. *Amendments in general*. – Pleadings may be amended by adding or striking out an allegation or the name of any party, or by correcting a mistake in the name of a party or a mistaken or inadequate allegation or description in any other respect, so that the actual merits of the controversy may speedily be determined, without regard to technicalities, in the most expeditious and inexpensive manner. (1a)
Section 2. *Amendments as a matter of right*. – A party may amend his pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) days after it is served. (2a)	Section 2. *Amendments as a matter of right*. – A party may amend his [or her] pleading once as a matter of right at any time before a responsive pleading is served or, in the case of a reply, at any time within ten (10) calendar days after it is served. (2a)
Section 3. *Amendments by leave of court*. – Except as provided in the next preceding section, substantial amendments may be made only upon leave of court. But such leave may be refused if it appears to the court that the motion was made with intent to delay. Orders of the court upon the matters provided in this section shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard. (3a)	Section 3. *Amendments by leave of court.* – Except as provided in the next preceding [S]ection, substantial amendments may be made only upon leave of court. But such leave shall be refused if it appears to the court that the motion was made with intent to delay [or] confer jurisdiction on the court, or the pleading stated no cause of action from the beginning which could be amended. Orders of the court upon the matters provided in this [S]ection shall be made upon motion filed in court, and after notice to the adverse party, and an opportunity to be heard. (3a)
Section 4. *Formal amendments*. – A defect in the designation of the parties and other clearly clerical or typographical errors may be summarily corrected by the court at any stage of the action, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party. (4a)	Section 4. *Formal amendments*. – A defect in the designation of the parties and other clearly clerical or typographical errors may be summarily corrected by the court at any stage of the action, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party. (4)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Amendment to conform to or authorize presentation of evidence*. – When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so with liberality if the presentation of the merits of the action and the ends of substantial justice will be subserved thereby. The court may grant a continuance to enable the amendment to be made. (5a)	Section 5. *No amendment [necessary] to conform to or authorize presentation of evidence.* – When issues not raised by the pleadings are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. No amendment of such pleadings deemed amended is necessary to cause them to conform to the evidence. (5a)
Section 6. *Supplemental pleadings*. – Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) days from notice of the order admitting the supplemental pleading. (6a)	Section 6. *Supplemental pleadings*. – Upon motion of a party[,] the court may, upon reasonable notice and upon such terms as are just, permit him or her to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleading sought to be supplemented. The adverse party may plead thereto within ten (10) calendar days from notice of the order admitting the supplemental pleading. (6a)
Section 7. *Filing of amended pleadings*. – When any pleading is amended, a new copy of the entire pleading, incorporating the amendments, which shall be indicated by appropriate marks, shall be filed. (7a)	Section 7. *Filing of amended pleadings*. – When any pleading is amended, a new copy of the entire pleading, incorporating the amendments, which shall be indicated by appropriate marks, shall be filed. (7)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 8. *Effect of amended pleadings*. – An amended pleading supersedes the pleading that it amends. However, admissions in superseded pleadings may be received in evidence against the pleader, and claims or defenses alleged therein not incorporated in the amended pleading shall be deemed waived. (n)	Section 8. *Effect of amended pleadings*. – An amended pleading supersedes the pleading that it amends. However, admissions in superseded pleadings may be offered in evidence against the pleader, and claims or defenses alleged therein not incorporated in the amended pleading shall be deemed waived. (8a)

RULE 11
WHEN TO FILE RESPONSIVE PLEADINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Answer to the complaint.* – The defendant shall file his answer to the complaint within fifteen (15) days after service of summons, unless a different period is fixed by the court. (1a)	Section 1. *Answer to the complaint.* – The defendant shall file his or her answer to the complaint within thirty (30) calendar days after service of summons, unless a different period is fixed by the court. (1a)
Section 2. *Answer of a defendant foreign private juridical entity*. – Where the defendant is a foreign private juridical entity and service of summons is made on the government official designated by law to receive the same, the answer shall be filed within thirty (30) days after receipt of summons by such entity. (2a)	Section 2. *Answer of a defendant foreign private juridical entity*. – Where the defendant is a foreign private juridical entity and service of summons is made on the government official designated by law to receive the same, the answer shall be filed within sixty (60) calendar days after receipt of summons by such entity. (2a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Answer to amended complaint.* – Where the plaintiff files an amended complaint as a matter of right, the defendant shall answer the same within fifteen (15) days after being served with a copy thereof. Where its filing is not a matter of right, the defendant shall answer the amended complaint within ten (10) days from notice of the order admitting the same. An answer earlier filed may serve as the answer to the amended complaint if no new answer is filed. This Rule shall apply to the answer to an amended counterclaim, amended cross-claim, amended third (fourth, etc.)-party complaint, and amended complaint-in-intervention. (3a)	Section 3. *Answer to amended complaint.* – [When] the plaintiff files an amended complaint as a matter of right, the defendant shall answer the same within thirty (30) calendar days after being served with a copy thereof. Where its filing is not a matter of right, the defendant shall answer the amended complaint within fifteen (15) calendar days from notice of the order admitting the same. An answer earlier filed may serve as the answer to the amended complaint if no new answer is filed. This Rule shall apply to the answer to an amended counterclaim, amended cross-claim, amended third (fourth, etc.)-party complaint, and amended complaint-in-intervention. (3a)
Section 4. *Answer to counterclaim or cross-claim.* – A counterclaim or cross-claim must be answered within ten (10) days from service. (4)	Section 4. *Answer to counterclaim or cross-claim.* – A counterclaim or cross-claim must be answered within twenty (20) calendar days from service. (4a)
Section 5. *Answer to third (fourth, etc.)-party complaint.* – The time to answer a third (fourth, etc.)-party complaint shall be governed by the same rule as the answer to the complaint. (5a)	Section 5. *Answer to third (fourth, etc.)-party complaint.* – The time to answer a third (fourth, etc.)-party complaint shall be governed by the same rule as the answer to the complaint. (5)
Section 6. *Reply.* – A reply may be filed within ten (10) days from service of the pleading responded to. (6)	Section 6. *Reply.* – A reply, if allowed under Section 10, Rule 6 hereof, may be filed within fifteen (15) calendar days from service of the pleading responded to. (6a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 7. *Answer to supplemental complaint.* – A supplemental complaint may be answered within ten (10) days from notice of the order admitting the same, unless a different period is fixed by the court. The answer to the complaint shall serve as the answer to the supplemental complaint if no new or supplemental answer is filed. (n)	Section 7. *Answer to supplemental complaint.* – A supplemental complaint may be answered within twenty (20) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. The answer to the complaint shall serve as the answer to the supplemental complaint if no new or supplemental answer is filed. (7a)
Section 8. *Existing counterclaim or cross-claim.* – A compulsory counterclaim or a cross-claim that a defending party has at the time he files his answer shall be contained therein. (8a, R6)	Section 8. *Existing counterclaim or cross-claim.* – A compulsory counterclaim or a cross-claim that a defending party has at the time he or she files his or her answer shall be contained therein. (8a)
Section 9. *Counterclaim or cross-claim arising after answer.* – A counterclaim or a cross-claim which either matured or was acquired by a party after serving his pleading may, with the permission of the court, be presented as a counterclaim or a cross-claim by supplemental pleading before judgment. (9, R6)	Section 9. *Counterclaim or cross-claim arising after answer.* – A counterclaim or a cross-claim which either matured or was acquired by a party after serving his or her pleading may, with the permission of the court, be presented as a counterclaim or a cross-claim by supplemental pleading before judgment. (9a)
Section 10. *Omitted counterclaim or cross-claim.* – When a pleader fails to set up a counterclaim or a cross-claim through oversight, inadvertence, or excusable neglect, or when justice requires, he may, by leave of court, set up the counterclaim or cross-claim by amendment before judgment. (3a, R9)	Section 10. *Omitted counterclaim or cross-claim.* – When a pleader fails to set up a counterclaim or a cross-claim through oversight, inadvertence, or excusable neglect, or when justice requires, he or she may, by leave of court, set up the counterclaim or cross-claim by amendment before judgment. (10a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 11. *Extension of time to plead.* – Upon motion and on such terms as may be just, the court may extend the time to plead provided in these Rules. The court may also, upon like terms, allow an answer or other pleading to be filed after the time fixed by these Rules. (7)	Section 11. *Extension of time to file an answer.* – A defendant may, for meritorious reasons, be granted an additional period of not more than thirty (30) calendar days to file an answer. A defendant is only allowed to file one (1) motion for extension of time to file an answer. A motion for extension to file any pleading, other than an answer, is prohibited and considered a mere scrap of paper. The court, however, may allow any other pleading to be filed after the time fixed by these Rules. (11a)

RULE 12
BILL OF PARTICULARS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *When applied for*; *purpose*. – Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter which is not averred with sufficient definiteness or particularity to enable him properly to prepare his responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired. (1a)	Section 1. *When applied for*; *purpose*. – Before responding to a pleading, a party may move for a definite statement or for a bill of particulars of any matter, which is not averred with sufficient definiteness or particularity, to enable him or her properly to prepare his or her responsive pleading. If the pleading is a reply, the motion must be filed within ten (10) calendar days from service thereof. Such motion shall point out the defects complained of, the paragraphs wherein they are contained, and the details desired. (1a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Action by the court*. – Upon the filing of the motion, the clerk of court must immediately bring it to the attention of the court which may either deny or grant it outright, or allow the parties the opportunity to be heard. (n)	Section 2. *Action by the court*. – Upon the filing of the motion, the clerk of court must immediately bring it to the attention of the court, which may either deny or grant it outright, or allow the parties the opportunity to be heard. (2)
Section 3. *Compliance with order*. – If the motion is granted, either in whole or in part, the compliance therewith must be effected within ten (10) days from notice of the order, unless a different period is fixed by the court. The bill of particulars or a more definite statement ordered by the court may be filed either in a separate or in an amended pleading, serving a copy thereof on the adverse party. (n)	Section 3. *Compliance with order*. – If the motion is granted, either in whole or in part, the compliance therewith must be effected within ten (10) calendar days from notice of the order, unless a different period is fixed by the court. The bill of particulars or a more definite statement ordered by the court may be filed either in a separate or in an amended pleading, serving a copy thereof on the adverse party. (3a)
Section 4. *Effect of non-compliance*. – If the order is not obeyed, or in case of insufficient compliance therewith, the court may order the striking out of the pleading or the portions thereof to which the order was directed or make such other order as it deems just. (1[c]a)	Section 4. *Effect of non-compliance*. – If the order is not obeyed, or in case of insufficient compliance therewith, the court may order the striking out of the pleading or the portions thereof to which the order was directed[,] or make such other order as it deems just. (4)
Section 5. *Stay of period to file responsive pleading*. – After service of the bill of particulars or of a more definite pleading, or after notice of denial of his motion, the moving party may file his responsive pleading within the period to which he was entitled at the time of filing his motion, which shall not be less than five (5) days in any event. (1[b]a)	Section 5. *Stay of period to file responsive pleading*. – After service of the bill of particulars or of a more definite pleading, or after notice of denial of his or her motion, the moving party may file his or her responsive pleading within the period to which he or she was entitled at the time of filing his or her motion, which shall not be less than five (5) calendar days in any event. (5a)
Section 6. *Bill a part of pleading*. – A bill of particulars becomes part of the pleading for which it is intended. (1[a]a)	Section 6. *Bill a part of pleading*. – A bill of particulars becomes part of the pleading for which it is intended. (6)

