

## CIVIL PROCEDURE

### 1. General Principles

#### a. Distinguish: Substantive law vs. Remedial/Adjective law

	Remedial/Adjective law	Substantive law
<b>Definition</b>	The <u>METHOD</u> by which rights and obligations arising from substantive law are protected, enforced, and given effect.	It <u>DEFINES, CREATES, and REGULATES</u> rights and duties which give rise to cause of action.
<b>Vested right</b>	No vested right	With vested rights.
<b>Retroactivity</b>	Retroactive, because no vested right.	Prospective, because with vested rights.
<b>Origin</b>	Judicial and quasi-judicial agencies	Legislative

#### b. Rule-making power of the Supreme Court

- i. The Supreme Court has the sole prerogative to amend, repeal, or establish new rules.
- ii. The NLRC has its own Rules of Procedure. Should its Rules be approved by the SC before they take effect? No. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court. (Sec. 5(5), Article VIII)
- iii. Only the Supreme Court has the power to suspend or relax technical or procedural rules. (Tiangco v Land Bank, 2010)
- iv. The CA, RTC, and other courts CANNOT suspend or relax procedural rules.

#### c. Basics of Jurisdiction

##### i. Classification of Jurisdiction

1. **Original v. Appellate** - The case was originally filed v. Power to review the decision of a lower court
2. **General v. Special** - The RTC v. Every other court
3. **Exclusive v. Concurrent** - Only one court has jurisdiction v. Multiple courts
  - a. **NOTE:** You just have to be familiar with these terms, so you can determine, based on the problem, which court has jurisdiction over the case (RTC, MTC, and so on).

##### 4. Example:

##### ii. Doctrine of Hierarchy of Courts/Judicial Hierarchy

##### 1. General Rule:

- a. The action must be filed with the **LOWEST COURT POSSIBLE** having **CONCURRENT** jurisdiction.

2. Exceptions:
  - a. When there are genuine issues of constitutionality that must be addressed in the most immediate time;
  - b. When the issues involved are of transcendental importance;
  - c. Cases of first impression;
  - d. When the constitutional issues raised are best decided by this Court;
  - e. When the time element presented in this case cannot be ignored;
  - f. When the petition reviews the act of a constitutional organ;
  - g. When there is no other plain, speedy, and adequate remedy in the ordinary course of law;
  - h. When public welfare and the advancement of public policy so dictates, or when demanded by the broader interest of justice;
  - i. When the orders complained of are patent nullities;
  - j. When appeal is considered as clearly an inappropriate remedy (Gacad v. Hon. Corpuz, 2022)
3. **EX:** The MTC gravely abused its discretion. What's your remedy? Where can you file? Where should you file, following the doctrine mentioned?
  - a. You can file a petition for certiorari to annul the order of the MTC. This petition can be filed with the RTC, the CA, or the SC, as all of these courts have concurrent original jurisdiction over petitions for certiorari. However, following the doctrine of hierarchy of courts, the petition must be filed with the RTC, because the petition must be filed with the lowest court possible with jurisdiction over the same.

**iii. Doctrine of Adherence of Jurisdiction; Continuity of Jurisdiction**

1. Under this doctrine, once jurisdiction is vested or has attached to a court, the same is retained up to the end of the litigation. (De La Rosa v Roldan, 2006)
  - a. Hence, it cannot be ousted by subsequent events, although these events would have prevented jurisdiction from attaching in the first instance.
2. **EX:** The RTC Manila has jurisdiction, if the complaint alleged that the claim is P4,500,000. Further, it retains jurisdiction even if, based on evidence, the plaintiff was only entitled to P50,000.
  - a. **NOTE:** For continuity of jurisdiction, we do not check the evidence. we only check the allegations.
3. **EX:** The MTC Manila has jurisdiction if the complaint alleged that the claim is P2,000,000. Does it retain jurisdiction if, based on evidence, the plaintiff was entitled to P2,500,000?
  - a. Yes, but the MTC only has jurisdiction up to P2,000,000. The MTC cannot award an amount in excess of P2,000,000, because it would exceed its jurisdiction.

- iv. **Doctrine of Non-Interference/Judicial Stability** - A court of **EQUAL** and coordinate jurisdiction cannot **INTERFERE** with each other's orders. (Lapu-Lapu Development v. Group Management Corp.)
1. **EX:** RTC Manila issued a TRO. Can RTC Pasay annul that TRO?
    - a. No, because they are co-equal courts.
  2. This applies to **ADMINISTRATIVE** bodies. (Philippine Sinter v. Cagayan Electric)
    - a. How? If the decisions of the administrative body are reviewable by the CA, that body is co-equal to the RTC.
    - b. **EX:** The Civil Service Commission issued a ruling against Mr. A. Can Mr. A appeal the case to the RTC?
      - i. No, because the CSC is co-equal to the RTC. Under Ruel 43, the ruling of the CSC is appealable to the CA.
  3. What is the remedy in case the second court annulled the TRO in violation of this doctrine?
    - a. He can file a motion to quash **WITH THE COURT THAT ANNULLED THE TRO.**
      - i. He should not file the motion to quash with the first court.
  4. What if the second court denies the motion to quash?
    - a. The remedy is to file a **PETITION FOR CERTIORARI** with the **HIGHER COURT**, that has the power to nullify the order of the issuing court. (Del Rosario v. Ocampo-Ferrer)
  5. However, this doctrine does **NOT** apply where a **THIRD PARTY CLAIMANT** is involved. (Sps. Crisologo v. Omelio, 2012)
    - a. **EX:** Mr. A filed an action for judicial foreclosure against Mr. B with RTC Manila. Later on, the Court ordered the mortgaged property to be sold in a foreclosure sale, wherein Mr. A was the highest bidder. The redemption period expired, so the property is now registered in his name. Years later, it turned out that Mr. C is the true owner of the property, because Mr. B merely forged his signature to transfer it to him. What is the remedy of Mr. C?
      - i. He must file an action to annul the foreclosure sale, among others. Where will the case be filed? **With the RTC once again.**
    - b. Does this violate the doctrine of non-interference?
      - i. No, because Mr. C is a third party claimant.
  6. Distinguish doctrine of non-interference and doctrine of adherence of Jurisdiction
    - a. Non-interference - under this doctrine, courts cannot interfere with other courts of equal and coordinate jurisdiction.
    - b. Adherence - once jurisdiction attaches, it continues until the end of the litigation.

v. **Doctrine Of Residual Jurisdiction -**

1. Residual jurisdiction refers to the authority of the trial court:
  - a. to issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal;
  - b. to approve compromises;
  - c. to permit appeals by indigent litigants; to order execution pending appeal in accordance with Section 2, Rule 39; and
  - d. to allow the withdrawal of the appeal,
    - i. **NOTE:** Residual jurisdiction applies after the appeal has been perfected but the original record or the record on appeal was still not transmitted to the appellate court. Once the record was transmitted, the orders must now be issued by the appellate court and not the court that rendered the decision.

vi. **PRIMARY ADMINISTRATIVE JURISDICTION AND DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES**

a. **Doctrine of Primary Administrative Jurisdiction**

i. **General Rule**

1. Adhering to the doctrine of primary jurisdiction, courts usually defer jurisdiction to administrative agencies on cases concerning matters that demand their special competence. (*GMA Network v. ABC Development Corporation, 2023*)

ii. **Exceptions**

1. Where there is estoppel on the part of the party invoking the doctrine,
2. Where the challenged administrative act is patently illegal, amounting to lack of jurisdiction,
3. Where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant,
4. Where the amount involved is relatively small,
5. Where the question involved is purely legal and will ultimately have to be decided by the courts,
6. Where judicial intervention is urgent,
7. When its application may cause great and irreparable damage,
8. Where the controverted acts violate due process,
9. When the issue of non-exhaustion of administrative remedies has been rendered moot,
10. When there is no other plain, speedy, adequate remedy,
11. When strong public interest is involved, and
12. In quo warranto proceedings (*Province of Aklan v. Jody King Construction and Dev't Corp., 2013*)

**b. Doctrine of Exhaustion of Administrative Remedies**

- i. The doctrine of primary jurisdiction must be distinguished from the doctrine of exhaustion of administrative remedies: Under the doctrine of exhaustion of administrative remedies, a party must first avail of all administrative processes available before seeking the courts' intervention. The administrative officer concerned must be given every opportunity to decide on the matter within his or her jurisdiction. Failing to exhaust administrative remedies affects the party's cause of action as these remedies refer to a precedent condition which must be complied with prior to filing a case in court. However, failure to observe the doctrine of exhaustion of administrative remedies does not affect the court's jurisdiction. (GMA Network v. ABC Development Corporation, 2023)**

**2. Aspects of Jurisdiction**

**a. Subject Matter**

- i. How is this conferred?**
- 1. This is conferred by the LAW or the CONSTITUTION. s**
- ii. It can NEVER be conferred by:**
- 1. The Rules**
  - 2. The Agreement of the parties**
  - 3. The Acquiescence of the courts**
- iii. How do we determine if the court has jurisdiction over the subject matter?**
- 1. By reading the allegations and the attachments of the complaint/petition.**
  - 2. As a rule, the allegations in the Answer, the Reply, and the Rejoinder, and the evidence presented during trial do NOT matter.**
    - a. As an exception, referral to the DAR shall be mandatory when two requisites concur: 1) there is an allegation from any one or both of the parties that the case is **agrarian in nature**; and 2) one of the parties is a **farmer, farmworker, or tenant**.**
      - i. While a simple allegation will suffice for the first requisite, adequate proof is necessary as to the second requisite. Justice Caguioa submits that such proof pertains to any kind of evidence which, on its face, tends to show that one of the parties is indeed a farmer, farmworker, or tenant. (Heirs of Cruz and Reyes v. Cervantes, 2022)**
      - ii. An agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements. It**

includes any controversy relating to compensation of lands acquired under Republic Act No. 6657 and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessees. (Mateo v. CA, 2005)