RULE 13
FILING AND SERVICE OF PLEADINGS, JUDGMENTS AND OTHER PAPERS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Coverage*. – This Rule shall govern the filing of all pleadings and other papers, as well as the service thereof, except those for which a different mode of service is prescribed. (n)	Section 1. *Coverage*. – This Rule shall govern the filing of all pleadings, motions, and other court submissions, as well as their service, except those for which a different mode of service is prescribed. (1a)
Section 2. *Filing and service, defined*. – Filing is the act of presenting the pleading or other paper to the clerk of court. Service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court. Where one counsel appears for several parties, he shall only be entitled to one copy of any paper served upon him by the opposite side. (2a)	Section 2. *Filing and [s]ervice, defined*. – Filing is the act of submitting the pleading or other paper to the court. Service is the act of providing a party with a copy of the pleading or any other court submission. If a party has appeared by counsel, service upon such party shall be made upon his or her counsel, unless service upon the party and the party's counsel is ordered by the court. Where one counsel appears for several parties, such counsel shall only be entitled to one copy of any paper served by the opposite side. Where several counsels appear for one party, such party shall be entitled to only one copy of any pleading or paper to be served upon the lead counsel if one is designated, or upon any one of them if there is no designation of a lead counsel. (2a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Manner of filing*. – The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. (1a)	Section 3. *Manner of filing*. – The filing of pleadings and <u>other court submissions</u> shall be made by: (a) <u>Submitting personally the original thereof, plainly indicated as such, to the court</u>; (b) Sending them by registered mail; (c) <u>Sending them by accredited courier; or</u> (d) <u>Transmitting them by electronic mail or other electronic means as may be authorized by the [c]ourt in places where the court is electronically equipped.</u> In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. <u>In the second and third cases</u>, the date of the mailing of motions, pleadings, [<u>and other court submissions, and</u>] payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. <u>In the fourth case, the date of electronic transmission shall be considered as the date of filing.</u> (3a)
Section 4. *Papers required to be filed and served.* – Every judgment, resolution, order, pleading subsequent to the complaint, written motion, notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected. (2a)	Section 4. *Papers required to be filed and served.* – Every judgment, resolution, order, pleading subsequent to the complaint, written motion, notice, appearance, demand, offer of judgment or similar papers shall be filed with the court, and served upon the parties affected. (4)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Modes of service.* – Service of pleadings, motions, notices, orders, judgments and other papers shall be made either personally or by mail. (3a)	Section 5. *Modes of [s]ervice.* – Pleadings, motions, notices, orders, judgments, and other court submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, other electronic means as may be authorized by the [c]ourt, or as provided for in international conventions to which the Philippines is a party. (5a)
Section 6. *Personal service.* – Service of the papers may be made by delivering personally a copy to the party or his counsel, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, or he has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion then residing therein. (4a)	Section 6. *Personal [s]ervice.* – Court submissions may be served by personal delivery of a copy to the party or to the party's counsel, or to their authorized representative named in the appropriate pleading or motion, or by leaving it in his or her office with his or her clerk, or with a person having charge thereof. If no person is found in his or her office, or his or her office is not known, or he or she has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion residing therein. (6a)
Section 7. *Service by mail*. – Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail. (5a) *(As amended by En Banc Resolution, February 17, 1998.)*	Section 7. *Service by mail*. – Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or to the party's counsel at his or her office, if known, otherwise at his or her residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if undelivered. If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail. (7a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 8. *Substituted service*. – If service of pleadings, motions, notices, resolutions, orders and other papers cannot be made under the two preceding sections, the office and place of residence of the party or his counsel being unknown, service may be made by delivering the copy to the clerk of court, with proof of failure of both personal service and service by mail. The service is complete at the time of such delivery. (6a)	Section 8. *Substituted service*. – If service of pleadings, motions, notices, resolutions, orders and other papers cannot be made under the two preceding [S]ections, the office and place of residence of the party or his or her counsel being unknown, service may be made by delivering the copy to the clerk of court, with proof of failure of both personal service and service by mail. The service is complete at the time of such delivery. (8a)
No counterpart provision.	Section 9. *Service by electronic means and facsimile*. – Service by electronic means and facsimile shall be made if the party concerned consents to such modes of service. Service by electronic means shall be made by sending an e-mail to the party's or counsel's electronic mail address, or through other electronic means of transmission as the parties may agree on, or upon direction of the court. Service by facsimile shall be made by sending a facsimile copy to the party's or counsel's given facsimile number. (n)
No counterpart provision.	Section 10. *Presumptive service.* – There shall be presumptive notice to a party of a court setting if such notice appears on the records to have been mailed at least twenty (20) calendar days prior to the scheduled date of hearing and if the addressee is from within the same judicial region of the court where the case is pending, or at least thirty (30) calendar days if the addressee is from outside the judicial region. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 11. *Change of electronic mail address or facsimile number.* – A party who changes his or her electronic mail address or facsimile number while the action is pending must promptly file, within five (5) calendar days from such change, a notice of change of e-mail address or facsimile number with the court and serve the notice on all other parties. Service through the electronic mail address or facsimile number of a party shall be presumed valid unless such party notifies the court of any changes, as aforementioned. (n)
No counterpart provision.	Section 12. *Electronic mail and facsimile subject and title of pleadings and other documents.* – The subject of the electronic mail and facsimile must follow the prescribed format: case number, case title and the pleading, order or document title. The title of each electronically-filed or served pleading or other document, and each submission served by facsimile shall contain sufficient information to enable the court to ascertain from the title: (a) the party or parties filing or serving the paper, (b) nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 9. *Service of judgments, final orders or resolutions.* – Judgments, final orders or resolutions shall be served either personally or by registered mail. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him shall be served upon him also by publication at the expense of the prevailing party. (7a)	Section 13. *Service of [j]udgments, [f]inal [o]rders or [r]esolutions.* – Judgments, final orders, or resolutions shall be served either personally or by registered mail. Upon *ex parte* motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by [means of] publication at the expense of the prevailing party. (9a)
No counterpart provision.	Section 14. *Conventional service or filing of orders, pleadings and other documents.* – Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the [c]ourt: (a) Initiatory pleadings and initial responsive pleadings, such as an answer; (b) Subpoena, protection orders, and writs; (c) Appendices and exhibits to motions, or other documents that are not readily amenable to electronic scanning may, at the option of the party filing such, be filed and served conventionally; and (d) Sealed and confidential documents or records. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 10. *Completeness of service.* – Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) days from the date he received the first notice of the postmaster, whichever date is earlier. (8a)	Section 15. *Completeness of service.* – Personal service is complete upon actual delivery. Service by ordinary mail is complete upon the expiration of ten (10) calendar days after mailing, unless the court otherwise provides. Service by registered mail is complete upon actual receipt by the addressee, or after five (5) calendar days from the date he or she received the first notice of the postmaster, whichever date is earlier. Service by accredited courier is complete upon actual receipt by the addressee, or after at least two (2) attempts to deliver by the courier service, or upon the expiration of five (5) calendar days after the first attempt to deliver, whichever is earlier. Electronic service is complete at the time of the electronic transmission of the document, or when available, at the time that the electronic notification of service of the document is sent. Electronic service is not effective or complete if the party serving the document learns that it did not reach the addressee or person to be served. Service by facsimile transmission is complete upon receipt by the other party, as indicated in the facsimile transmission printout. (10a)
Section 11. *Priorities in modes of service and filing.* – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filling was not done personally. A violation of this Rule may be cause to consider the paper as not filed. (n)	No counterpart provision.

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 12. *Proof of filing.* – The filing of a pleading or paper shall be proved by its existence in the record of the case. If it is not in the record, but is claimed to have been filed personally, the filing shall be proved by the written or stamped acknowledgment of its filing by the clerk of court on a copy of the same; if filed by registered mail, by the registry receipt and by the affidavit of the person who did the mailing, containing a full statement of the date and place of depositing the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) days if not delivered. (n)	Section 16. *Proof of filing*. – The filing of a pleading or any other court submission shall be proved by its existence in the record of the case. (a) If the pleading or any other court submission is not in the record, but is claimed to have been filed personally, the filing shall be prove[n] by the written or stamped acknowledgment of its filing by the clerk of court on a copy of the pleading or court submission; (b) If the pleading or any other court submission was filed by registered mail, the filing shall be proven by the registry receipt and by the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if not delivered. (c) If the pleading or any other court submission was filed through an accredited courier service, the filing shall be proven by an affidavit of service of the person who brought the pleading or other document to the service provider, together with the courier's official receipt and document tracking number. (d) If the pleading or any other court submission was filed by electronic mail, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a paper copy of the pleading or other document transmitted or a written or stamped acknowledgment of its filing by the clerk of court. If the paper copy sent by electronic mail was filed by registered mail, paragraph (b) of this Section applies. (e) If the pleading or any other court submission was filed through other authorized electronic means, the same shall be proven by an affidavit of electronic filing of the filing party accompanied by a copy of the electronic acknowledgment of its filing by the court. (12a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 13. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with [s]ection 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (10a)	Section 17. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a statement of the date, place, and manner of service. If the service is made by: (a) Ordinary mail. – Proof shall consist of an affidavit of the person mailing stating the facts showing compliance with [S]ection 7 of this Rule. (b) Registered mail. – Proof shall be made by [the] affidavit mentioned above and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof[,] the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee. (c) Accredited courier service. – Proof shall be made by an affidavit of service executed by the person who brought the pleading or paper to the service provider, together with the courier's official receipt or document tracking number. (d) Electronic mail, facsimile, or other authorized electronic means of transmission. – Proof shall be made by an affidavit of service executed by the person who sent the e-mail, facsimile, or other electronic transmission, together with a printed proof of transmittal. (13a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 18. *Court-issued orders and other documents*. – The court may electronically serve orders and other documents to all the parties in the case which shall have the same effect and validity as provided herein. A paper copy of the order or other document electronically served shall be retained and attached to the record of the case. (n)
Section 14. *Notice of lis pendens.* – In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names. The notice of *lis pendens* hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded. (24a, R14)	Section 19. *Notice of lis pendens.* – In an action affecting the title or the right of possession of real property, the plaintiff and the defendant, when affirmative relief is claimed in his or her answer, may record in the office of the registry of deeds of the province in which the property is situated a notice of the pendency of the action. Said notice shall contain the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. Only from the time of filing such notice for record shall a purchaser, or encumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against the parties designated by their real names. The notice of *lis pendens* hereinabove mentioned may be cancelled only upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded. (14a)

RULE 14
SUMMONS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Clerk to issue summons.* – Upon the filing of the complaint and the payment of the requisite legal fees, the clerk of court shall forthwith issue the corresponding summons to the defendants. (1a)	Section 1. *Clerk to issue summons*. – Unless the complaint is on its face dismissible under Section 1, Rule 9, the court shall, within five (5) calendar days from receipt of the initiatory pleading and proof of payment of the requisite legal fees, direct the clerk of court to issue the corresponding summons to the defendants. (1a)
Section 2. *Contents*. – The summons shall be directed to the defendant, signed by the clerk of court under seal, and contain: (a) the name of the court and the names of the parties to the action; (b) a direction that the defendant answer within the time fixed by these Rules; (c) a notice that unless the defendant so answers, plaintiff will take judgment by default and may be granted the relief applied for. A copy of the complaint and order for appointment of guardian *ad litem*, if any, shall be attached to the original and each copy of the summons. (3a)	Section 2. *Contents*. – The summons shall be directed to the defendant, signed by the clerk of court under seal, and contain: (a) The name of the court and the names of the parties to the action; (b) When authorized by the court upon *ex parte motion*, an authorization for the plaintiff to serve summons to the defendant; (c) A direction that the defendant answer within the time fixed by these Rules; and (d) A notice that unless the defendant so answers, plaintiff will take judgment by default and may be granted the relief applied for. A copy of the complaint and order for appointment of guardian *ad litem*, if any, shall be attached to the original and each copy of the summons. (2a)

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Section 3. *By whom served.* – The summons may be served by the sheriff, his deputy, or other proper court officer, or for justifiable reasons by any suitable person authorized by the court issuing the summons. (5a)	Section 3. *By whom served*. – The summons may be served by the sheriff, his or her deputy, or other proper court officer, and in case of failure of service of summons by them, the court may authorize the plaintiff - to serve the summons - together with the sheriff. In cases where summons is to be served outside the judicial region of the court where the case is pending, the plaintiff shall be authorized to cause the service of summons. If the plaintiff is a juridical entity, it shall notify the court, in writing, and name its authorized representative therein, attaching a board resolution or secretary's certificate thereto, as the case may be, stating that such representative is duly authorized to serve the summons on behalf of the plaintiff. If the plaintiff misrepresents that the defendant was served summons, and it is later proved that no summons was served, the case shall be dismissed with prejudice, the proceedings shall be nullified, and the plaintiff shall be meted appropriate sanctions. If summons is returned without being served on any or all the defendants, the court shall order the plaintiff to cause the service of summons by other means available under the Rules. Failure to comply with the order shall cause the dismissal of the initiatory pleading without prejudice. (3a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Return.* – When the service has been completed, the server shall, within five (5) days therefrom, serve a copy of the return, personally or by registered mail, to the plaintiff's counsel, and shall return the summons to the clerk who issued it, accompanied by proof of service. (6a)	Amended counterpart provision transposed as Section 20 below.
Section 5. *Issuance of alias summons.* – If a summons is returned without being served on any or all of the defendants, the server shall also serve a copy of the return on the plaintiff's counsel, stating the reasons for the failure of service, within five (5) days therefrom. In such a case, or if the summons has been lost, the clerk, on demand of the plaintiff, may issue an *alias* summons. (4a)	Section 4. *Validity of summons and issuance of alias summons[.]* – Summons shall remain valid until duly served, unless it is recalled by the court. In case of loss or destruction of summons, the court may, upon motion, issue an *alias* summons. There is failure of service after unsuccessful attempts to personally serve the summons on the defendant in his or her address indicated in the complaint. Substituted service should be in the manner provided under Section 6 of this Rule. (5a)
Section 6. *Service in person on defendant*. – Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him. (7a)	Section 5. *Service in person on defendant*. – Whenever practicable, the summons shall be served by handing a copy thereof to the defendant in person and informing the defendant that he or she is being served, or, if he or she refuses to receive and sign for it, by leaving the summons within the view and in the presence of the defendant. (6a)

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Section 7. *Substituted service*. – If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof. (8a)	Section 6. *Substituted service*. – If, for justifiable causes, the defendant cannot be served personally after at least three (3) attempts on two (2) different dates, service may be effected: (a) By leaving copies of the summons at the defendant's residence to a person at least eighteen (18) years of age and of sufficient discretion residing therein; (b) By leaving copies of the summons at [the] defendant's office or regular place of business with some competent person in charge thereof. A competent person includes, but is not limited to, one who customarily receives correspondences for the defendant; (c) By leaving copies of the summons, if refused entry upon making his or her authority and purpose known, with any of the officers of the homeowners' association or condominium corporation, or its chief security officer in charge of the community or the building where the defendant may be found; and (d) By sending an electronic mail to the defendant's electronic mail address, if allowed by the court. (7a)