3. Why is lack of jurisdiction over the subject matter a NON-WAIVEABLE DEFENSE?
    - a. Because the law and the Constitution cannot be waived.
  4. Why can the court dismiss the case MOTU PROPRIO?
    - a. Because the law and the Constitution cannot be waived.
  5. Why can the defendant raise this defense at ANY STAGE?
    - a. Because the law and the Constitution cannot be waived.
  - iv. **NOTE:** Forget about Tijam v. Sibonghanoy. A question with the same facts as Tijam will unlikely be asked.
- b. Parties
- i. How is jurisdiction over the plaintiff acquired?
    1. By the filing of the complaint or the petition.
  - ii. How about the defendant?
    1. By proper service of summons
    2. By voluntary appearance
      - a. What does voluntary appearance mean?
        - i. It means seeking AFFIRMATIVE RELIEF, like motion to dismiss, motion for extension of time to file pleadings, and motion for postponement.
      - b. Is jurisdiction over the person of the defendant necessary for action in rem and quasi in rem?
        - i. No. Jurisdiction over the person of the defendant is only necessary for action in personam. For actions in rem and quasi in rem, jurisdiction over the res (thing itself) is sufficient.
      - c. Does this mean that improper service of summons is allowed in actions in rem and quasi in rem?
        - i. No! In ALL actions, summons must be PROPERLY SERVED.
        - ii. The difference lies in the PURPOSE of the summons.
          1. For action in personam, proper service of summons is necessary to acquire JURISDICTION over the person of the defendant.
          2. For actions in rem and quasi in rem, proper service of summons is necessary for DUE PROCESS purposes. (De Pedro v. Romasan)

- d. What if there was improper service of summons?
  - i. In ALL actions, the judgment would be VOID.

- c. Issues
- d. Res/Thing itself
  - i. By seizure, i.e., attachment or execution.

APPRC

## JURISDICTION

JURISDICTION OF THE SUPREME COURT, THE COURT OF APPEALS, THE SECOND-LEVEL COURTS, and THE FIRST-LEVEL COURTS

NOTE: We will limit the discussion to the NOTABLE actions

### **1. SUPREME COURT**

- a. EXCLUSIVE APPELLATE jurisdiction:
  - i. Petition for Review on Certiorari (Rule 45)
- b. CONCURRENT ORIGINAL jurisdiction:
  - i. With the Court of Appeals
    - a. Petitions for certiorari, prohibition, and mandamus
    - b. Quo Warranto petitions [Sec. 7, Rule 66],
    - c. Writ of Habeas Corpus [Sec. 2, Rule 102],
    - d. Writ of Amparo [Sec. 3, A.M. No. 07-9-12-SC],
    - e. Writ of Habeas Data [Sec. 3, A.M. No. 08-1-16-SC], and
    - f. Writ of Kalikasan [Sec. 3, Rule 7, Part 3, Rules of Procedure for Environmental Cases].
  - ii. With the Court of Appeals and the Regional Trial Court
    - a. Petitions for certiorari, prohibition, and mandamus
    - b. Quo Warranto petitions [Sec. 7, Rule 66],
    - c. Writ of Habeas Corpus [Sec. 2, Rule 102],
    - d. Writ of Amparo [Sec. 3, A.M. No. 07-9-12-SC],
    - e. Writ of Habeas Data [Sec. 3, A.M. No. 08-1-16-SC], and

### **2. COURT OF APPEALS**

- a. EXCLUSIVE ORIGINAL jurisdiction:
  - i. Petition for Annulment of Judgment of the RTC (Rule 47)
- b. EXCLUSIVE APPELLATE jurisdiction:
  - i. Decision of RTC - original jurisdiction (Rule 41)
  - ii. Decision of RTC - appellate jurisdiction (Rule 42)
  - iii. Decision of Quasi-judicial agencies (Rule 43)

### **3. SECOND-LEVEL COURTS (RTC)**

- a. CIVIL CASES
  - i. EXCLUSIVE ORIGINAL jurisdiction
    - i. Incapable of pecuniary estimation
    - ii. Involving title to or possession of real property or any interest therein, where the assessed value exceeds P400,000.
    - iii. Where the demand, exclusive of IDALC, exceeds P2Million.
    - iv. Not within the exclusive jurisdiction of any court, tribunal, body.
  - ii. EXCLUSIVE APPELLATE jurisdiction
    - i. Cases decided by the MTC

iii. Examples:

i. Juliet invoking the provisions of the Rule on Violence Against Women and their Children filed with the RTC designated as a Family Court a petition for issuance of a Temporary Protection Order (TPO) against her husband, Romeo. The Family Court issued a 30-day TPO against Romeo. A day before the expiration of the TPO, Juliet filed a motion for extension. Romeo in his opposition raised, among others, the constitutionality of R.A. No. 9262 (The VAWC Law) arguing that the law authorizing the issuance of a TPO violates the equal protection and due process clauses of the 1987 Constitution. The Family Court judge, in granting the motion for extension of the TPO, declined to rule on the constitutionality of R.A. No. 9262. The Family Court judge reasoned that Family Courts are without jurisdiction to pass upon constitutional issues, being a special court of limited jurisdiction and R.A. No. 8369, the law creating the Family Courts, does not provide for such jurisdiction. Is the Family Court judge correct when he declined to resolve the constitutionality of R.A. No. 9262? (3%) (2015 Bar Examination)

1. No, the Family Court judge was wrong when he declined to resolve the constitutionality of R.A. No. 9262. Case law dictates that the Family Courts have authority and jurisdiction to resolve the constitutionality of a statute. Further, R.A. No. 9262 provides that Regional Trial Courts designated as Family Courts shall have original and exclusive jurisdiction over cases of VAWC. Lastly, it is settled that RTCs have jurisdiction to resolve the constitutionality of a statute. Thus, the Family Court judge is wrong, because Family Courts can resolve the constitutionality of statutes, such as R.A. No. 9262.

ii. Prince Chong entered into a lease contract with King Kong over a commercial building where the former conducted his hardware business. The lease contract stipulated, among others, a monthly rental of P50,000.00 for a four (4)-year period commencing on January 1, 2010. On January 1, 2013, Prince Chong died. Kin Il Chong was appointed administrator of the estate of Prince Chong, but the former failed to pay the rentals for the months of January to June 2013 despite King Kong's written demands. Thus, on July 1, 2013, King Kong filed with the Regional Trial Court (RTC) an action for rescission of contract with damages and payment of accrued rentals as of June 30, 2013. (4%) Can Kin Il Chong move to dismiss the complaint on the ground that the RTC is without jurisdiction since the amount claimed is only P300,000.00? (2014 Bar Examination)

2. No, Kin Il Chong cannot move to dismiss the complaint on the ground of lack of jurisdiction. Under B.P. Blg. 129, as amended, the Regional Trial Court has original and exclusive jurisdiction over actions incapable of pecuniary estimation. Further, case law

dictates that an action for rescission is an action incapable of pecuniary estimation. Here, the action that was filed by King Kong was an action for rescission of contract with damages and payment of accrued rentals as of June 30, 2013. Thus, the action is under the exclusive original jurisdiction of the RTC, since it is incapable of pecuniary estimation.

#### **4. FIRST-LEVEL COURTS (MTC, MTCC, MeTC, MCTC)**

##### **a. CIVIL CASES**

##### **i. EXCLUSIVE ORIGINAL jurisdiction**

- i. Involving title to or possession of real property or any interest therein, where the assessed value does not exceed P400,000
- ii. Where the claim, exclusive of IDALC, does not exceed P2Million
- iii. Forcible entry and unlawful detainer cases, regardless of assessed value and amount of demand

#### **5. CRIMINAL CASES**

- a. These cases will be tackled in Criminal Procedure.

#### **6. Rules on Expedited Procedures in the First Level Courts (A.M. No. 08-8-7-SC, as amended, March 1, 2022)**

- a. These Rules will be tackled in Special Proceedings.

#### **7. IMPORTANT NOTES:**

- a. How do we simplify things?

- i. To determine which court has jurisdiction over the subject matter, determine first if the action is capable or incapable of pecuniary estimation.

- i. If incapable, then the RTC has jurisdiction over the subject matter.
- ii. If capable, it would either be an action involving title to or possession of real property or a claim.
  - a. For actions involving title to or possession of real property, look for the assessed value in the question.
    - i. The magic number is P400,000. If it's exactly P400,000, the MTC has jurisdiction over the subject matter.
  - b. For a claim, look for the amount of the claim in the question.
    - i. The magic number is P2,000,000. If it's exactly P2,000,000, the MTC has jurisdiction over the subject matter.

- ii. Principal Relief Sought Test

- i. To determine the nature of an action, whether or not its subject matter is capable or incapable of pecuniary estimation, the nature of the principal action or relief sought must be ascertained. (First Sarmiento v. PBCOM)

- ii. EXAMPLES:

- a. In annulment of foreclosure of real estate mortgage, the principal relief is the annulment of a document, and the money claim is merely incidental. Thus, the action is INCAPABLE OF PECUNIARY ESTIMATION.

- b. In expropriation, the principal relief is to determine the right of the expropriator, and the payment of just compensation is incidental.
  - c. In specific performance, the principal relief is to compel the defendant to deliver something, and the amount of the thing delivered is incidental.
  - d. In quieting of title, the principal relief is to prevent a cloud and/or declare the rights of the parties.
  - e. However, in a complaint for quieting of title AND reconveyance of property, it is capable of pecuniary estimation. Why? Because principal relief in reconveyance is recovery of real property. (Spouses Sabitsana v. Mertegui)
  - f. For partition of real property, it is capable, because it involves title to or possession of real property.
  - g. Also, foreclosure of real estate mortgage involves title to or possession of an interest in a real property. (Roldan v. Sps. Barrios)
- iii. Action involving title to or possession of real property; Assessed Value
    - i. As a general rule, the assessed value of the real property must be alleged. Otherwise, the action will be dismissed, because the court was not afforded the means to determine which court has jurisdiction. (Cabling v. Dinglasan)
    - ii. As exceptions, (1) if the property was not declared for taxation purposes, the assessed value of the adjacent lot shall be the assessed value of the property; and (2) if the plaintiff ATTACHED a tax declaration to the complaint.
  - iv. Forcible entry and unlawful detainer cases
    - i. Can the issue of ownership be raised in an ejectment suit? Yes, if the issue of possession cannot be resolved without deciding the issue of ownership.
    - ii. However, either party can still file an action for reconveyance. Why? Because the issue of ownership shall be resolved only to determine the issue of possession. (Sec. 33, BP 129)
  - v. Action involving a demand or claim; Exclusive of interest, damages, attorney's fees, litigation expenses and costs
    - i. As a general rule, you must EXCLUDE IDALC to determine the amount of demand, i.e., moral damages, exemplary damages, costs of suit, and attorney's fees.
      - a. Why? Because IDALC are merely INCIDENTAL to the action.
    - ii. As exception, they must be included if the plaintiff filed an ACTION FOR DAMAGES.
      - a. Why? Because damages would be the MAIN CAUSE OF ACTION of the plaintiff. (Admin Circular 09-94)
      - b. A common example is an action for damages based on quasi-delict.

- vi. Action involving a demand or claim; Totality rule
  - i. Under Sec. 33(a), BP 129, as amended, the following are the requisites of the totality rule:
    - a. Several claims
    - b. Same or different parties
    - c. Same complaint
    - d. Total of all claims
    - e. Irrespective if the claims arose from the same or different transactions
      - i. In short, in order to determine which court has jurisdiction over the subject matter, we must total the two debts contracted by the same parties, even if they were executed on separate dates.
  - ii. Example:
    - a. Mr. A and Mr. B executed two debts executed on separate dates. The amount of each debt is P500,000. Later, both debts became due, but Mr. B failed to pay despite Mr. A's demand. Thus, Mr. A is now asking you if (1) he can include both debts in one suit, and (2) which court has jurisdiction over the subject matter. Decide.
      - i. Mr. A can include both debts in one suit, and the first-level court has jurisdiction over the subject matter.
      - ii. Under the Rules of Court, as amended, 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. Further, under BP 129, as amended, the first-level courts have exclusive original jurisdiction over civil actions where the amount of demand does not exceed P2,000,000, exclusive of interests, damages, attorney's fees, litigation expenses, and costs, provided that where there are several claims or causes of action 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.
      - iii. Here, Mr. A can include both debts in the same suit, because Mr. A may in one pleading assert the two debts that Mr. B failed to pay upon demand. Further, the first-level courts have jurisdiction over the subject matter, because the total of all the claims of Mr. A was only P1,000,000, regardless if these claims arose from two separate debts.

- iii. The Totality Rule applies only to actions involving claims or demands. This does not apply to actions involving title to or possession of real property or any interest therein.
  - a. For actions involving title to or possession of real property or any interest therein, we do not total the amounts of the assessed value of the real properties.
- vii. Now that we've finished jurisdiction under B.P. 129, we will correlate this with venue, and summons.

APPRC

## VENUE

### 1. PERSONAL ACTIONS AND REAL ACTIONS

- a. Real action - means an action which involves title to or possession of real property or any interest therein. It is a local action.
- b. Personal action - means an action that is not a real action (the opposite). It is a transitory action.
  - i. "Local" - where the real property is situated. It's permanent in nature.
  - ii. "Transitory" - where the parties reside. It's not permanent in nature.

### 2. VENUE OF REAL ACTIONS

- a. It must be commenced in the proper court having jurisdiction over the place where the real property is situated. (Sec. 1, Rule 4)

### 3. VENUE OF PERSONAL ACTIONS

- a. It must be commenced in the proper court having jurisdiction over the place where the PRINCIPAL plaintiff or PRINCIPAL defendant resides, at the option of the plaintiff.
  - i. Definition of residence
    - i. The residence of a person is his personal, actual or physical habitation or his actual residence or place of abode, which may not necessarily be his legal residence or domicile provided he resides therein with continuity and consistency (Boyley v. Villanueva, 1999)
    - ii. A corporation cannot be allowed to file personal actions in a place other than its principal place of business unless such place is also the residence of a co-plaintiff or defendant. (Davao Light v. CA, 2001)

### 4. VENUE OF ACTIONS AGAINST NON-RESIDENTS WHO CAN BE FOUND IN THE PHILIPPINES (REAL AND PERSONAL ACTIONS)

- a. This applies to non-resident foreign corporations.
- b. Real action
  - i. The action may be commenced and tried in the court of the place where the property is situated.
- c. Personal action
  - i. The action can be filed in the court of the area where the principal plaintiff resides OR where the non-resident defendant can be found, at the option of the plaintiff. (Sec. 2, Rule 4)

### 5. VENUE OF ACTIONS AGAINST NON-RESIDENTS WHO CANNOT BE FOUND IN THE PHILIPPINES (REAL AND PERSONAL ACTIONS)

- a. This applies to non-resident foreign corporations.
- b. Real action
  - i. The action may be commenced and tried in the court of the place where the property is situated. (Sec. 3, Rule 4)
- c. Personal action
  - i. If the action affects the personal status of the plaintiff, i.e., petition for correction of entry
    - i. The action may be commenced and tried in the court of the place where the plaintiff resides.
  - ii. What if the action also affects the personal status of the defendant, i.e., petition for annulment of marriage?

- i. The action may be commenced and tried in the court of the place where the plaintiff resides.
  - iii. What if the action does not affect the personal status of both parties, i.e., collection for sum of money?
    - i. The action may be commenced and tried in the court of the place where the plaintiff resides.
      - a. To repeat, for collection of sum of money, the action may be commenced in the court of the place where the plaintiff resides.
      - b. However, this case will be archived, since the Philippine courts have no territorial jurisdiction over foreign countries.
        - i. What then is the remedy of the plaintiff?
          - 1. During the pendency of the action, the plaintiff may file an application for preliminary attachment of a property of the defendant that is situated in the Philippines.
          - 2. Afterwards, the case will proceed, because the courts have territorial jurisdiction over such property.

6. WHEN THE RULES ON VENUE DO NOT APPLY

- a. Specific rule or law provides otherwise; or
- b. Where the parties have 1) validly Agreed in writing, 2) Before the filing of the action, 3) on the Exclusive venue thereof. (Sec. 4, Rule 4)
  - i. Specific rule or law provides otherwise; Examples
    - i. Small claims - if the plaintiff is engaged in the business of lending, banking and similar activities, and has a branch within the municipality or city where the defendant resides or is holding business, the Statement of Claim/s shall be filed in the court of the city or municipality where the defendant resides or is holding business. If there are two (2) or more defendants, it shall be filed in the court of the city or municipality where any of them resides or is holding business, at the option of the plaintiff.
    - ii. Quo warranto proceeding commenced by the Solicitor General - The action may be brought in the Supreme Court, the Court of Appeals, or in a Regional Trial Court in the City of Manila.
    - iii. Petition for a continuing writ of mandamus - The petition shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of Appeals or the Supreme Court.
  - ii. Exclusive venue; "Words of exclusivity"
    - i. Written stipulations as to venue are either RESTRICTIVE (mandatory) or PERMISSIVE (discretionary).
      - a. In restrictive, the complaint is to be filed only in the stipulated venue.