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Section 8. *Service upon entity without juridical personality*. – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was brought. (9a)	Section 7. *Service upon entity without juridical personality*. – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name. But such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the action was filed. (8a)
Section 9. *Service upon prisoners.* – When the defendant is a prisoner confined in a jail or institution, service shall be effected upon him by the officer having the management of such jail or institution who is deemed deputized as a special sheriff for said purpose. (12a)	Section 8. *Service upon prisoners*. – When the defendant is a prisoner confined in a jail or institution, service shall be effected upon him or her by the officer having the management of such jail or institution who is deemed as a special sheriff for said purpose. The jail warden shall file a return within five (5) calendar days from service of summons to the defendant. (9a)
No counterpart provision.	Section 9. *Service consistent with international conventions.* – Service may be made through methods which are consistent with established international conventions to which the Philippines is a party. (n*)*
Section 10. *Service upon minors and incompetents.* – When the defendant is a minor, insane or otherwise an incompetent, service shall be made upon him personally and on his legal guardian if he has one, or if none, upon his guardian *ad litem* whose appointment shall be applied for by the plaintiff. In the case of a minor, service may also be made on his father or mother. (10a, 11a)	Section 10. *Service upon minors and incompetents*. – When the defendant is a minor, insane or otherwise an incompetent person, service of summons shall be made upon him or her personally and on his or her legal guardian if he or she has one, or if none, upon his or her guardian *ad litem* whose appointment shall be applied for by the plaintiff. In the case of a minor, service shall be made on his or her parent or guardian. (10a)

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No counterpart provisions.	Section 11. *Service upon spouses.* – When spouses are sued jointly, service of summons should be made to each spouse individually. (n)
Section 11. *Service upon domestic private juridical entity*. – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel. (13a)	Section 12. *Service upon domestic private juridical entity*. – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel of the corporation wherever they may be found, or in their absence or unavailability, on their secretaries. If such service cannot be made upon any of the foregoing persons, it shall be made upon the person who customarily receives the correspondence for the defendant at its principal office. In case the domestic juridical entity is under receivership or liquidation, service of summons shall be made on the receiver or liquidator, as the case may be. Should there be a refusal on the part of the persons above-mentioned to receive summons despite at least three (3) attempts on two (2) different dates, service may be made electronically, if allowed by the court, as provided under Section 6 of this Rule. (11a)
No counterpart provisions.	Section 13. *Duty of counsel of record.* – Where the summons is improperly served and a lawyer makes a special appearance on behalf of the defendant to, among others, question the validity of service of summons, the counsel shall be deputized by the court to serve summons on his or her client. (n)

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Section 12. *Service upon foreign private juridical entity*. – When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines.	Section 14. *Service upon foreign private juridical entit[ies]*. – When the defendant is a foreign private juridical entity which has transacted or is doing business in the Philippines, as defined by law, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers, agents, directors or trustees within the Philippines.
If the foreign private juridical entity is not registered in the Philippines or has no resident agent, service may, with leave of court, be effected out of the Philippines through any of the following means:	If the foreign private juridical entity is not registered in the Philippines, or has no resident agent but has transacted or is doing business in it, as defined by law, such service may, with leave of court, be effected outside of the Philippines through any of the following means:
a) By personal service coursed through the appropriate court in the foreign country with the assistance of the Department of Foreign Affairs;	(a) By personal service coursed through the appropriate court in the foreign country with the assistance of the [D]epartment of [F]oreign [A]ffairs;
b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by registered mail at the last known address of the defendant;	(b) By publication once in a newspaper of general circulation in the country where the defendant may be found and by serving a copy of the summons and the court order by registered mail at the last known address of the defendant;
c) By facsimile or any recognized electronic means that could generate proof of service; or	(c) By facsimile;
d) By such other means as the court may in its discretion direct. *(As amended by A.M. No. 11-3-6-SC, March 15, 2011.)*	(d) By electronic means with the prescribed proof of service; or (e) By such other means as the court, in its discretion, may direct. (12a)

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Section 13. *Service upon public corporations*. – When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct. (15)	Section 15. *Service upon public corporations*. – When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct. (13a)
Section 14. *Service upon defendant whose identity or whereabouts are unknown*. – In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order. (16a)	Section 16. *Service upon defendant whose identity or whereabouts are unknown.* – In any action where the defendant is designated as an unknown owner, or the like, or whenever his or her whereabouts are unknown and cannot be ascertained by diligent inquiry, within ninety (90) calendar days from the commencement of the action, service may, by leave of court, be effected upon him or her by publication in a newspaper of general circulation and in such places and for such time as the court may order. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (14a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 15. *Extraterritorial service.* – When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under [s]ection 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer. (17a)	Section 17. *Extraterritorial service*. – When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under [S]ection [5]; or as provided for in international conventions to which the Philippines is a party; or by publication in a newspaper of general circulation in such places and for such time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) calendar days after notice, within which the defendant must answer. (15a)
Section 16. *Residents temporarily out of the Philippines*. – When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding section. (18a)	Section 18. *Residents temporarily out of the Philippines*. – When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding [S]ection. (16a)
Section 17. *Leave of court*. – Any application to the court under this Rule for leave to effect service in any manner for which leave of court is necessary shall be made by motion in writing, supported by affidavit of the plaintiff or some person on his behalf, setting forth the grounds for the application. (19)	Section 19. *Leave of court*. – Any application to the court under this Rule for leave to effect service in any manner for which leave of court is necessary shall be made by motion in writing, supported by affidavit of the plaintiff or some person on his [or her] behalf, setting forth the grounds for the application. (17a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Return.* – When the service has been completed, the server shall, within five (5) days therefrom, serve a copy of the return, personally or by registered mail, to the plaintiff's counsel, and shall return the summons to the clerk who issued it, accompanied by proof of service. (6a)	Section 20. *Return.* – Within thirty (30) calendar days from issuance of summons by the clerk of court and receipt thereof, the sheriff or process server, or person authorized by the court, shall complete its service. Within five (5) calendar days from service of summons, the server shall file with the court and serve a copy of the return to the plaintiff's counsel, personally, by registered mail, or by electronic means authorized by the Rules. Should substituted service have been effected, the return shall state the following: (1) The impossibility of prompt personal service within a period of thirty (30) calendar days from issue and receipt of summons; (2) The date and time of the three (3) attempts on at least two (2) different dates to cause personal service and the details of the inquiries made to locate the defendant residing thereat; and (3) The name of the person at least eighteen (18) years of age and of sufficient discretion residing thereat, name of competent person in charge of the defendant's office or regular place of business, or name of the officer of the homeowners' association or condominium corporation or its chief security officer in charge of the community or building where the defendant may be found. (4a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 18. *Proof of service*. – The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff or his deputy. (20)	Section 21. *Proof of service*. – The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff or his or her deputy. If summons was served by electronic mail, a printout of said e-mail, with a copy of the summons as served, and the affidavit of the person mailing, shall constitute as proof of service. (18a)
Section 19. *Proof of service by publication*. – If the service has been made by publication, service may be proved by the affidavit of the printer, his foreman or principal clerk, or of the editor, business or advertising manager, to which affidavit a copy of the publication shall be attached, and by an affidavit showing the deposit of a copy of the summons and order for publication in the post office, postage prepaid, directed to the defendant by registered mail to his last known address. (21)	Section 22. *Proof of service by publication.* – If the service has been made by publication, service may be proved by the affidavit of the publisher, editor, business or advertising manager, to which affidavit a copy of the publication shall be attached and by an affidavit showing the deposit of a copy of the summons and order for publication in the post office, postage prepaid, directed to the defendant by registered mail to his or her last known address. (19a)
Section 20. *Voluntary Appearance.* – The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance. (23a)	Section 23. *Voluntary appearance.* – The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall be deemed a voluntary appearance. (20a)

RULE 15
MOTIONS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Motion defined*. – A motion is an application for relief other than by a pleading. (1a)	Section 1. *Motion defined*. – A motion is an application for relief other than by a pleading. (1)
Section 2. *Motions must be in writing*. – All motions shall be in writing except those made in open court or in the course of a hearing or trial. (2a)	Section 2. *Motions must be in writing*. – All motions shall be in writing except those made in open court or in the course of a hearing or trial. A motion made in open court or in the course of a hearing or trial should immediately be resolved in open court, after the adverse party is given the opportunity to argue his or her opposition thereto. When a motion is based on facts not appearing on record, the court may hear the matter on affidavits or depositions presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions. (2a)
Section 3. *Contents*. – A motion shall state the relief sought to be obtained and the grounds upon which it is based, and if required by these Rules or necessary to prove facts alleged therein, shall be accompanied by supporting affidavits and other papers. (3a)	Section 3. *Contents*. – A motion shall state the relief sought to be obtained and the grounds upon which it is based, and if required by these Rules or necessary to prove facts alleged therein, shall be accompanied by supporting affidavits and other papers. (3)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Hearing of motion*. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant. Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice. (4a)	Deleted.
No counterpart provision.	Section 4. *Non-litigious motions*. – Motions which the court may act upon without prejudicing the rights of adverse parties are non-litigious motions. These motions include: a) Motion for the issuance of an *alias* summons; b) Motion for extension to file answer; c) Motion for postponement; d) Motion for the issuance of a writ of execution; e) Motion for the issuance of an *alias* writ of execution; f) Motion for the issuance of a writ of possession; g) Motion for the issuance of an order directing the sheriff to execute the final certificate of sale; and h) Other similar motions. These motions shall not be set for hearing and shall be resolved by the court within five (5) calendar days from receipt thereof. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 5. *Litigious motions*. – (a) Litigious motions include: 1) Motion for bill of particulars; 2) Motion to dismiss; 3) Motion for new trial; 4) Motion for reconsideration; 5) Motion for execution pending appeal; 6) Motion to amend after a responsive pleading has been filed; 7) Motion to cancel statutory lien; 8) Motion for an order to break in or for a writ of demolition; 9) Motion for intervention; 10) Motion for judgment on the pleadings; 11) Motion for summary judgment; 12) Demurrer to evidence; 13) Motion to declare defendant in default; and 14) Other similar motions. (b) All motions shall be served by personal service, accredited private courier or registered mail, or electronic means so as to ensure their receipt by the other party. (c) The opposing party shall file his or her opposition to a litigious motion within five (5) calendar days from receipt thereof. No other submissions shall be considered by the court in the resolution of the motion. The motion shall be resolved by the court within fifteen (15) calendar days from its receipt of the opposition thereto, or upon expiration of the period to file such opposition. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Notice of hearing*. – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion. (5a)	Section 6. *Notice of hearing on litigious motions; discretionary*. – The court may, in the exercise of its discretion, and if deemed necessary for its resolution, call a hearing on the motion. The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing. (5a)
Section 6. *Proof of service necessary*. – No written motion set for hearing shall be acted upon by the court without proof of service thereof. (6a)	Section 7. *Proof of service necessary*. – No written motion shall be acted upon by the court without proof of service thereof, pursuant to Section 5(b) hereof. (6a)
Sec 7. *Motion day*. – Except for motions requiring immediate action, all motions shall be scheduled for hearing on Friday afternoons, or if Friday is a non-working day, in the afternoon of the next working day. (7a)	Section 8. *Motion day*. – Except for motions requiring immediate action, where the court decides to conduct hearing on a litigious motion, the same shall be set on a Friday. (7a)
Section 8. *Omnibus motion*. – Subject to the provisions of section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived. (8a)	Section 9. *Omnibus motion*. – Subject to the provisions of [S]ection 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived. (8a)
Section 9. *Motion for leave*. – A motion for leave to file a pleading or motion shall be accompanied by the pleading or motion sought to be admitted. (n)	Section 10. *Motion for leave*. – A motion for leave to file a pleading or motion shall be accompanied by the pleading or motion sought to be admitted. (9)
Section 10. *Form*. – The Rules applicable to pleadings shall apply to written motions so far as concerns caption, designation, signature, and other matters of form. (9a)	Section 11. *Form*. – The Rules applicable to pleadings shall apply to written motions so far as concerns caption, designation, signature, and other matters of form. (10)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 12. *Prohibited motions.* – The following motions shall not be allowed: (a) Motion to dismiss except on the following grounds: 1. That the court has no jurisdiction over the subject matter of the claim; 2. That there is another action pending between the same parties for the same cause; and 3. That the cause of action is barred by a prior judgment or by the statute of limitations; (b) Motion to hear affirmative defenses; (c) Motion for reconsideration of the court's action on the affirmative defenses; (d) Motion to suspend proceedings without a temporary restraining order or injunction issued by a higher court; (e) Motion for extension of time to file pleadings, affidavits or any other papers, except a motion for extension to file an answer as provided by Section 11, Rule 11; and (f) Motion for postponement intended for delay, except if it is based on acts of God, *force majeure* or physical inability of the witness to appear and testify. If the motion is granted based on such exceptions, the moving party shall be warned that the presentation of its evidence must still be terminated on the dates previously agreed upon. A motion for postponement, whether written or oral, shall, at all times, be accompanied by the original official receipt from the office of the clerk of court evidencing payment of the postponement fee under Section 21(b), Rule 141, to be submitted either at the time of the filing of said motion or not later than the next hearing date. The clerk of court shall not accept the motion unless accompanied by the original receipt. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
RULE 16 Section 5. *Effect of dismissal.* – Subject to the right of appeal, an order granting a motion to dismiss based on paragraphs (f), (h) and (i) of section 1 hereof shall bar the refiling of the same action or claim. (n)	Section 13. *Dismissal with prejudice.* – Subject to the right of appeal, an order granting a motion to dismiss or an affirmative defense that the cause of action is barred by a prior judgment or by the statute of limitations; that the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned or otherwise extinguished; or that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, shall bar the refiling of the same action or claim. (5, R16)

RULE 16
MOTION TO DISMISS

[Provisions either deleted or transposed]

RULE 17
DISMISSAL OF ACTIONS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Dismissal upon notice by plaintiff.* – A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1a)	Section 1. *Dismissal upon notice by plaintiff.* – A complaint may be dismissed by the plaintiff by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. Upon such notice being filed, the court shall issue an order confirming the dismissal. Unless otherwise stated in the notice, the dismissal is without prejudice, except that a notice operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in a competent court an action based on or including the same claim. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Dismissal upon motion of plaintiff*. – Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)	Section 2. *Dismissal upon motion of plaintiff*. – Except as provided in the preceding [S]ection, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him or her of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his or her counterclaim in a separate action unless within fifteen (15) calendar days from notice of the motion he or she manifests his or her preference to have his or her counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)
Section 3. *Dismissal due to fault of plaintiff.* – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)	Section 3. *Dismissal due to fault of plaintiff*. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)