- b. In permissive, the complaint may be filed in the place designated by the Rules or in the place stipulated. The agreement just provided for an additional venue or forum.
  - ii. To be exclusive, restrictive words must be used in the agreement as to venue. The following are words with restrictive meaning:
    - a. "Only",
    - b. "to the exclusion of",
    - c. "exclusively",
    - d. "waiving for this purpose any other venue",
    - e. "solely",
    - f. "in no other court save",
    - g. "nowhere else except",
    - h. "particularly"
  - iii. Unless the parties make very clear, by employing categorical and suitably limiting language that they wish the venue of actions between them to be laid only and exclusively at a definite place, and to disregard the prescriptions in Rule 4, agreements on venue are not to be regarded as restrictive, but merely permissive and complementary of Rule 4. (Unimasters Conglomeration, Inc. vs. Court of Appeals, 1997)
- iii. However, a restrictive stipulation of venue is not binding when the VALIDITY OF THE WHOLE CONTRACT is assailed, and not merely the arbitration agreement.
  - i. Hence, he may follow the Rule 4 as to venue.
    - a. Thus, when the plaintiff assails ONLY THE TERMS, conditions, and coverage of the written instrument and not the validity of the whole instrument, the exclusive venue stipulation is binding.
- iv. Dismissal based on improper venue
  - i. General Rule:
    - a. The Court cannot dismiss the case motu proprio on the ground of improper venue.
    - b. The defendant must allege the same in his Answer for the court to decide upon the same.
      - i. In case of denial of the affirmative defense of improper venue, motion for Reconsideration, and petitions for Certiorari, Mandamus, and Prohibition cannot be availed of.
      - ii. The proper remedy is to raise the same on appeal after judgment on the merits. (Sec. 12(e), Rule 8)
  - ii. Exceptions:
    - a. Summary Procedure
    - b. Small Claims
    - c. Rule 70 - forcible entry and unlawful detainer cases
      - i. In all of these exceptions, the court may dismiss the case on its OWN INITIATIVE, if a ground for dismissal is apparent.

v. Examples:

- i. Ulrich is resident and owner of a house and lot situated in Pasay City. Thereafter, Ulrich discovered a deed of real estate mortgage over the house and lot which he supposedly executed to secure a loan from Nigel. The mortgage contract contained a stipulation that “all civil actions arising from or connected with this instrument or any of its provisions shall be brought before the proper courts of Bacolod City, to the exclusion of all other venues of action which are hereby expressly waived.” Aggrieved, Ulrich filed against Nigel an action to declare void the spurious deed of real estate mortgage before the Regional Trial Court in Pasay City. In his answer, Nigel raised an affirmative defense that the venue was improperly laid. The action must be filed exclusively in Bacolod City pursuant to the mandatory venue stipulation. **Which between Pasay City and Bacolod City is the proper venue for the action to nullify the deed of real estate mortgage? Explain. (2024 Bar Examination)**

1. Pasay city is the proper venue for the action to nullify the deed of real estate mortgage. Under the Rules of Court, 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 non-resident defendant where he may be found, at the election of the plaintiff. Further, this Rule shall not apply where the parties have validly agreed in writing before the filing of the action on the exclusive venue thereof. Lastly, case law dictates that the mandatory venue stipulation does not apply if the plaintiff is not binding when the validity of the whole contract is assailed. Here, Ulrich filed an action to nullify the deed of real estate mortgage. Thus, the mandatory venue stipulation will not apply, since Ulrich assailed the validity of whole contract. Instead, Ulrich can file the action with the Regional Trial Court in Pasay City, because (1) Ulrich was a resident of Pasay City, and (2) an action to nullify the deed of real estate mortgage is a personal action or an action that does not involve title to or possession of real property or any interest therein.

- ii. After working for 25 years in the Middle East, Evan returned to the Philippines to retire in Manila, the place of his birth and childhood. Ten years before his retirement, he bought for cash in his name a house and lot in Malate, Manila. Six months after his return, he learned that his house and lot were the subject of foreclosure proceedings commenced by

ABC Bank on the basis of a promissory note and a deed of real estate mortgage he had allegedly executed in favor of ABC Bank five years earlier. Knowing that he was not in the country at the time the promissory note and deed of mortgage were supposedly executed, Evan forthwith initiated a complaint in the RTC of Manila praying that the subject documents be declared null and void. ABC Bank filed a motion to dismiss Evan's complaint on the ground of improper venue on the basis of a stipulation in both documents designating Quezon City as the exclusive venue in the event of litigation between the parties arising out of the loan and mortgage. Should the motion to dismiss of ABC Bank be granted? Explain your answer. (5%) (2017 Bar Examination)

2. No, the motion to dismiss filed by ABC Bank should not be granted. Case law dictates that the stipulation on exclusivity on venue shall not apply upon the party who assails the validity of the contracts where the stipulation was provided. Here, Evan initiated a complaint in the RTC of Manila praying that the promissory note and deed of mortgage supposedly executed while he was not in the country to have these documents be declared null and void. Thus, ABC Bank's motion to dismiss on the ground of improper venue on the basis of a stipulation in the promissory note and deed of mortgage should be denied.
- iii. Eduardo, a resident of the City of Manila, filed before the Regional Trial Court (RTC) of Manila a complaint for the annulment of a Deed of Real Estate Mortgage he signed in favor of Galaxy Bank (Galaxy), and the consequent foreclosure and auction sale of his mortgaged Makati property. Galaxy filed a Motion to Dismiss on the ground of improper venue alleging that the complaint should be filed with the RTC of Makati since the complaint involves the ownership and possession of Eduardo's lot. Resolve the motion with reasons. (5%)

3. The motion to dismiss filed by Galaxy on the ground of improper venue, should be granted. Case law dictates that a foreclosure of mortgage is one that is a real action which involves title to or possession of real property or any interest therein. In relation thereto, under the Rules of Civil Procedure, real actions shall be commenced and tried in the proper court which has jurisdiction over the area wherein the real property involved is situated. Here, although Eduardo prayed for the annulment of the deed of real estate mortgage, he also prayed for consequent foreclosure and auction sale of the mortgaged property in Makati. Thus, the action is one that is a real action which should have been filed with the RTC of Makati.

**NOTE: As of 2019, a motion to dismiss on the ground of improper venue is a prohibited motion.**

Action in Personam, Action in Rem, and Action Quasi in Rem

<u>In personam</u>	<u>In rem</u>	<u>Quasi in rem</u>
Actions in personam, in rem, and quasi in rem are related to proper service of summons.		
An action against the defendant on the basis of his <u>personal liability</u> .	An action against the <u>thing itself</u> .	An action against the defendant that <u>subjects his interest over a property to a burden</u> . (De Pedro v Romasan, 2014)
The judgment binds the parties only	The judgment binds the whole world	The judgment binds the parties only
Jurisdiction over the person of the defendant is necessary	Jurisdiction over the person of the defendant is not necessary	Jurisdiction over the person of the defendant is not necessary
Summons must be properly served to acquire jurisdiction over the person of the defendant.	Summons must be properly served for due process purposes	Summons must be properly served for due process purposes
Specific Performance, Collection of Sum of Money, Replevin, Reivindicatoria, Publiciana, Ejectment, Support, Quo Warranto, Habeas Corpus, Amparo, Habeas Data, Citizen's Suit, Writ of Kalikasan, Quieting of Title if principal relief is to recover ownership, Demand for Damages, Injunction	Adoption, Annulment of Marriage, Correction of Entry, Estate proceedings, Escheat, Guardianship, Forfeiture, Absentee, Declaratory Relief and Similar Remedies, Dissolution of Corporation, Constitution of Family Home, Declaration and Absence of Death, Trustees, Probate of a will, Land Registration and Cadastral Proceedings	Foreclosure of Mortgage, Partition, Annulment of Deed of Sale, Annulment of Foreclosure of mortgage, Attachment, Action for Accounting, Annulment of TCT
How to convert an action quasi in rem or in rem to in personam? When the defendant PRESENTS himself and APPEARS in court. (Banco-Español Filipino v Palanca)		How to convert an action in personam to action quasi in rem? By ATTACHING a property of the defendant situated the Philippines.

Let's simplify jurisdiction, venue, and summons

1. Jurisdiction – B.P. 129
  - a. Action incapable of pecuniary estimation
  - b. Actions capable of pecuniary estimation
    - i. Action involving title to or possession of real property
    - ii. Action involving demands or claims
2. Venue – Rule 4
  - a. Real action
  - b. Personal action
3. Summons – Rule 14
  - a. Action in personam
  - b. Action in rem
  - c. Action quasi in rem

How do we avoid confusion?

1. Do not MIX them together. Attack the problem one by one!
  - a. Before the action is filed
    - i. First, you have to determine if RTC/MTC (“RTC side”)
      - A. If the party made an error here, the action shall be dismissed due to lack of jurisdiction over the subject matter.
      - B. If there's no error, we proceed to the second step.
    - ii. Second, you have to determine if Makati/Manila/Pasig (“Manila side”)
      - A. If the party made an error here, the action may be dismissed due to improper venue.
      - B. If there's no error, we proceed to the third step.
  - b. After the action is filed
    - i. Third, you have to determine if the summons was properly served. There are different ways to serve summons for action in personam, action in rem, and quasi in rem. (“Summons side”)
      - A. If the party made an error here, the action may be dismissed due to lack of jurisdiction over the person of the defendant. It may also be dismissed due to violation of due process.
  - c. In your examination, the RTC side and the Manila side will usually be asked in the same question. The question will be designed to confuse you.
  - d. Meanwhile, the summons side will be asked in a different question. The question will test if you know how summons is properly served to the defendant.