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Section 4. *Dismissal of counterclaim, cross-claim, or third-party complaint.* – The provisions of this Rule shall apply to the dismissal of any counterclaim, cross-claim, or third-party complaint. A voluntary dismissal by the claimant by notice as in section 1 of this Rule, shall be made before a responsive pleading or a motion for summary judgment is served or, if there is none, before the introduction of evidence at the trial or hearing. (4a)	Section 4. *Dismissal of counterclaim, cross-claim, or third-party complaint*. – The provisions of this Rule shall apply to the dismissal of any counterclaim, cross-claim, or third-party complaint. A voluntary dismissal by the claimant by notice as in [S]ection 1 of this Rule, shall be made before a responsive pleading or a motion for summary judgment is served or, if there is none, before the introduction of evidence at the trial or hearing. (4a)

RULE 18
PRE-TRIAL

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *When conducted*. – After the last pleading has been served and filed, it shall be the duty of the plaintiff to promptly move *ex parte* that the case be set for pre-trial. (5a, R20)	Section 1. *When conducted.* – After the last <u>responsive</u> pleading has been served and filed, <u>the branch clerk of court shall issue, within five (5) calendar days from filing, a notice of pre-trial which shall be set not later than sixty (60) calendar days from the filing of the last responsive pleading.</u> (1a)

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Section 2. *Nature and purpose*. – The pre-trial is mandatory. The court shall consider: (a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution; (b) The simplification of the issues; (c) The necessity or desirability of amendments to the pleadings; (d) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof; (e) The limitation of the number of witnesses; (f) The advisability of a preliminary reference of issues to a commissioner; (g) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist; (h) The advisability or necessity of suspending the proceedings; and (i) Such other matters as may aid in the prompt disposition of the action. (1a, R20)	Section 2. *Nature and [p]urpose.* – The pre-trial is mandatory and should be terminated promptly. The court shall consider: (a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution; (b) The simplification of the issues; (c) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof; (d) The limitation of the number and identification of witnesses and the setting of trial dates; (e) The advisability of a preliminary reference of issues to a commissioner; (f) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist; (g) The requirement for the parties to: 1. Mark their respective evidence if not yet marked in the judicial affidavits of their witnesses; 2. Examine and make comparisons of the adverse parties' evidence *vis-a-vis* the copies to be marked; 3. Manifest for the record stipulations regarding the faithfulness of the reproductions and the genuineness and due execution of the adverse parties' evidence; 4. Reserve evidence not available at the pre-trial, but only in the following manner: i. For testimonial evidence, by giving the name or position and the nature of the testimony of the proposed witness; ii. For documentary evidence and other object evidence, by giving a particular description of the evidence. No reservation shall be allowed if not made in the manner described above. (h) Such other matters as may aid in the prompt disposition of the action. The failure without just cause of a party and counsel to appear during pre-trial, despite notice, shall result in a waiver of any objections to the faithfulness of the reproductions marked, or their genuineness and due execution. The failure without just cause of a party and/or counsel to bring the evidence required shall be deemed a waiver of the presentation of such evidence. The branch clerk of court shall prepare the minutes of the pre-trial, which shall have the following format: (See prescribed form) (2a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Notice of pre-trial.* – The notice of pre-trial shall be served on counsel, or on the party who has no counsel. The counsel served with such notice is charged with the duty of notifying the party represented by him. (n)	Section 3. *Notice of pre-trial.* – The notice of pre-trial shall include the dates respectively set for: (a) Pre-trial; (b) Court-Annexed Mediation; and (c) Judicial Dispute Resolution, if necessary. The notice of pre-trial shall be served on counsel, or on the party [if he] or she has no counsel. The counsel served with such notice is charged with the duty of notifying the party represented by him or her. Non-appearance at any of the foregoing settings shall be deemed as non-appearance at the pre-trial and shall merit the same sanctions under Section 5 hereof. (3a)
Section 4. *Appearance of parties.* – It shall be the duty of the parties and their counsel to appear at the pre-trial. The non-appearance of a party may be excused only if a valid cause is shown therefor or if a representative shall appear in his behalf fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and of documents. (n)	Section 4. *Appearance of [p]arties.* – It shall be the duty of the parties and their counsel to appear at the pre-trial, court-annexed mediation, and judicial dispute resolution, if necessary. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability. A representative may appear on behalf of a party, but must be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Effect of failure to appear.* – The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof. (2a, R20)	Section 5. *Effect of failure to appear.* – When duly notified, the failure of the plaintiff and counsel to appear without valid cause when so required[,] pursuant to the next preceding [S]ection, shall cause the dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex-parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered. (5a)
Section 6. *Pre-trial brief.* – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others: (a) A statement of their willingness to enter into amicable settlement or alternative modes of dispute resolution, indicating the desired terms thereof; (b) A summary of admitted facts and proposed stipulation of facts; (c) The issues to be tried or resolved; (d) The documents or exhibits to be presented, stating the purpose thereof; (e) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners; and (f) The number and names of the witnesses, and the substance of their respective testimonies. Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. (n)	Section 6. *Pre-trial brief.* – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) calendar days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others: (a) A concise statement of the case and the reliefs prayed for; (b) A summary of admitted facts and proposed stipulation of facts; (c) The main factual and legal issues to be tried or resolved; (d) The propriety of referral of factual issues to commissioners; (e) The documents or other object evidence to be marked, stating the purpose thereof; (f) The names of the witnesses, and the summary of their respective testimonies; and (g) A brief statement of points of law and citation of authorities. Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial. (8)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 7. *Record of pre-trial*. – The proceedings in the pre-trial shall be recorded. Upon the termination thereof, the court shall issue an order which shall recite in detail the matters taken up in the conference, the action taken thereon, the amendments allowed to the pleadings, and the agreements or admissions made by the parties as to any of the matters considered. Should the action proceed to trial, the order shall explicitly define and limit the issues to be tried. The contents of the order shall control the subsequent course of the action, unless modified before trial to prevent manifest injustice. (5a, R20)	Section 7. *Pre-Trial Order*. – Upon termination of the pre-trial, the court shall issue an order within ten (10) calendar days which shall recite in detail the matters taken up. The order shall include: (a) An enumeration of the admitted facts; (b) The minutes of the pre-trial conference; (c) The legal and factual issue/s to be tried; (d) The applicable law, rules, and jurisprudence; (e) The evidence marked; (f) The specific trial dates for continuous trial, which shall be within the period provided by the Rules; (g) The case flowchart to be determined by the court, which shall contain the different stages of the proceedings up to the promulgation of the decision and the use of time frames for each stage in setting the trial dates; (h) A statement that the one-day examination of witness rule and most important witness rule under A.M. No. 03-1-09-SC (Guidelines for Pre-Trial) shall be strictly followed; and (i) A statement that the court shall render judgment on the pleadings or summary judgment, as the case may be. The direct testimony of witnesses for the plaintiff shall be in the form of judicial affidavits. After the identification of such affidavits, cross-examination shall proceed immediately. Postponement of presentation of the parties' witnesses at a scheduled date is prohibited, except if it is based on acts of God, *force majeure* or duly substantiated physical inability of the witness to appear and testify. The party who caused the postponement is warned that the presentation of its evidence must still be terminated within the remaining dates previously agreed upon. Should the opposing party fail to appear without valid cause stated in the next preceding paragraph, the presentation of the scheduled witness will proceed with the absent party being deemed to have waived the right to interpose objection and conduct cross-examination. The contents of the pre-trial order shall control the subsequent proceedings, unless modified before trial to prevent manifest injustice. (7a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 8. *Court-[a]nnexed [m]ediation.* – After pre-trial and, after issues are joined, the court shall refer the parties for mandatory court-annexed mediation. The period for court-annexed mediation shall not exceed thirty (30) calendar days without further extension. (n)
No counterpart provision.	Section 9. *Judicial [d]ispute [r]esolution.* – Only if the judge of the court to which the case was originally raffled is convinced that settlement is still possible, the case may be referred to another court for judicial dispute resolution. The judicial dispute resolution shall be conducted within a non-extendible period of fifteen (15) calendar days from notice of failure of the court-annexed mediation. If judicial dispute resolution fails, trial before the original court shall proceed on the dates agreed upon. All proceedings during the court-annexed mediation and the judicial dispute resolution shall be confidential. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 10. *Judgment after pre-trial*. – Should there be no more controverted facts, or no more genuine issue as to any material fact, or an absence of any issue, or should the answer fail to tender an issue, the court shall, without prejudice to a party moving for judgment on the pleadings under Rule 34 or summary judgment under Rule 35, *motu proprio* include in the pre-trial order that the case be submitted for summary judgment or judgment on the pleadings, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial. The order of the court to submit the case for judgment pursuant to this Rule shall not be the subject to appeal or *certiorari*. (n)

RULE 19
INTERVENTION

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Who may intervene.* – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (2[a], [b]a, R12)	Section 1. *Who may intervene*. – A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Time to intervene*. – The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (n)	Section 2. *Time to intervene*. – The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (2)
Section 3. *Pleadings-in-intervention*. – The intervenor shall file a complaint-in-intervention if he asserts a claim against either or all of the original parties, or an answer-in-intervention if he unites with the defending party in resisting a claim against the latter. (2[c]a, R12)	Section 3. *Pleadings-in-intervention*. – The intervenor shall file a complaint-in-intervention if he or she asserts a claim against either or all of the original parties, or an answer-in-intervention if he or she unites with the defending party in resisting a claim against the latter. (3a)
Section 4. *Answer to complaint-in-intervention*. – The answer to the complaint-in-intervention shall be filed within fifteen (15) days from notice of the order admitting the same, unless a different period is fixed by the court. (2[d]a, R12)	Section 4. *Answer to complaint-in-intervention*. – The answer to the complaint-in-intervention shall be filed within fifteen (15) calendar days from notice of the order admitting the same, unless a different period is fixed by the court. (4a)

RULE 20
CALENDAR OF CASES

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Calendar of cases*. – The clerk of court, under the direct supervision of the judge, shall keep a calendar of cases for pre-trial, for trial, those whose trials were adjourned or postponed, and those with motions to set for hearing. Preference shall be given to *habeas corpus* cases, election cases, special civil actions, and those so required by law. (1a, R22)	Section 1. *Calendar of cases*. – The clerk of court, under the direct supervision of the judge, shall keep a calendar of cases for pre-trial, for trial, those whose trials were adjourned or postponed, and those with motions to set for hearing. Preference shall be given to *habeas corpus* cases, election cases, special civil actions, and those so required by law. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Assignment of cases*. – The assignment of cases to the different branches of court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present. (7a, R22)	Section 2. *Assignment of cases*. – The assignment of cases to the different branches of a court shall be done exclusively by raffle. The assignment shall be done in open session of which adequate notice shall be given so as to afford interested parties the opportunity to be present. (2)

RULE 21
SUBPOENA

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Subpoena and subpoena duces tecum.* – Subpoena is a process directed to a person requiring him to attend and to testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his deposition. It may also require him to bring with him any books, documents, or other things under his control, in which case it is called a subpoena *duces tecum.* (1a, R23)	Section 1. *Subpoena and subpoena duces tecum*. – Subpoena is a process directed to a person requiring him <u>or her</u> to attend and to testify at the hearing or the trial of an action, or at any investigation conducted by competent authority, or for the taking of his <u>or her</u> deposition. It may also require him <u>or her</u> to bring with him <u>or her</u> any books, documents, or other things under his <u>or her</u> control, in which case it is called a subpoena *duces tecum*. (1a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *By whom issued.* – The *subpoena* may be issued by – (a) the court before whom the witness is required to attend; (b) the court of the place where the deposition is to be taken; (c) the officer or body authorized by law to do so in connection with investigations conducted by said officer or body; or (d) any Justice of the Supreme Court or of the Court of Appeals in any case or investigation pending within the Philippines. When an application for a subpoena to a prisoner is made, the judge or officer shall examine and study carefully such application to determine whether the same is made for a valid purpose. No prisoner sentenced to death, *reclusion perpetua* or life imprisonment and who is confined in any penal institution shall be brought outside the said penal institution for appearance or attendance in any court unless authorized by the Supreme Court. (2a, R23)	Section 2. *By whom issued.* – The subpoena may be issued by – (a) [T]he court before whom the witness is required to attend; (b) [T]he court of the place where the deposition is to be taken; (c) [T]he officer or body authorized by law to do so in connection with investigations conducted by said officer or body; or (d) [A]ny Justice of the Supreme Court or the Court of Appeals in any case or investigation pending within the Philippines. When an application for a subpoena to a prisoner is made, the judge or officer shall examine and study carefully such application to determine whether the same is made for a valid purpose. No prisoner sentenced to death, *reclusion perpetua* or life imprisonment and who is confined in any penal institution shall be brought outside the penal institution for appearance or attendance in any court unless authorized by the Supreme Court. (2a)
Section 3. *Form and contents.* – A subpoena shall state the name of the court and the title of the action or investigation, shall be directed to the person whose attendance is required, and in the case of a subpoena *duces tecum,* it shall also contain a reasonable description of the books, documents or things demanded which must appear to the court *prima facie* relevant. (3a, R23)	Section 3. *Form and contents*. – A subpoena shall state the name of the court and the title of the action or investigation, shall be directed to the person whose attendance is required, and in the case of a subpoena *duces tecum*, it shall also contain a reasonable description of the books, documents or things demanded which must appear to the court *prima facie* relevant. (3)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Quashing a subpoena.* – The court may quash a subpoena *duces tecum* upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof. The court may quash a subpoena *ad testificandum* on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by these Rules were not tendered when the subpoena was served. (4a, R23)	Section 4. *Quashing a subpoena*. – The court may quash a subpoena *duces tecum* upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof. The court may quash a subpoena *ad testificandum* on the ground that the witness is not bound thereby. In either case, the subpoena may be quashed on the ground that the witness fees and kilometrage allowed by these Rules were not tendered when the subpoena was served. (4)
Section 5. *Subpoena for depositions.* – Proof of service of a notice to take a deposition, as provided in sections 15 and 25 of Rule 23, shall constitute sufficient authorization for the issuance of subpoenas for the persons named in said notice by the clerk of the court of the place in which the deposition is to be taken. The clerk shall not, however, issue a subpoena *duces tecum* to any such person without an order of the court. (5a, R23)	Section 5. *Subpoena for depositions*. – Proof of service of a notice to take a deposition, as provided in [S]ections 15 and 25 of Rule 23, shall constitute sufficient authorization for the issuance of subpoenas for the persons named in said notice by the clerk of the court of the place in which the deposition is to be taken. The clerk shall not, however, issue a subpoena *duces tecum* to any such person without an order of the court. (5)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 6. *Service*. – Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served, tendering to him the fees for one day's attendance and the kilometrage allowed by these Rules, except that, when a subpoena is issued by or on behalf of the Republic of the Philippines or an officer or agency thereof, the tender need not be made. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. If the subpoena is *duces tecum,* the reasonable cost of producing the books, documents or things demanded shall also be tendered. (6a, R23)	Section 6. *Service.* – Service of a subpoena shall be made in the same manner as personal or substituted service of summons. The original shall be exhibited and a copy thereof delivered to the person on whom it is served. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. Costs for court attendance and the production of documents and other materials subject of the subpoena shall be tendered or charged accordingly. (6a)
Section 7. *Personal appearance in court*. – A person present in court before a judicial officer may be required to testify as if he were in attendance upon a subpoena issued by such court or officer. (10, R23)	Section 7. *Personal appearance in court*. – A person present in court before a judicial officer may be required to testify as if he or she were in attendance upon a subpoena issued by such court or officer. (7a)
Section 8. *Compelling attendance.* – In case of failure of a witness to attend, the court or judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his deputy, to arrest the witness and bring him before the court or officer where his attendance is required, and the cost of such warrant and seizure of such witness shall be paid by the witness if the court issuing it shall determine that his failure to answer the subpoena was willful and without just excuse. (11, R23)	Section 8. *Compelling attendance*. – In case of failure of a witness to attend, the court or judge issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the province, or his or her deputy, to arrest the witness and bring him or her before the court or officer where his or her attendance is required, and the cost of such warrant and seizure of such witness shall be paid by the witness if the court issuing it shall determine that his or her failure to answer the subpoena was willful and without just excuse. (8a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 9. *Contempt.* – Failure by any person without adequate cause to obey a subpoena served upon him shall deemed a contempt of the court from which the subpoena is issued. If the subpoena was not issued by a court, the disobedience thereto shall be punished in accordance with the applicable law or Rule. (12a, R23)	Section 9. *Contempt*. – Failure by any person without adequate cause to obey a subpoena served upon him <u>or her</u> shall be deemed a contempt of the court from which the *subpoena* is issued. If the subpoena was not issued by a court, the disobedience thereto shall be punished in accordance with the applicable law or Rule. (9a)
Section 10. *Exceptions.* – The provisions of sections 8 and 9 this Rule shall not apply to a witness who resides more than one hundred (100) kilometers from his residence to the place where he is to testify by the ordinary course of travel, or to a detention prisoner if no permission of the court in which his case is pending was obtained. (9a, R23)	Section 10. *Exceptions.* – The provisions of [S]ections 8 and 9 of this Rule shall not apply to a witness who resides more than one hundred (100) kilometers from his <u>or her</u> residence to the place where he <u>or she</u> is to testify by the ordinary course of travel, or to a detention prisoner if no permission of the court in which his <u>or her</u> case is pending was obtained. (10a)

RULE 22
COMPUTATION OF TIME

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. (n)	Section 1. *How to compute time*. – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Effect of interruption.* – Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof. The day of the act that caused the interruption shall be excluded in the computation of the period. (n)	Section 2. *Effect of Interruption*. – Should an act be done which effectively interrupts the running of the period, the allowable period after such interruption shall start to run on the day after notice of the cessation of the cause thereof. The day of the act that caused the interruption shall be excluded in the computation of the period. (2)

RULE 23
DEPOSITIONS PENDING ACTIONS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Depositions pending action, when may be taken.* – By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of the action, or without such leave after an answer has been served, the testimony of any person, whether a party or not, may be taken, at the instance of any party, by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. (1a, R24)	Section 1. *Depositions pending action*, *when may be taken*. – Upon *ex parte* motion of a party, the testimony of any person, whether a party or not, may be taken by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. (1a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Scope of examination*. – Unless otherwise ordered by the court as provided by section 16 or 18 of this Rule, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject of the pending action, whether relating to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. (2, R24)	Section 2. *Scope of examination*. – Unless otherwise ordered by the court as provided by [S]ection 16 or 18 of this Rule, the deponent may be examined regarding any matter, not privileged, which is relevant to the subject of the pending action, whether relating to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts. (2)
Section 3. *Examination and cross-examination.* – Examination and cross-examination of deponents may proceed as permitted at the trial under sections 3 to 18 of Rule 132. (3a, R24)	Section 3. *Examination and cross-examination*. – Examination and cross-examination of deponents may proceed as permitted at the trial under [S]ections 3 to 18 of Rule 132. (3)

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Section 4. *Use of depositions.* – At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:	Section 4. *Use of depositions*. – At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:
(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness;	(a) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of <u>the</u> deponent as a witness;
(b) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose;	(b) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent of a public or private corporation, partnership, or association which is a party may be used by an adverse party for any purpose;
(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (1) that the witness is dead; or (2) that the witness resides at a distance more than one hundred (100) kilometers from the place of trial or hearing, or is out of the Philippines, unless it appears that his absence was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (5) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used; and	(c) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (1) that the witness is dead; or (2) that the witness resides at a distance more than one hundred (100) kilometers from the place of trial or hearing, or is out of the Philippines, unless it appears that his <u>or her</u> absence was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (5) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used; and
(d) If only part of a deposition is offered in evidence by a party, the adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. (4a, R24)	(d) If only part of a deposition is offered in evidence by a party, the adverse party may require him <u>or her</u> to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. (4a)

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Section 5. *Effect of substitution of parties.* – Substitution of parties does not affect the right to use depositions previously taken; and, when an action has been dismissed and another action involving the same subject is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. (5, R24)	Section 5. *Effect of substitution of parties*. – Substitution of parties does not affect the right to use depositions previously taken; and, when an action has been dismissed and another action involving the same subject is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. (5)
Section 6. *Objections to admissibility.* – Subject to the provisions of section 29 of this Rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. (6, R24)	Section 6. *Objections to admissibility*. – Subject to the provisions of [S]ection 29 of this Rule, objections may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. (6)
Section 7. *Effect of taking depositions.* – A party shall not be deemed to make a person his own witness for any purpose by taking his deposition. (7, R24)	Section 7. *Effect of taking depositions*. – A party shall not be deemed to make a person his or her own witness for any purpose by taking his or her deposition. (7a)
Section 8. *Effect of using depositions.* – The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (b) of section 4 of this Rule. (8, R24)	Section 8. *Effect of using depositions*. – The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition as described in paragraph (b) of [S]ection 4 of this Rule. (8)

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Section 9. *Rebutting deposition.* – At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party. (9, R24)	Section 9. *Rebutting deposition*. – At the trial or hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or by any other party. (9a)
Section 10. *Persons before whom depositions may be taken within the Philippines.* – Within the Philippines, depositions may be taken before any judge, notary public, or the person referred to in section 14 hereof. (10a, R24)	Section 10. *Persons before whom depositions may be taken within the Philippines*. – Within the Philippines, depositions may be taken before any judge, notary public, or the person referred to in [S]ection 14 hereof. (10)
Section 11. *Persons before whom depositions may be taken in foreign countries.* – In a foreign state or country, depositions may be taken (a) on notice before a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the Republic of the Philippines; (b) before such person or officer as may be appointed by commission or under letters rogatory; or (c) the person referred to in section 14 hereof. (11a, R24)	Section 11. *Persons before whom depositions may be taken in foreign countries*. – In a foreign state or country, depositions may be taken (a) on notice before a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the Republic of the Philippines; (b) before such person or officer as may be appointed by commission or under letters rogatory; or (c) the person referred to in [S]ection 14 hereof. (11)
Section 12. *Commission or letters rogatory.* – A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such direction as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed to the appropriate judicial authority in the foreign country. (12a, R24)	Section 12. *Commission or letters rogatory*. – A commission or letters rogatory shall be issued only when necessary or convenient, on application and notice, and on such terms and with such direction as are just and appropriate. Officers may be designated in notices or commissions either by name or descriptive title and letters rogatory may be addressed to the appropriate judicial authority in the foreign country. (12)

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Section 13. *Disqualification by interest.* – No deposition shall be taken before a person who is a relative within the sixth degree of consanguinity or affinity, or employee or counsel of any of the parties; or who is a relative within the same degree, or employee of such counsel; or who is financially interested in the action. (13a, R24)	Section 13. *Disqualification by interest*. – No deposition shall be taken before a person who is a relative within the sixth degree of consanguinity or affinity, or employee or counsel of any of the parties; or who is a relative within the same degree, or employee of such counsel; or who is financially interested in the action. (13)
Section 14. *Stipulations regarding taking of depositions.* – If the parties so stipulate in writing, depositions may be taken before any person authorized to administer oaths, at any time or place, in accordance with these Rules, and when so taken may be used like other depositions. (14a, R24)	Section 14. *Stipulations regarding taking of depositions*. – If the parties so stipulate in writing, depositions may be taken before any person authorized to administer oaths, at any time or place, in accordance with these Rules, and when so taken may be used like other depositions. (14)
Section 15. *Deposition upon oral examination; notice; time and place.* – A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is at known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time. (15, R24)	Section 15. *Deposition upon oral examination*; *notice*; *time and place*. – A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him <u>or her</u> or the particular class or group to which he <u>or she</u> belongs. On motion of any party upon whom the notice is served, the court may for cause shown enlarge or shorten the time. (15a)

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Section 16. *Orders for the protection of parties and deponents.* – After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. (16a, R24)	Section 16. *Orders for the protection of parties and deponents*. – After notice is served for taking a deposition by oral examination, upon motion seasonably made by any party or by the person to be examined and for good cause shown, the court in which the action is pending may make <u>the following</u> orders: (a) That the deposition shall not be taken; (b) That the deposition may be taken only at some designated place other than that stated in the notice; (c) That the deposition may be taken only on written interrogatories; (d) That certain matters shall not be inquired into; (e) That the scope of the examination shall be held with no one present except the parties to the action and their officers or counsel; (f) That after being sealed the deposition shall be opened only by order of the court; (g) That secret processes, developments, or research need not be disclosed; or (h) That the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court. The court may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. (16a)

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Section 17. *Record of examination; oath; objections.* – The officer before whom the deposition is to be taken shall put the witness or oath and shall personally, or by some one acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officers, who shall propound them to the witness and record the answers *verbatim.* (17, R24)	Section 17. *Record of examination*; *oath*; *objections*. – The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by some one acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony shall be taken stenographically unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officers, who shall propound them to the witness and record the answers *verbatim*. (17a)

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Section 18. *Motion to terminate or limit examination.* – At any time during the taking of the deposition, on motion or petition of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the Regional Trial Court of the place where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition, as provided in section 16 of this Rule. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a notice for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable. (18a, R24)	Section 18. *Motion to terminate or limit examination*. – At any time during the taking of the deposition, on motion or petition of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the Regional Trial Court of the place where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition, as provided in [S]ection 16 of this Rule. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a notice for an order. In granting or refusing such order, the court may impose upon either party or upon the witness the requirement to pay such costs or expenses as the court may deem reasonable. (18)

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Section 19. *Submission to witness; changes; signing.* – When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason given therefor, if any, and the deposition may then be used as fully as though signed, unless on a motion to suppress under section 29 (f) of this Rule, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. (19a, R24)	Section 19. *Submission to witness*; *changes*; *signing*. – When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him <u>or her</u>, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason given therefor, if any, and the deposition may then be used as fully as though signed, unless on a motion to suppress under [S]ection 29(f) of this Rule, the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. (19a)
Section 20. *Certification and filing by officer.* – The officer shall certify on the deposition that the witness was duly sworn to by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert the name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing. (20, R24)	Section 20. *Certification and filing by officer*. – The officer shall certify on the deposition that the witness was duly sworn to by him <u>or her</u> and that the deposition is a true record of the testimony given by the witness. He <u>or she</u> shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of (here insert the name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing. (20a)

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Section 21. *Notice of filing.* – The officer taking the deposition shall give prompt notice of its filing to all the parties. (21, R24)	Section 21. *Notice of filing*. – The officer taking the deposition shall give prompt notice of its filing to all the parties. (21)
Section 22. *Furnishing copies.* – Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent. (22, R24)	Section 22. *Furnishing copies*. – Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent. (22)
Section 23. *Failure to attend of party giving notice.* – If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another attends in person or by counsel pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him and his counsel in so attending including reasonable attorney's fees. (23a, R24)	Section 23. *Failure to attend of party giving notice*. – If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another attends in person or by counsel pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him <u>or her</u> and his <u>or her</u> counsel in so attending, including reasonable attorney's fees. (23a)