## EXAMPLES!

1. EX: Action for collection of sum of money in the amount of P2M. The action was filed on January 2023, before MeTC Manila. The creditor and the debtor reside in Mandaluyong City. Should the action be dismissed? Why?
  - a. Yes, because of improper venue, not because of lack of jurisdiction over the subject matter. MeTC has jurisdiction for claims not exceeding P2M. However, the action should have been filed in the MeTC of Mandaluyong City because in personal actions, such as an action for collection of sum of money, they must be filed in the court of the place where the principal plaintiff or defendant resides.
2. EX: Accion reivindicatoria of real property with a market value of P2M. The assessed value is P400k. It is located in Cabanatuan, Nueva Ecija. Both parties reside in Plaridel, Bulacan. The action was filed before the MTC Pladirel. Should the action be dismissed? Why?
  - a. Yes, because of improper venue, not because of lack of jurisdiction over the subject matter. MTC has jurisdiction over actions involving title, where the real property's assessed value does not exceed P400,000. However, the action should have been filed in the MTC of Cabanatuan because in real actions, such as accion reivindicatoria, they must be filed in the court of the place where the real property is situated, not in the place where the principal plaintiff or defendant resides.
3. EX: A and B orally agreed to the sale of a real property located in Cabanatuan, Nueva Ecija. A resides in Cabanatuan, while B resides in San Fernando, Pampanga. A already paid the full purchase price to B. However, A cannot transfer the title under his name because there was no written agreement between the two of them. Thus, A filed an action for specific performance for the execution of the deed of sale in his favor against B. The action was filed before the MTC Cabanatuan. Should the action be dismissed? Why?
  - a. Yes, because of lack of jurisdiction over the subject matter. MTC has no jurisdiction over actions incapable in pecuniary estimation, such as an action for specific performance. Meanwhile, the venue in this case was properly laid because the A, the principal plaintiff, resided in Cabanatuan.
4. EX: A lent P10Million to B, secured by a real estate mortgage. The registered owner of the mortgaged property is C. The mortgaged property is situated in Taguig and has an assessed value of P1Million. The loan became due and demandable, and B failed to pay upon demand. A resides in Manila, B resides in Makati, and C resides in Pasig. Later, A filed an action for judicial foreclosure against B and C. A filed the action with RTC Manila. Should the action be dismissed? Why?
  - a. Yes, because of improper venue. An action for judicial foreclosure is a real action, because it involves title to or possession of an interest in a real property. Thus, the action should have been filed in RTC Taguig, because that is the place where the mortgaged property was situated.
5. EX: A lent P10Million to B, secured by a real estate mortgage. The registered owner of the mortgaged property is C. The mortgaged property is situated in Taguig and has an assessed value of P1Million. The loan became due and demandable, and B failed to pay upon demand. A resides in Manila, B resides in Makati, and C resides in Pasig. Later, A filed an action for collection of sum of money against B and C. A filed the action with RTC Manila. Should the action be dismissed? Why?

- a. No, because the RTC has jurisdiction over claims in excess of P2Million, and personal actions, such as an action for collection of sum of money, can be filed in the place where the principal plaintiff resides. Here, A, the creditor, resides in Manila so the action can be filed in that place.
6. EX: A lent P10Million to B, secured by a real estate mortgage. The registered owner of the mortgaged property is C. The mortgaged property is situated in Taguig and has an assessed value of P1Million. A resides in Manila, B resides in Makati, and C resides in Pasig. Later, A filed an action for collection of sum of money against B and C. A filed the action with RTC Pasig. Should the action be dismissed? Why?
  - a. Yes, because of improper venue. Personal actions must be filed in the court of the place where the PRINCIPAL plaintiffs or PRINCIPAL defendants reside. C, being an accommodation mortgagor, is NOT the principal defendant in this case. The principal defendant is B, the principal debtor. Thus, the action should have been filed with RTC Manila or RTC Makati.
7. Lebron, a Makati resident, obtained a Php 350,000.00 loan from a bank secured by a real estate mortgage (REM) over his lot located in Quezon City with an assessed value of Php 500,000.00. Lebron failed to pay despite written demands. The bank intends to file an action for judicial foreclosure of the REM. Where should the action for judicial foreclosure of the REM be filed and in which court? Explain briefly. (2022 Bar Question)
  - a. The action for judicial foreclosure of the REM shall be filed with the RTC Quezon City.
  - b. Under B.P. Blg. 129, as amended, the Regional Trial Court has original exclusive jurisdiction over actions involving title to or possession of a real property or any interest therein, where the assessed value exceeds Php 400,000.00. Further, under the Rules of Court, as amended, in real action, the action shall be filed in the court having jurisdiction over the city where the property is situated.
  - c. Here, the action for judicial foreclosure of the REM shall be filed with the RTC Quezon City, because (1) an action for judicial foreclosure of REM is an action involving title to an interest over a real property and the assessed value of the lot is Php 500,000.00, and (2) the lot was located in Quezon City.

## **Inherent Powers of the Court And The Means to Carry Out Jurisdiction Into Effect**

### **1. Inherent powers of court**

- a. Every court shall have power:
  1. To preserve and enforce order in its immediate presence;
  2. To enforce order in proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
  3. To compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
  4. To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a case before it, in every manner appertaining thereto;
  5. To compel the attendance of persons to testify in a case pending therein;
  6. To administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;
  7. To amend and control its process and orders so as to make them conformable to law and justice;
  8. To authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original, and to restore, and supply deficiencies in its records and proceedings. (Sec. 5, Rule 135)

### **2. Means to carry jurisdiction into effect**

- a. When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears comfortable to the spirit of the said law or rules. (Sec. 6, Rule 136)

## BARANGAY CONCILIATION PROCEEDINGS

1. What disputes are subject to the authority of the lupon of each barangay for amicable settlement?  
ALL DISPUTES where the parties reside in the same municipality or city.
2. The parties do NOT have to be residing in the same barangay. Same city/municipality is sufficient.
3. **What are the cases excepted?**
  - a. GOVERNMENT is a party
  - b. PUBLIC OFFICER, and it relates to his functions, is a party
  - c. OFFENSE - NO PRIVATE OFFENDED PARTY;
  - d. OFFENSE - Imprisonment exceeding 1 YEAR or fine exceeding P5000
  - e. DIFFERENT CITIES/MUNICIPALITIES - Real properties located
  - f. DIFFERENT CITIES/MUNICIPALITIES - Parties actually reside (Sec. 408, LGC)
  - g. UNDER DETENTION
  - h. DEPRIVED OF PERSONAL LIBERTY
  - i. PROVISIONAL REMEDIES applied for
  - j. STATUTE OF LIMITATIONS. (Sec. 412, LGC)
    - i. NOTE: 5 CLUSTERS (2 GOVERNMENT; 2 OFFENSES; 2 DIFFERENT CITIES; 3 SENSE OF URGENCY; PRESCRIPTION)
4. **BARANGAY CONCILIATION PROCEEDINGS**
  - a. **Venue**
    - i. Reside in the same barangay - lupon of that barangay
    - ii. Reside in different barangays - lupon of the barangay where the RESPONDENT/S reside/s.
      1. NOTE: The complainant must go to the "home court" of the respondent. Why? Because the barangay of the complainant has no authority over the respondent.
    - iii. Real property - lupon of the barangay where the property/larger portion is situated.
      1. NOTE: The parties must reside in the same city/municipality.
    - iv. Workplace, where the parties are employed - lupon of the barangay where the workplace is located.
      1. NOTE: The parties must reside in the same city/municipality.
      2. What if the parties reside in different cities, i.e., Student A resides in QC, while Student B resides in Makati? Then the dispute is NOT subject to barangay conciliation, as clearly stated in the exceptions.
    - v. Institution, where the parties are enrolled for study - lupon of the barangay where the institution is located.
      1. NOTE: The parties must reside in the same city/municipality.
      2. What if the parties reside in different cities, i.e., Student A resides in QC, while Student B resides in Makati? Then the dispute is NOT subject to barangay conciliation, as clearly stated in the exceptions.
  - b. When should the respondent object to the venue?
    - i. It must be raised in the MEDIATION PROCEEDINGS before the Punong Barangay; otherwise, the same shall be deemed waived. (Sec. 409, LGC)
  - c. Effect of Amicable Settlement
    - i. Force and effect of a FINAL JUDGMENT of a court UPON THE EXPIRATION OF 10 days from the date

1. Unless (1) REPUDIATION has been made, or a (2) PETITION TO NULLIFY has been filed in court
2. NOTE: Thus, the amicable settlement cannot be repudiated AFTER the expiration of 10 days.

d. Execution

- i. LUPON - within 6 months from the date of settlement.
- ii. Courts - After 6 months
  1. After 6 months, an action must be filed with the proper court.
  2. To recall, this is the proper jurisdiction and Rules:
    - a. MTC - Small Claims Cases - does not exceed P1Million
    - b. MTC - Summary Procedure - award in excess of P1Million. The MTC has jurisdiction REGARDLESS OF THE AMOUNT. (Sebastian v. Lagmay, 2015)NN

e. Examples:

- i. Trinca borrowed ₱1.5 million from Ida. Trinca executed a promissory note promising to pay Ida in three equal monthly installments. When Trinca failed to pay her obligation, Ida filed an action for recovery of a sum of money against her in the Metropolitan Trial Court of Pasay City. The case was raffled to Judge Risa, who upon reading the complaint, noticed that Trinca and Ida were neighbors in Barangay 189 in Pasay City and that there was no prior referral of the case for barangay conciliation. Hence, Judge Risa dismissed the case motu proprio for failure to comply with a condition precedent. Was the dismissal by Judge Risa proper? Explain your answer. (2023 Bar Examination)
  1. Yes, the dismissal by Judge Risa was proper. Under the Expedited Procedures in the First Level Courts, a summary procedure case includes all civil actions, except probate proceedings, admiralty and maritime actions, and small claims cases falling under Rule IV hereof, where the total amount of the plaintiff's claim does not exceed P2Million, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs. Further, under the Rules on Summary Procedure, all cases requiring prior referral to barangay conciliation must contain a statement of compliance, pursuant to Chapter VII, Title I, Book III of Republic Act No. 7160. Where there is no showing of compliance without such requirement, the complaint shall be dismissed without prejudice, on the court's own initiative or upon motion by the defendant, and may be re-filed only after the requirement has been complied with. Meanwhile, under the Republic Act No. 7160 or the Local Government Code, the lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except when the dispute involves parties who actually reside in barangays of different cities or municipalities. Here, the action that was filed by Ida was subject to Summary Procedure, because her claim was only P1.5Million. Further, Ida and Trinca were neighbors. Thus, Judge Risa had the authority to motu proprio dismiss

the complaint, because Ida did not resort to barangay conciliation before the filing of the complaint.