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Section 24. *Failure of party giving notice to serve subpoena.* – If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by counsel because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his counsel in so attending including reasonable attorney's fees. (24a, R24)	Section 24. *Failure of party giving notice to serve subpoena*. – If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him or her and the witness because of such failure does not attend, and if another party attends in person or by counsel because he or she expects the deposition of that witness to be taken, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him or her and his or her counsel in so attending, including reasonable attorney's fees. (24a)
Section 25. *Deposition upon written interrogatories; service of notice and of interrogatories.* – A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within ten (10) days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five (5) days thereafter, the latter may serve re-direct interrogatories upon a party who has served cross-interrogatories. Within three (3) days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the party proposing to take the deposition. (25, R24)	Section 25. *Deposition upon written interrogatories*; *service of notice and of interrogatories*. – A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within ten (10) calendar days thereafter, a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five (5) calendar days thereafter the latter may serve re-direct interrogatories upon a party who has served cross-interrogatories. Within three (3) calendar days after being served with re-direct interrogatories, a party may serve recross-interrogatories upon the party proposing to take the deposition. (25a)

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Section 26. *Officers to take responses and prepare record*. – A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by sections 17, 19 and 20 of this Rule, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him. (26, R24)	Section 26. *Officers to take responses and prepare record*. – A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by [S]ections 17, 19 and 20 of this Rule, to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him <u>or her</u>. (26a)
Section 27. *Notice of filing and furnishing copies.* – When a deposition upon interrogatories is filed, the officer taking it shall promptly give notice thereof to all the parties, and may furnish copies to them or to the deponent upon payment of reasonable charges therefor. (27, R24)	Section 27. *Notice of filing and furnishing copies*. – When a deposition upon interrogatories is filed, the officer taking it shall promptly give notice thereof to all the parties and may furnish copies to them or to the deponent upon payment of reasonable charges therefor. (27)
Section 28. *Orders for the protection of parties and deponents.* – After the service of the interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, and for good cause shown, may make any order specified in sections 15, 16 and 18 of this Rule which is appropriate and just or an order that the deponent shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination. (28a, R24)	Section 28. *Orders for the protection of parties and deponents*. – After the service of the interrogatories and prior to the taking of the testimony of the deponent, the court in which the action is pending, on motion promptly made by a party or a deponent, and for good cause shown, may make any order specified in [S]ections 15, 16 and 18 of this Rule which is appropriate and just or an order that the deponent shall not be taken before the officer designated in the notice or that it shall not be taken except upon oral examination. (28)

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Section 29. *Effect of errors and irregularities in depositions.* –	Section 29. *Effect of errors and irregularities in depositions.* –
(a) *As to notice*. – All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.	(a) *As to notice*. – All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.
(b) *As to disqualification of officer.* – Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.	(b) *As to disqualification of officer*. – Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.
(c) *As to competency or relevancy of evidence.* – Objections to the competency of a witness or the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.	(c) *As to competency or relevancy of evidence*. – Objections to the competency of a witness or the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.
(d) *As to oral examination and other particulars.* – Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, removed, or cured if promptly prosecuted, are waived unless reasonable objection thereto is made at the taking of the deposition.	(d) *As to oral examination and other particulars*. – Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, removed, or cured if promptly prosecuted, are waived unless reasonable objection thereto is made at the taking of the deposition.
(e) *As to form of written interrogatories.* – Objections to the form of written interrogatories submitted under sections 25 and 26 of this Rule are waived unless served in writing upon the party propounding them within the time allowed for serving succeeding cross or other interrogatories and within three (3) days after service of the last interrogatories authorized.	(e) *As to form of written interrogatories*. – Objections to the form of written interrogatories submitted under [S]ections 25 and 26 of this Rule are waived unless served in writing upon the party propounding them within the time allowed for serving succeeding cross or other interrogatories and within three (3) <u>calendar</u> days after service of the last interrogatories authorized.
(f) *As to manner of preparation.* – Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under sections 17, 19, 20 and 26 of this Rule are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (29a, R24)	(f) *As to manner of preparation*. – Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under [S]ections 17, 19, 20 and 26 of this Rule are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (29a)

RULE 24
DEPOSITIONS BEFORE ACTION OR PENDING APPEAL

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Depositions before action; petition.* – A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any court of the Philippines, may file a verified petition in the court of the place of the residence of any expected adverse party. (1a, R134)	Section 1. *Depositions before action; petition*. – A person who desires to perpetuate his or her own testimony or that of another person regarding any matter that may be cognizable in any court of the Philippines, may file a verified petition in the court of the place of the residence of any expected adverse party. (1a)
Section 2. *Contents of petition*. – The petition shall be entitled in the name of the petitioner and shall show: (a) that the petitioner expects to be a party to an action in a court of the Philippines but is presently unable to bring it or cause it to be brought; (b) the subject matter of the expected action and his interest therein; (c) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it; (d) the names or a description of the persons he expects will be adverse parties and their addresses so far as known; and (e) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition for the purpose of perpetuating their testimony. (2, R134)	Section 2. *Contents of petition*. – The petition shall be entitled in the name of the petitioner and shall show: (a) that the petitioner expects to be a party to an action in a court of the Philippines but is presently unable to bring it or cause it to be brought; (b) the subject matter of the expected action and his or her interest therein; (c) the facts which he or she desires to establish by the proposed testimony and his or her reasons for desiring to perpetuate it; (d) the names or a description of the persons he or she expects will be adverse parties and their addresses so far as known; and (e) the names and addresses of the persons to be examined and the substance of the testimony which he or she expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition for the purpose of perpetuating their testimony. (2a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Notice and service*. – The petitioner shall serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty (20) days before the date of the hearing, the court shall cause notice thereof to be served on the parties and prospective deponents in the manner provided for service of summons. (3a, R134)	Section 3. *Notice and service*. – The petitioner shall serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty (20) calendar days before the date of the hearing, the court shall cause notice thereof to be served on the parties and prospective deponents in the manner provided for service of summons. (3a)
Section 4. *Order and examination.* – If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose deposition may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with Rule 23 before the hearing. (4a, R134)	Section 4. *Order and examination*. – If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose deposition may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with Rule 23 before the hearing. (4)
Section 5. *Reference to court*. – For the purpose of applying Rule 23 to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed. (5a, R134)	Section 5. *Reference to court*. – For the purpose of applying Rule 23 to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed. (5)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 6. *Use of deposition.* – If a deposition to perpetuate testimony is taken under this Rule, or if, although not so taken, it would be admissible in evidence, it may be used in any action involving the same subject matter subsequently brought in accordance with the provisions of sections 4 and 5 of Rule 23. (6a, R134)	Section 6. *Use of deposition*. – If a deposition to perpetuate testimony is taken under this Rule, or if, although not so taken, it would be admissible in evidence, it may be used in any action involving the same subject matter subsequently brought in accordance with the provisions of [S]ections 4 and 5 of Rule 23. (6)
Section 7. *Depositions pending appeal.* – If an appeal has been taken from a judgment of a court, including the Court of Appeals in proper cases, or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the said court. In such case the party who desires to perpetuate the testimony may make a motion in the said court for leave to take the depositions, upon the same notice and service thereof as if the action was pending therein. The motion shall state (a) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each; and (b) the reason for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these Rules for depositions taken in pending actions. (7a, R134)	Section 7. *Depositions pending appeal*. – If an appeal has been taken from a judgment of a court, including the Court of Appeals in proper cases, or before the taking of an appeal if the time therefor has not expired, the court in which the judgment was rendered may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the said court. In such case the party who desires to perpetuate the testimony may make a motion in the said court for leave to take the depositions, upon the same notice and service thereof as if the action was pending therein. The motion shall state (a) the names and addresses of the persons to be examined and the substance of the testimony which he <u>or she</u> expects to elicit from each; and (b) the reason for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these Rules for depositions taken in pending actions. (7a)

RULE 25
INTERROGATORIES TO PARTIES

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Interrogatories to parties; service thereof.* – Under the same conditions specified in section 1 of Rule 23, any party desiring to elicit material and relevant facts from any adverse parties shall file and serve upon the latter written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. (1a)	Section 1. *Interrogatories to parties*; *service thereof.* – Upon *ex parte* motion, any party desiring to elicit material and relevant facts from any adverse parties shall file and serve upon the latter written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf. (1a)
Section 2. *Answer to interrogatories.* – The interrogatories shall be answered fully in writing and shall be signed and sworn to by the person making them. The party upon whom the interrogatories have been served shall file and serve a copy of the answers on the party submitting the interrogatories within fifteen (15) days after service thereof, unless the court, on motion and for good cause shown, extends or shortens the time. (2a)	Section 2. *Answer to interrogatories*. – The interrogatories shall be answered fully in writing and shall be signed and sworn to by the person making them. The party upon whom the interrogatories have been served shall file and serve a copy of the answers on the party submitting the interrogatories within fifteen (15) calendar days after service thereof, unless the court, on motion and for good cause shown, extends or shortens the time. (2a)
Section 3. *Objections to interrogatories.* – Objections to any interrogatories may be presented to the court within ten (10) days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are resolved, which shall be at as early a time as is practicable. (3a)	Section 3. *Objections to interrogatories*. – Objections to any interrogatories may be presented to the court within ten (10) calendar days after service thereof, with notice as in case of a motion; and answers shall be deferred until the objections are resolved, which shall be at as early a time as is practicable. (3a)
Section 4. *Number of interrogatories.* – No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party. (4)	Section 4. *Number of interrogatories*. – No party may, without leave of court, serve more than one set of interrogatories to be answered by the same party. (4)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Scope and use of interrogatories.* – Interrogatories may relate to any matters that can be inquired into under section 2 of Rule 23, and the answers may be used for the same purposes provided in section 4 of the same Rule. (5a)	Section 5. *Scope and use of interrogatories*. – Interrogatories may relate to any matters that can be inquired into under [S]ection 2 of Rule 23, and the answers may be used for the same purposes provided in [S]ection 4 of the same Rule. (5)
Section 6. *Effect of failure to serve written interrogatories.* – Unless thereafter allowed by the court for good cause shown and to prevent a failure of justice, a party not served with written interrogatories may not be compelled by the adverse party to give testimony in open court, or to give a deposition pending appeal. (n)	Section 6. *Effect of failure to serve written interrogatories*. – Unless thereafter allowed by the court for good cause shown and to prevent a failure of justice, a party not served with written interrogatories may not be compelled by the adverse party to give testimony in open court, or to give a deposition pending appeal. (6)

RULE 26
ADMISSION BY ADVERSE PARTY

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Request for admission.* – At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (1a)	Section 1. *Request for admission*. – At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Implied admission.* – Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters. Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his sworn statement as contemplated in the preceding paragraph and his compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (2a)	Section 2. *Implied admission*. – Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, which shall not be less than fifteen (15) calendar days after service thereof, or within such further time as the court may allow on motion, the party to whom the request is directed files and serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he or she cannot truthfully either admit or deny those matters. Objections to any request for admission shall be submitted to the court by the party requested within the period for and prior to the filing of his or her sworn statement as contemplated in the preceding paragraph and his or her compliance therewith shall be deferred until such objections are resolved, which resolution shall be made as early as practicable. (2a)
Section 3. *Effect of admission.* – Any admission made by a party pursuant to such request is for the purpose of the pending action only and shall not constitute an admission by him for any other purpose nor may the same be used against him in any other proceeding. (3)	Section 3. *Effect of admission*. – Any admission made by a party pursuant to such request is for the purpose of the pending action only and shall not constitute an admission by him or her for any other purpose nor may the same be used against him or her in any other proceeding. (3a)
Section 4. *Withdrawal.* – The court may allow the party making an admission under this Rule, whether express or implied, to withdraw or amend it upon such terms as may be just. (4)	Section 4. *Withdrawal*. – The court may allow the party making an admission under this Rule, whether express or implied, to withdraw or amend it upon such terms as may be just. (4)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Effect of failure to file and serve request for admission*. – Unless otherwise allowed by the court for good cause shown and to prevent a failure of justice, a party who fails to file and serve a request for admission on the adverse party of material and relevant facts at issue which are, or ought to be, within the personal knowledge of the latter, shall not be permitted to present evidence on such facts. (n)	Section 5. *Effect of failure to file and serve request for admission*. – Unless otherwise allowed by the court for good cause shown and to prevent a failure of justice, a party who fails to file and serve a request for admission on the adverse party of material and relevant facts at issue which are, or ought to be[,] within the personal knowledge of the latter, shall not be permitted to present evidence on such facts. (5)

RULE 27
PRODUCTION OR INSPECTION OF DOCUMENTS OR THINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Motion for production or inspection; order.* – Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. (1a)	Section 1. *Motion for production or inspection*; *order*. – Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his <u>or her</u> possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his <u>or her</u> possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just. (1a)