- ii. Danielle, a Filipino citizen and permanent resident of Milan, Italy, filed with the Regional Trial Court (RTC) of Davao City, where she owns a rest house, a complaint for ejectment against Dan, a resident of Barangay Daliao, Davao City. Danielle's property, which is located in Digos City, Davao del Sur, has an assessed value of PhP 25,000. Appended to the complaint was Danielle's certification on non-forum shopping executed in Davao City duly notarized by Atty. Dane Danoza, a notary public. (a) Was there a need to refer the case to the Lupong Tagapamayapa for prior barangay conciliation before the court can take cognizance of the case? (2.5%) (2018 Bar Examination)

2. No, there was no need to refer the case to the Lupong Tagapamayapa for prior barangay conciliation. Under the Local Government Code, one of the cases which is not subject to amicable settlement before the barangay conciliation, is when the dispute involves parties who actually reside in barangays of different cities. Here, Danielle is a resident of Milan, Italy, while Dan is a resident of Barangay Daliao, Davao City, Philippines. Thus, Danielle and Dan being residents of different cities, the case filed by Danielle need not be referred to the Lupong Tagapamayapa for prior barangay conciliation before the court can take cognizance of the case.

**RULE 1- GENERAL PROVISIONS**

1. The Rules of Court shall apply in ALL the courts, except as otherwise provided by the Supreme Court. (Sec. 2, Rule 1)
2. Actions or proceedings NOT governed by the Rules of Court (**NICOLE**)
  - a. Naturalization case
  - b. Insolvency proceedings
  - c. Cadastral cases
  - d. Other cases not herein provided for
  - e. Land registration cases
  - f. Election cases
3. Distinguish civil actions and special proceedings

Ordinary Action	Special Proceedings
Generally adversarial in nature. It seeks to enforce or protect a right or to prevent and redress a wrong.	Generally, there is no definite adverse party. It merely establishes a status, right, or particular fact.
It can be in personam, in rem, or quasi in rem	It can be in rem or quasi in rem only.
It is governed by Rules for ordinary civil actions.	It is governed by special Rules supplemented by Rules for ordinary civil actions. (Sec. 2, Rule 72)
It is heard by courts of general jurisdiction.	It is heard by courts of limited jurisdiction.
Initiated by a pleading and responded by an answer.	Initiated by a petition and responded by an opposition.
Parties are generally allowed to file answer, counterclaim, cross-claim, and third party-complaint	Rules on pleadings are generally not applicable.
The period to appeal is only 15 days and notice of appeal suffices.	The period to appeal is 30 days and aside from a notice of appeal, a record on appeal is required.
It is based on a cause of action.	It is not based on a cause of action, except habeas corpus.

## RULE 2 - CAUSE OF ACTION

### 1. What is a CAUSE OF ACTION?

- a. Cause of action arises once a RIGHT was violated by another person.
  1. If one act violates multiple rights, there are multiple causes of action.
  2. If multiple acts violated one right, there is only one cause of action.
- b. EXAMPLES:
  1. Mr. A bumped the car of Mr. B, causing physical injuries to Mr. B's person and damages to Mr. B's car. How many causes of action are there?
    1. There are multiple causes of action, since multiple rights of Mr. B were violated, such as the right to be safe in his person, and his property right.
  2. A passenger of a common carrier, such as a taxi, is injured in a collision thereof with another vehicle due to the negligence of the respective drivers of both vehicles. How many causes of action are there?
    1. In such a case, several rights of the passenger are violated, inter alia, (1) the right to be safe from the negligent acts of either or both the drivers under the law on culpa-acquiliiana or quasi-delict; (2) the right to be safe from criminal negligence of the said drivers under the penal laws; and (3) the right to be safely conducted to his destination under the contract of carriage and the law covering the same, not counting anymore the provisions of Article 33 of the Civil Code. The violation of each of these rights is a cause of action in itself. Hence, such a passenger has at least three causes of action arising from the same act. (The City of Bacolod v. San Miguel Brewery, 1969)

### 2. One cause of action may give rise to SEVERAL RELIEFS.

- a. EXAMPLES:
  1. Mr. A forcibly entered the real property of Mr. B. How many causes of action does Mr. B have? How many reliefs does he have?
    1. Mr. B has one cause of action against Mr. A, since only his property right was violated. However, he has multiple reliefs against Mr. A, such as recovery of possession, recovery of unpaid rent, and damages.
  2. Mr. A occupied a parcel of land which was allegedly untitled. Mr. A was able to obtain a title to the land under his name. Later, Mr. B filed two (2) actions against him, which are (1) action for reconveyance of property, and (2) action for ejectment. Mr. B filed the first action because he alleged that he has an original title of the parcel of land. Meanwhile, he filed the second action, because Mr. A has no right to enter into the property that he owns. Did Mr. B split a single cause of action?
    1. No, because there are multiple causes of action. The act that allegedly violated the right of possession of Mr. B was different from the act that allegedly violated his right of ownership. Thus, there are separate causes of action. (Dela Cruz v. CA)

3. ABC Corporation is the owner of ABC Golf Club. ABC Corporation entered into a 5-year Management Contract with DEF Corporation for the management and operation of ABC Golf Club. DEF Corporation will earn management fees from the contract. They also entered into a Royalty Contract. Under the Royalty Contract, DEF Corporation will also earn royalties from the earnings of ABC Golf Club for its services. Later, ABC Corporation pre-terminated the Management Contract and Royalty Contract, citing that it was suffering from financial crisis. DEF Corporation objected to the pre-termination of these contracts, because ABC Corporation must pay the management fees and royalty fees first. ABC Corporation failed to pay the said fees. Later, DEF Corporation filed two actions: (1) a complaint for sum of money with damages against ABC Corporation for the payment of the unpaid management and royalty fees, and (2) another complaint for sum of money with damages for the payment of business profits that DEF Corporation would have earned from the unexpired portion of the 5-year Management Contract. Did DEF Corporation split a single cause of action by filing the second complaint?

1. Yes, DEF Corporation split a single cause of action by filing the second complaint.
2. Case law dictates that a cause of action may give rise to several reliefs, but only one action can be filed. A single cause of action or entire claim or demand cannot be split up or divided into two or more different actions.
3. Here, DEF Corporation split a single cause of action by filing the second complaint, because in both cases, DEF Corporation imputed the same wrongful act, i.e., the violation of the terms and conditions of the Management Contract and Royalty Contract. In the first complaint, DEF Corporation's cause of action rests on ABC Corporation's failure to pay the management fees and royalty fees. In the second complaint, DEF Corporation's cause of action hinges on the damages it allegedly incurred as a result of ABC Corporation's premature termination of the Management and Royalty Agreements, i.e., the expected business profits it was supposed to derive for the unexpired term of the Management Agreement. Although differing in form, these two cases are ultimately anchored on ABC Corporation's breach of the Management and Royalty Agreements. (*Riviera Golf Club v. CCA Holdings*, 2015)

3. **One cause of action may give rise to ALTERNATIVE REMEDIES.**

1. Mr. A obtained a loan from Mr. B which was secured by a mortgage contract. In case Mr. A fails to pay the loan upon demand, how many causes of action are there?
  - i. Mr. B only has ONE CAUSE OF ACTION, since only one right was violated by Mr. A, i.e., right of Mr. B to be paid upon demand.
2. What are the possible remedies of Mr. B against Mr. A?

- i. In order to satisfy his claims, Mr. B has **TWO POSSIBLE REMEDIES**, which are: **(1) to file an action for collection for sum of money** and **(2) to file an action for judicial foreclosure of mortgage**.
  3. Are these remedies alternative or concurrent in nature?
    - i. These remedies are **ALTERNATIVE** in nature, because Mr. B only has **ONE CAUSE OF ACTION**. Thus, Mr. B can only file **ONE ACTION** to satisfy his claims.
    - ii. If he availed of both remedies to recover his credit, Mr. B would be splitting a single cause of action.
  4. When is a remedy deemed chosen?
    - i. A remedy is deemed chosen upon the filing of the suit for collection or the suit for foreclosure. Choosing one remedy **BARS** the creditor from availing the other remedy. (Marilag v Martinez)
  5. Will the filing of a criminal charge under the BP Blg. 22 (Bouncing Checks Law) prohibit the creditor from filing a separation action for collection of sum of money or action for judicial foreclosure of real estate mortgage?
    - i. No. The Court ruled that the **filing of the BP 22 case is not the collection suit contemplated by law which bars the mortgagee from later foreclosing the mortgaged property**. The Court explained that the intention of the law is to make the mere act of issuing a worthless check malum prohibitum, and prejudice or damage to the offended party is not prerequisite to conviction. (Spouses Torres v. Medina, 2010)
4. **Contracts with numerous stipulations**
  - a. **General Rule:** A contract embraces only **ONE CAUSE OF ACTION**, because it can only be **VIOLATED ONCE**, despite having several stipulations.
    1. **EXAMPLES:**
      1. A contract of loan was secured by a real estate mortgage. There are several stipulations in these contracts. If the debtor fails to pay the loan upon demand, how many causes of action are there?
        1. There is only **ONE CAUSE OF ACTION**, despite the contracts having several stipulations.
          1. Why? Because there's only **ONE RIGHT VIOLATED**. Further, there was nothing alleged that the contract of loan, that was secured by a real estate mortgage, required the performance of several acts at several times.
      2. Mr. A sold his car and his motorbike to Mr. B. Mr. A was not able to deliver his car and his motorbike to Mr. B. How many causes of action are there?
        1. There is **ONE CAUSE OF ACTION**, even though Mr. A was obliged to deliver two things.
          1. Why? Because there's only **ONE RIGHT** violated. Further, even though Mr. A was required to perform **SEVERAL ACTS**, nothing was alleged that he had to perform these acts at **SEVERAL TIMES**. Thus, he

was only obliged to perform SEVERAL ACTS at ONE TIME.

b. **Exception:** A contract to do SEVERAL acts at SEVERAL times is DIVISIBLE in nature. Thus, it gives rise to multiple causes of action.