RULE 28
PHYSICAL AND MENTAL EXAMINATION OF PERSONS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *When examination may be ordered.* – In an action in which the mental or physical condition of a party is in controversy, the court in which the action is pending may in its discretion order him to submit to a physical or mental examination by a physician. (1)	Section 1. *When examination may be ordered*. – In an action in which the mental or physical condition of a party is in controversy, the court in which the action is pending may in its discretion order him <u>or her</u> to submit to a physical or mental examination by a physician. (1a)
Section 2. *Order for examination.* – The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. (2)	Section 2. *Order for examination*. – The order for examination may be made only on motion for good cause shown and upon notice to the party to be examined and to all other parties, and shall specify the time, place, manner, conditions and scope of the examination and the person or persons by whom it is to be made. (2)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Report of findings* – If requested by the party examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician setting out his findings and conclusions. After such request and delivery, the party causing the examination to be made shall be entitled upon request to receive from the party examined a like report of any examination, previously or thereafter made, of the same mental or physical condition. If the party examined refuses to deliver such report, the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician fails or refuses to make such a report the court may exclude his testimony if offered at the trial. (3a)	Section 3. *Report of findings*. – If requested by the party examined, the party causing the examination to be made shall deliver to him <u>or her</u> a copy of a detailed written report of the examining physician setting out his <u>or her</u> findings and conclusions. After such request and delivery, the party causing the examination to be made shall be entitled upon request to receive from the party examined a like report of any examination, previously or thereafter made, of the same mental or physical condition. If the party examined refuses to deliver such report, the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician fails or refuses to make such a report<u>[,]</u> the court may exclude his <u>or her</u> testimony if offered at the trial. (3a)
Section 4. *Waiver of privilege.* – By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same mental or physical examination. (4)	Section 4. *Waiver of privilege*. – By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party examined waives any privilege he <u>or she</u> may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him <u>or her</u> in respect of the same mental or physical examination. (4a)

RULE 29
REFUSAL TO COMPLY WITH MODES OF DISCOVERY

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Refusal to answer.* – If a party or other deponent refuses to answer any question upon oral examination, the examination may be completed on other matters or adjourned as the proponent of the question may prefer. The proponent may thereafter apply to the proper court of the place where the deposition is being taken, for an order to compel an answer. The same procedure may be availed of when a party or a witness refuses to answer any interrogatory submitted under Rules 23 or 25. If the application is granted, the court shall require the refusing party or deponent to answer the question or interrogatory and if it also finds that the refusal to answer was without substantial justification, it may require the refusing party or deponent or the counsel advising the refusal, or both of them, to pay the proponent the amount of the reasonable expenses incurred in obtaining the order, including attorney's fees. If the application is denied and the court finds that it was filed without substantial justification, the court may require the proponent or the counsel advising the filing of the application, or both of them, to pay to the refusing party or deponent the amount of the reasonable expenses incurred in opposing the application, including attorney's fees. (1a)	Section 1. *Refusal to answer*. – If a party or other deponent refuses to answer any question upon oral examination, the examination may be completed on other matters or adjourned as the proponent of the question may prefer. The proponent may thereafter apply to the proper court of the place where the deposition is being taken, for an order to compel an answer. The same procedure may be availed of when a party or a witness refuses to answer any interrogatory submitted under Rules 23 or 25. If the application is granted, the court shall require the refusing party or deponent to answer the question or interrogatory and if it also finds that the refusal to answer was without substantial justification, it may require the refusing party or deponent or the counsel advising the refusal, or both of them, to pay the proponent the amount of the reasonable expenses incurred in obtaining the order, including attorney's fees. If the application is denied and the court finds that it was filed without substantial justification, the court may require the proponent or the counsel advising the filing of the application, or both of them, to pay to the refusing party or deponent the amount of the reasonable expenses incurred in opposing the application, including attorney's fees. (1)
Section 2. *Contempt of court*. – If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court of the place in which the deposition is being taken, the refusal may be considered a contempt of that court. (2a)	Section 2. *Contempt of court*. – If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the court of the place in which the deposition is being taken, the refusal may be considered a contempt of that court. (2)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Other consequences.* – If any party or an officer or managing agent of a party refuses to obey an order made under section 1 of this Rule requiring him to answer designated questions, or an order under Rule 27 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 28 requiring him to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following:	Section 3. *Other consequences*. – If any party or an officer or managing agent of a party refuses to obey an order made under [S]ection 1 of this Rule requiring him <u>or her</u> to answer designated questions, or an order under Rule 27 to produce any document or other thing for inspection, copying, or photographing or to permit it to be done, or to permit entry upon land or other property, or an order made under Rule 28 requiring him <u>or her</u> to submit to a physical or mental examination, the court may make such orders in regard to the refusal as are just, and among others the following:
(a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;	(a) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental condition of the party, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;	(b) An order refusing to allow the disobedient party to support or oppose designated claims or defenses or prohibiting him <u>or her</u> from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of physical or mental condition;
(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party; and	(c) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party; and
(d) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of party for disobeying any of such orders except an order to submit to a physical or mental examination. (3a)	(d) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental examination. (3a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Expenses on refusal to admit.* – If a party after being served with a request under Rule 26 to admit the genuineness of any document or the truth of any matter of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of such document or the truth of any such matter of fact, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including attorney's fees. Unless the court finds that there were good reasons for the denial or that admissions sought were of no substantial importance, such order shall be issued. (4a)	Section 4. *Expenses on refusal to admit*. – If a party after being served with a request under Rule 26 to admit the genuineness of any document or the truth of any matter of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of such document or the truth of any such matter of fact, he or she may apply to the court for an order requiring the other party to pay him or her the reasonable expenses incurred in making such proof, including [reasonable] attorney's fees. Unless the court finds that there were good reasons for the denial or that admissions sought were of no substantial importance, such order shall be issued. (4a)
Section 5. *Failure of party to attend or serve answers.* – If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 25 after proper service of such interrogatories, the court on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, and in its discretion, order him to pay reasonable expenses incurred by the other, including attorney's fees. (5)	Section 5. *Failure of party to attend or serve answers*. – If a party or an officer or managing agent of a party wilfully fails to appear before the officer who is to take his or her deposition, after being served with a proper notice, or fails to serve answers to interrogatories submitted under Rule 25 after proper service of such interrogatories, the court on motion and notice, may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, and in its discretion, order him or her to pay reasonable expenses incurred by the other, including attorney's fees. (5a)
Section 6. *Expenses against the Republic of the Philippines.* – Expenses and attorney's fees are not to be imposed upon the Republic of the Philippines under this Rule. (6)	Section 6. *Expenses against the Republic of the Philippines*. – Expenses and attorney's fees are not to be imposed upon the Republic of the Philippines under this Rule. (6)

RULE 30
TRIAL

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Notice of trial.* – Upon entry of a case in the trial calendar, the clerk shall notify the parties of the date of its trial in such manner as shall ensure his receipt of that notice at least five (5) days before such date. (2a, R22)	Section 1. *Schedule of trial.* – The parties shall strictly observe the scheduled hearings as agreed upon and set forth in the pre-trial order. (a) The schedule of the trial dates, for both plaintiff and defendant, shall be continuous and within the following periods: i. The initial presentation of plaintiff's evidence shall be set not later than thirty (30) calendar days after the termination of the pre-trial conference. Plaintiff shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days which shall include the date of the judicial dispute resolution, if necessary; ii. The initial presentation of defendant's evidence shall be set not later than thirty (30) calendar days after the court's ruling on plaintiff's formal offer of evidence. The defendant shall be allowed to present its evidence within a period of three (3) months or ninety (90) calendar days; iii. The period for the presentation of evidence on the third (fourth, etc.)-party claim, counterclaim or cross-claim shall be determined by the court, the total of which shall in no case exceed ninety (90) calendar days; and iv. If deemed necessary, the court shall set the presentation of the parties' respective rebuttal evidence, which shall be completed within a period of thirty (30) calendar days. (b) The trial dates may be shortened depending on the number of witnesses to be presented, provided that the presentation of evidence of all parties shall be terminated within a period of ten (10) months or three hundred (300) calendar days. If there are no third (fourth, etc.)-party claim, counterclaim or cross-claim, the presentation of evidence shall be terminated within a period of six (6) months or one hundred eighty (180) calendar days. (c) The court shall decide and serve copies of its decision to the parties within a period not exceeding ninety (90) calendar days from the submission of the case for resolution, with or without memoranda. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 2. *Adjournments and postponements.* – A court may adjourn a trial from day to day, and to any stated time, as the expeditious and convenient transaction of business may require, but shall have no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Court Administrator, Supreme Court. (3a, R22)	Section 2. *Adjournments and postponements.* – A court may adjourn a trial from day to day, and to any stated time, as the expeditious and convenient transaction of business may require, but shall have no power to adjourn a trial for a longer period than one [(1)] month for each adjournment, nor more than three [(3)] months in all, except when authorized in writing by the Court Administrator, Supreme Court. The party who caused the postponement is warned that the presentation of its evidence must still be terminated on the remaining dates previously agreed upon. (2a)
Section 3. *Requisites of motion to postpone trial for absence of evidence.* – A motion to postpone a trial on the ground of absence of evidence can be granted only upon affidavit showing the materiality or relevancy of such evidence, and that due diligence has been used to procure it. But if the adverse party admits the facts to be given in evidence, even if he objects or reserves the right to object to their admissibility, the trial shall not be postponed. (4a, R22)	Deleted.

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 4. *Requisites of motion to postpone trial for illness of party or counsel*. – A motion to postpone a trial on the ground of illness of a party or counsel may be granted if it appears upon affidavit or sworn certification that the presence of such party or counsel at the trial is indispensable and that the character of his illness is such as to render his non-attendance excusable. (5a, R22)	Section 3. *Requisites of motion to postpone trial for illness of party or counsel*. – A motion to postpone a trial on the ground of illness of a party or counsel may be granted if it appears upon affidavit or sworn certification that the presence of such party or counsel at the trial is indispensable and that the character of his or her illness is such as to render his or her non-attendance excusable. (4a)
No counterpart provision.	Section 4. *Hearing days and calendar call*. – Trial shall be held from Monday to Thursday, and courts shall call the cases at exactly 8:30 a.m. and 2:00 p.m., pursuant to Administrative Circular No. 3-99. Hearing on motions shall be held on Fridays, pursuant to Section 8, Rule 15. All courts shall ensure the posting of their court calendars outside their courtrooms at least one (1) day before the scheduled hearings, pursuant to OCA Circular No. 250-2015. (n)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Order of trial.* – Subject to the provisions of section 2 of Rule 31, and unless the court for special reasons otherwise directs, the trial shall be limited to the issues stated in the pre-trial order and shall proceed as follows: (a) The plaintiff shall adduce evidence in support of his complaint; (b) The defendant shall then adduce evidence in support of his defense, counterclaim, cross-claim and third-party complaint; (c) The third-party defendant, if any, shall adduce evidence of his defense, counterclaim, cross-claim and fourth-party complaint; (d) The fourth-party, and so forth, if any, shall adduce evidence of the material facts pleaded by them; (e) The parties against whom any counterclaim or cross-claim has been pleaded, shall adduce evidence in support of their defense, in the order to be prescribed by the court; (f) The parties may then respectively adduce rebutting evidence only, unless the court, for good reasons and in the furtherance of justice, permits them to adduce evidence upon their original case; and (g) Upon admission of the evidence, the case shall be deemed submitted for decision, unless the court directs the parties to argue or to submit their respective memoranda or any further pleadings. If several defendants or third-party defendants, and so forth, having separate defenses appear by different counsel, the court shall determine the relative order of presentation of their evidence. (1a, R30)	Section 5. *Order of trial.* – Subject to the provisions of [S]ection 2 of Rule 31, and unless the court for special reasons otherwise directs, the trial shall be limited to the issues stated in the pre-trial order and shall proceed as follows: (a) The plaintiff shall adduce evidence in support of his <u>or her</u> complaint; (b) The defendant shall then adduce evidence in support of his <u>or her</u> defense, counterclaim, cross-claim and third-party complaint; (c) The third-party defendant, if any, shall adduce evidence of his <u>or her</u> defense, counterclaim, cross-claim and fourth-party complaint; (d) The fourth-party, and so forth, if any, shall adduce evidence of the material facts pleaded by them; (e) The parties against whom any counterclaim or cross-claim has been pleaded, shall adduce evidence in support of their defense, in the order to be prescribed by the court; (f) The parties may then respectively adduce rebutting evidence only, unless the court, for good reasons and in the furtherance of justice, permits them to adduce evidence upon their original case; and (g) Upon admission of the evidence, the case shall be deemed submitted for decision, unless the court directs the parties to argue or to submit their respective memoranda or any further pleadings. If several defendants or third-party defendants, and so forth, having separate defenses appear by different counsel, the court shall determine the relative order of presentation of their evidence. (5a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 6. *Oral offer of exhibits.* – The offer of evidence, the comment or objection thereto, and the court ruling shall be made orally in accordance with Sections 34 to 40 of Rule 132. (n)
Section 6. *Agreed statement of facts.* – The parties to any action may agree, in writing, upon the facts involved in the litigation, and submit the case for judgment on the facts agreed upon, without the introduction of evidence. If the parties agree only on some of the facts in issue, the trial shall be held as to the disputed facts in such order as the court shall prescribe. (2a, R30)	Section 7. *Agreed statement of facts.* – The parties to any action may agree, in writing, upon the facts involved in the litigation, and submit the case for judgment on the facts agreed upon, without the introduction of evidence. If the parties agree only on some of the facts in issue, the trial shall be held as to the disputed facts in such order as the court shall prescribe. (6)
Section 7. *Statement of judge*. – During the hearing or trial of a case any statement made by the judge with reference to the case, or to any of the parties, witnesses or counsel, shall be made of record in the stenographic notes. (3a, R30)	Deleted.
Section 8. *Suspension of actions*. – The suspension of actions shall be governed by the provisions of the Civil Code. (n)	Section 8. *Suspension of actions*. – The suspension of actions shall be governed by the provisions of the Civil Code and other laws. (8a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 9. *Judge to receive evidence; delegation to clerk of court.* – The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or *ex parte* hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar. The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his report and the transcripts within ten (10) days from termination of the hearing. (n)	Section 9. *Judge to receive evidence; delegation to clerk of court.* – The judge of the court where the case is pending shall personally receive the evidence to be adduced by the parties. However, in default or *ex parte* hearings, and in any case where the parties agree in writing, the court may delegate the reception of evidence to its clerk of court who is a member of the bar. The clerk of court shall have no power to rule on objections to any question or to the admission of exhibits, which objections shall be resolved by the court upon submission of his <u>or her</u> report and the transcripts within ten (10) <u>calendar</u> days from termination of the hearing. (9a)