1. In other words, when money is payable by installments, a distinct cause of action assails upon the following due by each installment and they may be recovered in successive action[s]. On the other hand, where several claims payable at different times arise out of the same transactions, separate actions may be brought as each liability accounts. (Asset Pool v. Spouses Berris, 2021)

2. EXAMPLES:

1. In a contract of loan with real estate mortgage, Mr. A failed to pay to Mr. B the installment due for the 2<sup>nd</sup> month of the contract, despite demand. How many causes of action are there?

1. There is only one cause of action, because Mr. A failed to pay one installment despite demand. Thus, Mr. B can only file one action against Mr. A, even though the contract required SEVERAL payments at SEVERAL times.

2. After the filing of the action by Mr. B, Mr. A failed to pay the 3<sup>rd</sup> monthly installment due. Is there another cause of action?

1. Yes, there is another cause of action, because Mr. A has now failed to pay two installments despite demand. Thus, Mr. B can file another action against Mr. A. In short, there are now MULTIPLE CAUSES OF ACTION.

c. **Exceptions to the exception (THESE ONLY APPLIES IF THERE ARE SEVERAL ACTS THAT MUST BE DONE AT SEVERAL TIMES UNDER THE CONTRACT)**

1. **No action was filed by the creditor and more installments became due and demandable**

1. But where no action is brought until more than one is due, all that are due must be included in one action; and that if an action is brought to recover upon one or more that are due but not upon all that are due, a recovery in such action will be a bar to several or other actions brought to recover one or more claims of the other claims that were due at the time the first action was brought. (Asset Pool v. Spouses Berris, 2021)

2. EXAMPLE:

1. Mr. A obtained a P10Million loan from Mr. B which was payable in 10 monthly installments. Mr. A failed to pay the 1<sup>st</sup> up to the 5<sup>th</sup> monthly installments. Afterwards, Mr. B sent a demand letter to Mr. A. Mr. A failed to pay. How many causes of action are there?

1. There is only one cause of action. Thus, Mr. B must only file one action for collection of sum of money, and he must include all due and demandable installments in the action. Those installments that

are due and demandable, that he did not include in the action, shall be considered waived.

2. **Doctrine of anticipatory breach**

1. Under this doctrine, if the obligor manifests an **UNQUALIFIED AND POSITIVE REFUSAL** to perform the **WHOLE CONTRACT**, the injured party can only bring **ONE ACTION**, even though the performance of a portion of the contract is **NOT YET DUE**. (Blossoms & Co. v Manila Gas Corporation, 1930)

1. In short, the defendant refused to perform the whole contract, even though all the installments were not yet due.

2. In such case, **ALL THE INSTALLMENTS, WHETHER DUE OR NOT DUE**, must be included in the suit. Failure to include any installment **BARS** its collection.

3. **EXAMPLES:**

1. Mr. A entered into a 10-year lease with Mr. B. Mr. A failed to pay the rental due for the 1<sup>st</sup> year of the contract. He also texted Mr. B that he will not pay the remaining 9 years of the contract, because he changed his mind. Mr. B sent a demand letter to Mr. A. Mr. A failed to pay. How many actions should Mr. B file?

1. Mr. B should only file one action, because Mr. A already manifested that he will not perform the whole contract. Thus, Mr. B can only file one action against Mr. A, even though the rentals for the 2<sup>nd</sup> to the 10<sup>th</sup> year of the contract were still not due.

2. In the action, should Mr. B seek the recovery of **ALL** the rentals, whether due or undue, or should it be limited to the recovery of the rental due for the 1<sup>st</sup> year of the contract?

1. Mr. B should seek the recovery of all the rentals, whether due or undue. Under the doctrine of anticipatory breach, **ALL THE INSTALLMENTS, WHETHER DUE OR NOT DUE** must be included in the suit. Failure to include any installment **BARS** its collection.

5. When must the cause of action exist?
  1. A cause of action must exist at the time of the filing of the complaint – else, the case shall be dismissible for being a groundless suit (Swagman Hotels and Travel v. CA, 2005)
    - i. Thus, a complaint whose cause of action has not yet accrued cannot be cured by an amended or supplemental pleading alleging the existence or accrual of a cause of action during the pendency of the action. At that point in time, it was premature (Turner v. Lorenzo Shipping, 2010)
6. How to determine the existence of a cause of action
  1. General Rule:
    - i. It shall be determined based only on the facts alleged in the complaint. (Manaloto v. Veloso III, 2010)
  2. Exception:
    - i. Documents attached to the complaint are parts of the pleading. Thus, they shall also be considered to determine the existence of cause of action
7. **FAILURE TO STATE CAUSE OF ACTION V. LACK OF CAUSE OF ACTION**
  1. In failure to state a cause of action, there is insufficiency of the allegations in the pleading. (Aquino v. Quiazon, 2015) In lack of cause of action, there is insufficiency in the factual basis of the action. (Swagman Hotels v. CA) Thus, the evidence does not sustain the cause of action that was alleged by the plaintiff.
  2. The ground of failure to state cause of action must be raised as an affirmative defense in the answer. Failure to do so shall constitute a waiver thereof. Meanwhile, the ground of lack of cause of action must be raised in a motion for demurrer to evidence under Rule 33, after the plaintiff has rested his case.
  3. In case the action is dismissed based on failure to state cause of action, the dismissal is without prejudice. Thus, the case can be refiled. In case the action is dismissed based on lack of cause of action, the dismissal is with prejudice. Thus, the case cannot be refiled.
  4. Examples:
    - i. Mr. A did not allege that he sent a demand letter to Mr. B. However, he actually sent a demand letter to Mr. B. Should the case be dismissed? How will the case be dismissed?
      1. Yes, it must be dismissed for failure to state a cause of action. In order to dismiss the case, Mr. B must allege, in his Answer, that the action must be dismissed for failure to allege that a demand letter was sent to him, and he failed to pay despite demand.
    - ii. Mr. A alleged that he sent a demand letter to Mr. B. However, Mr. A never sent any demand letter to Mr. B. Should the case be dismissed? How will the case be dismissed?
      1. Yes, it must be dismissed for lack of cause of action. In order to dismiss the case, Mr. B must file a motion for demurrer to evidence, after Mr. A has rested his case, and prove that Mr. A had no cause of action, because he never sent a demand letter to Mr. B.

8. SPLITTING OF A SINGLE CAUSE OF ACTION

1. Splitting a single cause of action is the act of instituting two or more suits for the same cause of action. (Sec. 4, Rule 2)
2. In such case, the filing of one or the judgment on the merits in any one is available as a ground for dismissal of the **OTHERS**. (Sec. 4, Rule 2)
  - i. The proper ground for dismissal is either litis pendentia or res judicata. (Sec. 12(a), Rule 15)
  - ii. However, if there is willful and deliberate forum shopping, **ALL ACTIONS** shall be summarily dismissed by the court with prejudice. (Sec. 5, Rule 7)

3. LITIS PENDENTIA

i. Requisites:

1. Identity of parties
2. Identity of rights asserted and reliefs prayed for; and
3. Identity of the two preceding particulars, such that any judgment rendered in the pending case would amount to res judicata in the other case. (Philippine College of Criminology v. Bautista, 2020)

ii. "Identity of parties"

1. "Identity of parties" merely requires substantial identity, not absolute identity. "Substantial identity" means that there is community of interest or privity of interest between a party in the first and a party in the second case even if the first case did not implead the latter. (Re: Letter Complaint of Fabiana)

2. EXAMPLE:

1. In Heirs of Trinidad De Leon v. CA and Maguesun, the Heirs filed an action for annulment of registration of two unregistered lots against Maguesun. Later, Meycauayan, as the buyer of the lots from Maguesun, intervened in the action. The Heirs won with finality. Thus, the OCTs in the name of Maguesun were cancelled and new titles were granted in favor of the Heirs. Later, Meycauayan filed an action for reconveyance against the Heirs. Was there identity of parties?

1. Yes, absolute identity is not required. Substantial identity is only required, which provides that there must be community or privity of interest between the parties in the cases. Here, Meycauayan is the successor of Maguesun, so there was community of interest between the Heirs, Maguesun, and Meycauayan.

iii. "Identity of rights asserted and reliefs prayed for"

1. Cause of action is the basis for invoking the second requisite, i.e., rights asserted and reliefs prayed for. "Identity of causes of action" does not mean absolute identity. The test is whether the same evidence would support and sustain both the first and second

actions. (Philippine College of Criminology and Cecilia Bautista-Lim v. Bautista, 2020)

2. This is also called as the “same evidence” test.

3. EXAMPLES:

1. Mr. A lent P10,000,000 to Mr. B, secured by a real estate mortgage. Later, Mr. B failed to pay upon demand, so Mr. A filed an action for collection of sum of money against Mr. B. One month later, Mr. A filed an action for judicial foreclosure against Mr. B. Was there identity of causes of action?