RULE 31
CONSOLIDATION OR SEVERANCE

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Consolidation*. – When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (1)	Section 1. *Consolidation*. – When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. (1)
Section 2. *Separate trials.* – The court, in furtherance of convenience or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, or third-party complaint, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party complaints, or issues. (2a)	Section 2. *Separate trials*. – The court, in furtherance of convenience or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, or third-party complaint, or of any separate issue or of any number of claims, cross[-]claims, counterclaims, third-party complaints or issues. (2)

RULE 32
TRIAL BY COMMISSIONER

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Reference by consent.* – By written consent of both parties, the court may order any or all of the issues in a case to be referred to a commissioner to be agreed upon by the parties or to be appointed by the court. As used in these Rules, the word "commissioner" includes a referee, an auditor and an examiner. (1a, R33)	Section 1. *Reference by consent*. – By written consent of both parties, the court may order any or all of the issues in a case to be referred to a commissioner to be agreed upon by the parties or to be appointed by the court. As used in these Rules, the word "commissioner" includes a referee, an auditor and an examiner. (1)
Section 2. *Reference ordered on motion.* – When the parties do not consent, the court may, upon the application of either or of its own motion, direct a reference to a commissioner in the following cases: (a) When the trial of an issue of fact requires the examination of a long account on either side, in which case the commissioner may be directed to hear and report upon the whole issue or any specific question involved therein; (b) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect; (c) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect. (2a, R33)	Section 2. *Reference ordered on motion*. – When the parties do not consent, the court may, upon the application of either or of its own motion, direct a reference to a commissioner in the following cases: (a) When the trial of an issue of fact requires the examination of a long account on either side, in which case the commissioner may be directed to hear and report upon the whole issue or any specific question involved therein; (b) When the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect; (c) When a question of fact, other than upon the pleadings, arises upon motion or otherwise, in any stage of a case, or for carrying a judgment or order into effect. (2)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Order of reference; powers of the commissioner.* – When a reference is made, the clerk shall forthwith furnish the commissioner with a copy of the order of reference. The order may specify or limit the powers of the commissioner, and may direct him to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his report. Subject to the specifications and limitations stated in the order, the commissioner has and shall exercise the power to regulate the proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may issue subpoenas and subpoenas *duces tecum,* swear witnesses, and unless otherwise provided in the order of reference, he may rule upon the admissibility of evidence. The trial or hearing before him shall proceed in all respects as it would if held before the court. (3a, R33)	Section 3. *Order of reference; powers of the commissioner*. – When a reference is made, the clerk shall forthwith furnish the commissioner with a copy of the order of reference. The order may specify or limit the powers of the commissioner, and may direct him or her to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the date for beginning and closing the hearings and for the filing of his or her report. Subject to the specifications and limitations stated in the order, the commissioner has and shall exercise the power to regulate the proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of his or her duties under the order. He or she may issue subpoenas and subpoenas *duces tecum*, swear witnesses, and unless otherwise provided in the order of reference, he or she may rule upon the admissibility of evidence. The trial or hearing before him or her shall proceed in all respects as it would if held before the court. (3a)
Section 4. *Oath of commissioner.* – Before entering upon his duties the commissioner shall be sworn to a faithful and honest performance thereof. (14, R33)	Section 4. *Oath of commissioner*. – Before entering upon his or her duties the commissioner shall be sworn to a faithful and honest performance thereof. (4a)
Section 5. *Proceedings before commissioner.* – Upon receipt of the order of reference and unless otherwise provided therein, the commissioner shall forthwith set a time and place for the first meeting of the parties or their counsel to be held within ten (10) days after the date of the order of reference and shall notify the parties or their counsel. (5a, R33)	Section 5. *Proceedings before commissioner*. – Upon receipt of the order of reference unless otherwise provided therein, the commissioner shall forthwith set a time and place for the first meeting of the parties or their counsel to be held within ten (10) calendar days after the date of the order of reference and shall notify the parties or their counsel. (5a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 6. *Failure of parties to appear before commissioner.* – If a party fails to appear at the time and place appointed, the commissioner may proceed *ex parte* or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party or his counsel of the adjournment. (6a, R33)	Section 6. *Failure of parties to appear before commissioner*. – If a party fails to appear at the time and place appointed, the commissioner may proceed *ex parte* or, in his or her discretion, adjourn the proceedings to a future day, giving notice to the absent party or his or her counsel of the adjournment. (6a)
Section 7. *Refusal of witness.* – The refusal of a witness to obey a subpoena issued by the commissioner or to give evidence before him, shall be deemed a contempt of the court which appointed the commissioner. (7a, R33)	Section 7. *Refusal of witness*. – The refusal of a witness to obey a subpoena issued by the commissioner or to give evidence before him or her, shall be deemed a contempt of the court which appointed the commissioner. (7a)
Section 8. *Commissioner shall avoid delays.* – It is the duty of the commissioner to proceed with all reasonable diligence. Either party, on notice to the parties and commissioner, may apply to the court for an order requiring the commissioner to expedite the proceedings and to make his report. (8a, R33)	Section 8. *Commissioner shall avoid delays*. – It is the duty of the commissioner to proceed with all reasonable diligence. Either party, on notice to the parties and commissioner, may apply to the court for an order requiring the commissioner to expedite the proceedings and to make his or her report. (8a)
Section 9. *Report of commissioner.* – Upon the completion of the trial or hearing or proceeding before the commissioner, he shall file with the court his report in writing upon the matters submitted to him by the order of reference. When his powers are not specified or limited, he shall set forth his findings of fact and conclusions of law in his report. He shall attach thereto all exhibits, affidavits, depositions, papers and the transcripts, if any, of the testimonial evidence presented before him. (9a, R33)	Section 9. *Report of commissioner*. – Upon the completion of the trial or hearing or proceeding before the commissioner, he or she shall file with the court his or her report in writing upon the matters submitted to him or her by the order of reference. When his or her powers are not specified or limited, he or she shall set forth his or her findings of fact and conclusions of law in his or her report. He or she shall attach thereto all exhibits, affidavits, depositions, papers and the transcript, if any, of the testimonial evidence presented before him or her. (9a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 10. *Notice to parties of the filing of report.* – Upon the filing of the report, the parties shall be notified by the clerk, and they shall be allowed ten (10) days within which to signify grounds of objections to the findings of the report, if they so desire. Objections to the report based upon grounds which were available to the parties during the proceedings before the commissioner, other than objections to the findings and conclusions therein set forth, shall not be considered by the court unless they were made before the commissioner. (10, R33)	Section 10. *Notice to parties of the filing of report*. – Upon the filing of the report, the parties shall be notified by the clerk, and they shall be allowed ten (10) calendar days within which to signify grounds of objections to the findings of the report, if they so desire. Objections to the report based upon grounds which were available to the parties during the proceedings before the commissioner, other than objections to the findings and conclusions therein set forth, shall not be considered by the court unless they were made before the commissioner. (10a)
Section 11. *Hearing upon report*. – Upon the expiration of the period of ten (10) days referred to in the preceding section, the report shall be set for hearing, after which the court shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the commissioner or the court. (11a, R33)	Section 11. *Hearing upon report*. – Upon the expiration of the period of ten (10) calendar days referred to in the preceding section, the report shall be set for hearing, after which the court shall issue an order adopting, modifying, or rejecting the report in whole or in part, or recommitting it with instructions, or requiring the parties to present further evidence before the commissioner or the court. (11a)
Section 12. *Stipulations as to findings.* – When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (12a, R33)	Section 12. *Stipulations as to findings*. – When the parties stipulate that a commissioner's findings of fact shall be final, only questions of law shall thereafter be considered. (12)
Section 13. *Compensation of commissioner.* – The court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires. (13, R33)	Section 13. *Compensation of commissioner*. – The court shall allow the commissioner such reasonable compensation as the circumstances of the case warrant, to be taxed as costs against the defeated party, or apportioned, as justice requires. (13)

RULE 33
DEMURRER TO EVIDENCE

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Demurrer to evidence*. – After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his motion is denied, he shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed, he shall be deemed to have waived the right to present evidence. (1a, R35)	Section 1. *Demurrer to evidence*. – After the plaintiff has completed the presentation of his or her evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. If his or her motion is denied, he or she shall have the right to present evidence. If the motion is granted but on appeal the order of dismissal is reversed, he or she shall be deemed to have waived the right to present evidence. (1a)
No counterpart provision.	Section 2. *Action on demurrer to evidence.* – A demurrer to evidence shall be subject to the provisions of Rule 15. The order denying the demurrer to evidence shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus* before judgment. (n)

RULE 34
JUDGMENT ON THE PLEADINGS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Judgment on the pleadings.* – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved. (1a, R19)	Section 1. *Judgment on the pleadings.* – Where an answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleading, the court may, on motion of that party, direct judgment on such pleading. However, in actions for declaration of nullity or annulment of marriage or for legal separation, the material facts alleged in the complaint shall always be proved. (1)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
No counterpart provision.	Section 2. *Action on motion for judgment on the pleadings.* – The court may *motu proprio* or on motion render judgment on the pleadings if it is apparent that the answer fails to tender an issue, or otherwise admits the material allegations of the adverse party's pleadings. Otherwise, the motion shall be subject to the provisions of Rule 15 of these Rules. Any action of the court on a motion for judgment on the pleadings shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (n)

RULE 35
SUMMARY JUDGMENTS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 1. *Summary judgment for claimant*. – A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof. (1a, R34)	Section 1. *Summary judgment for claimant*. – A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor upon all or any part thereof. (1a)
Section 2. *Summary judgment for defending party*. – A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any time, move with supporting affidavits, depositions or admissions for a summary judgment in his favor as to all or any part thereof. (2a, R34)	Section 2. *Summary judgment for defending party*. – A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory relief is sought may, at any time, move with supporting affidavits, depositions or admissions for a summary judgment in his or her favor as to all or any part thereof. (2a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 3. *Motion and proceedings thereon*. – The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party may serve opposing affidavits, depositions, or admissions at least three (3) days before the hearing. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. (3a, R34)	Section 3. *Motion and proceedings thereon.* – The motion shall cite the supporting affidavits, depositions or admissions, and the specific law relied upon. The adverse party may file a comment and serve opposing affidavits, depositions, or admissions within a non-extendible period of five (5) calendar days from receipt of the motion. Unless the court orders the conduct of a hearing, judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Any action of the court on a motion for summary judgment shall not be subject of an appeal or petition for *certiorari*, prohibition or *mandamus*. (3a)
Section 4. *Case not fully adjudicated on motion*. – If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel shall ascertain what material facts exist without substantial controversy and what are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. The facts so specified shall be deemed established, and the trial shall be conducted on the controverted facts accordingly. (4a, R34)	Section 4. *Case not fully adjudicated on motion.* – If on motion under this Rule, judgment is not rendered upon the whole case or for all the reliefs sought and a trial is necessary, the court may, by examining the pleadings and the evidence before it and by interrogating counsel[,] ascertain what material facts exist without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and direct such further proceedings in the action as are just. The facts so ascertained shall be deemed established, and the trial shall be conducted on the controverted facts accordingly. (4a)

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
Section 5. *Form of affidavits and supporting papers*. – Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Certified true copies of all papers or parts thereof referred to in the affidavit shall be attached thereto or served therewith. (5a, R34)	Section 5. *Form of affidavits and supporting papers*. – Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Certified true copies of all papers or parts thereof referred to in the affidavit shall be attached thereto or served therewith. (5)
Section 6. *Affidavits in bad faith*. – Should it appear to its satisfaction at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith, or solely for the purpose of delay, the court shall forthwith order the offending party or counsel to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including attorney's fees. It may, after hearing, further adjudge the offending party or counsel guilty of contempt. (6a, R34)	Section 6. *Affidavits in bad faith*. – Should it appear to its satisfaction at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith, or solely for the purpose of delay, the court shall forthwith order the offending party or counsel to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him <u>or her</u> to incur, including attorney's fees[<u>,</u> i]t may, after hearing, further adjudge the offending party or counsel guilty of contempt. (6a)

RULE 144
EFFECTIVENESS

1997 RULES OF CIVIL PROCEDURE	2019 AMENDMENTS
These rules shall take effect on January 1, 1964. They shall govern all cases brought after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which event the former procedure shall apply.	These [R]ules shall take effect on January 1, 1964. They shall govern all cases brought after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which even[t] the former procedure shall apply. The 2019 Proposed Amendments to the 1997 Rules of Civil Procedure shall govern all cases filed after their effectivity on May 1, 2020, and also all pending proceedings, except to the extent that in the opinion of the court, their application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern. (n) The application and adherence to the said amendments shall be subject to periodic monitoring by the Subcommittee, through the Office of the Court Administrator (OCA). For this purpose, all courts covered by the said amendments shall accomplish and submit a periodic report of data in a form to be generated and distributed by the OCA. (n) All rules, resolutions, regulations or circulars of the Supreme Court or parts thereof that are inconsistent with any provision of the said amendments are hereby deemed repealed or modified accordingly. (n)