1. Yes. Both cases were based on the same right that was allegedly violated, which was Mr. B’s failure to pay the loan upon demand. Using the same evidence test, the pieces of evidence that will prove Mr. A’s right to be paid are similar to those that will prove his right to foreclose. Thus, there were identical causes of action.

2. In *Riviera Golf Club Inc. v. CCA Holdings*, Riviera Golf Club pre-terminated the Agreement with CCA, with states, among others, that CCA will manage the golf club of Riviera Golf Club, in exchange of management fees. In 2001, CCA Holdings filed an action for sum of money with damages against Riviera Golf Club for the non-payment of management fees. Later, the RTC dismissed the case based on the compromise agreement of the parties. In 2002, another action was filed by CCA Holdings for sum of money with damages against Riviera Golf, based on the premature termination of the Agreement. Was there identity of causes of action?

1. Yes. Both cases were based on the same imputed act, which was the alleged violation of the Agreement. Using the same evidence test, there was glaring similarity in the documentary evidence submitted to prove the claims. The evidence in the collection of unpaid management fees, and the recovery of damages for the expected business profits aim at establishing the breach of the Management and Royalty Agreements. Thus, there were identical causes of action.

3. In *Philippine College of Criminology and Cecilia Bautista-Lim v. Bautista*, respondent Bautista was ousted from being the President and Board Chairperson of the College. Petitioner Cecilia Bautista-Lim replaced him. Thus, Bautista filed two successive actions: first, a petition for quo warranto; and second, an action for specific performance.

The first case sought petitioner Cecilia's ouster and respondent Bautista's restoration as the President and Board Chairperson of the College. In the second case, respondent Bautista sought his restoration as a Board Member. Both actions are based on the same act, i.e., the petitioners' non-compliance with the Certificate that they executed. The Certificate provides that they will comply with the order of former President of the College, Mr. Eduardo Sr., who stated that in case he dies, respondent Bautista will become the President and Board Chairperson of the College. Was there identity of causes of action?

1. Yes. Both cases were based on the same act, i.e., failure to comply with the Certificate that they executed. Further, the pieces of evidence that will be presented for the quo warranto petition and the action for specific performance are the same. Thus, there were identity of causes of action.

4. Elise obtained a loan of ₱3 Million from Merchant Bank. Aside from executing a promissory note in favor of Merchant Bank, she executed a deed of real estate mortgage over her house and lot as security for her obligation. The loan fell due but remained unpaid; hence, Merchant Bank filed an action against Elise to foreclose the real estate mortgage. A month after, and while the foreclosure suit was pending, Merchant Bank also filed an action to recover the principal sum of ₱3 Million against Elise based on the same promissory note previously executed by the latter. In opposing the motion of Elise to dismiss the second action on the ground of splitting of a single cause of action, Merchant Bank argued that the ground relied upon by Elise was devoid of any legal basis considering that the two actions were based on separate contracts, namely, the contract of loan evidenced by the promissory note, and the deed of real estate mortgage. Is there a splitting of a single cause of action? Explain your answer. (4%) (2017 Bar Examination)

iv. Yes, there is a splitting of a single cause of action when Merchant Bank filed another case to recover the principal sum of ₱3 Million against Elise after a foreclosure case was already pending. Under the Rules of Civil Procedure, there is splitting of cause of action if two or more suits are instituted on the basis of the same cause of action. Further, case law dictates that in loan contracts secured by a real estate mortgage, the rule is that the creditor-mortgagee has a single cause of action against the debtor-

mortgagor, i.e., to recover the debt, through the filing of a personal action for collection of sum of money or the institution of a real action to foreclose on the mortgage security. The two remedies are alternative, not cumulative or successive, and each remedy is complete by itself. Thus, if the creditor-mortgagee opts to foreclose the real estate mortgage, he waives the action for the collection of the unpaid debt. Here, the cause of action of Merchant Bank relates to the Php3 Million loan of Elise which was secured by the promissory note and the deed of real estate mortgage. Thus, when Merchant Bank filed the foreclosure case upon Elise's failure to pay the Php3 Million, it can no longer initiate another case to recover the Php3 Million loan.

#### 4. RES JUDICATA

##### i. Requisites:

1. The former judgment must be final
2. The judgment or order must be on the merits
3. It must have been rendered by a court with jurisdiction over the subject matter
4. It must have been rendered by a court with jurisdiction over the parties to the case or due process was complied with
5. There must be, between the first and second actions, identity of parties, subject matter, and cause of action (Taganas v Hon. Emuslan)

##### ii. Res judicata applies in quasi-judicial proceedings.

##### iii. It does not apply to criminal proceedings because **DOUBLE JEOPARDY** applies therein. (Webb v Gatdula, 2019)

##### iv. "Former judgment must be final"

1. This means final and executory judgment.
2. Example:

1. Mr. A filed an action for collection of sum of money against Mr. B. The RTC ruled in favor of Mr. B. During the appeal period, Mr. A filed another action for collection of sum of money against Mr. B. Was there res judicata?

1. No, because the former judgment was still not final. However, there was *litis pendentia*.

##### v. "Judgment must be on the merits"

1. This means the decision was "with prejudice."
2. Examples:

1. Mr. A filed an action for collection of sum of money against Mr. B. The RTC Manila dismissed the action for improper venue. The dismissal became final and executory. Later, Mr. A filed another action for collection of sum of money with the RTC Mandaluyong. Was there res judicata?

1. No, because the judgment on the first case was NOT on the merits. It was dismissed, not based on the evidence presented, but based on affirmative defenses.
  2. Would it amount to *litis pendentia*?
    1. No, because the second action was filed after the termination of the first action. *Litis pendentia* presupposes the presence of two pending actions.
- vi. "Jurisdiction over the subject matter, of person of the defendant, and due process purposes"

1. EXAMPLES:

1. Mr. A filed an action for collection of sum of money against Mr. B. The sheriff resorted to substituted service of summons after one attempt. Thus, Mr. B was never notified of the action. Later, the RTC declared Mr. B in default, upon motion. The RTC ruled in favor of Mr. A. The decision attained finality. Mr. B only knew the outcome of the decision, after the sheriff went to his house to execute the judgment. Thus, Mr. B filed an action for annulment of judgment with the CA. Was there *res judicata*?

1. No, because the judgment in the first case was rendered without acquiring jurisdiction over the person of Mr. B.

2. Mr. A filed an action for collection of sum of money against Mr. B. The amount of the demand was P1Million. The RTC dismissed the action for lack of jurisdiction over the subject matter. Later, Mr. A filed another action for collection of sum of money with the MTC. Was there *res judicata*?

1. No, because the court that heard the first case had no jurisdiction over the subject matter. Further, the judgment was not on the merits, because the first case was dismissed based on affirmative defenses.

3. Mr. A filed an action for change of name. Under the Rules, all persons interested, such as the parents of Mr. A, shall be served summons. The sheriff resorted to substituted service of summons after one attempt. Thus, the parents of Mr. A was never notified of the action. Later, the RTC declared the parents of Mr. A in default, upon motion. The RTC ruled in favor of Mr. A. The decision attained finality. The parents only knew the outcome of the decision, after the sheriff went to his Civil Register to change the name of Mr. A. Thus, the parents filed an action for annulment of judgment with the CA. Was there *res judicata*?

1. No, because the judgment in the first case was rendered without properly serving the summons to

the parents. Thus, it was rendered in violation of the right to due process of the parents.

9. JOINDER OF CAUSES OF ACTION

1. In 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. (Sec 5, Rule 2)

i. Joinder of causes of action is always PERMISSIVE. The provision used the word “may.”

2. Such joinder is subject to the following conditions: (MODE OF CANCELLATION)

i. Shall comply with the rules on joinder of parties;

ii. Shall not include special civil actions or actions governed by special rules;

iii. If the causes of action pertain to different venues or jurisdictions, the joinder may be allowed in the RTC, provided one of the COA falls within the jurisdiction of said court and the venue lies therein; and

iv. 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. (Sec. 5, Rule 2)

1. NOTE: These are CONDITIONS. If one condition is absent, the causes of action cannot be joined. Thus, MODE OF CANCELLATION must be observed.

3. Permissive joinder of parties

i. Requisites:

1. Permissive joinder of parties requires that:

1. **the right to relief arises out of the same transaction or series of transactions;**

2. there is a question of law or fact common to all the plaintiffs or defendants; and

3. such joinder is not otherwise proscribed by the provisions of the Rules on jurisdiction and venue. (Gicale v. Pantranco)

ii. NOTE: Remember that the causes of action must arise out of the “**SAME TRANSACTION OR SERIES OF TRANSACTIONS.**” (Sec. 6, Rule 3)

1. Thus, if there are at least 3 parties, and at least 2 causes of action, the plaintiff must comply with the rules for joinder of causes of action and the rules for joinder of parties.

iii. EXAMPLES:

1. Mr. B obtained a loan from Mr. A on January 2, 2023. Mr. C also obtained a loan from Mr. A on January 3, 2023. If both of them fail to pay upon demand, can Mr. A file one suit against them?

1. No, because there would be misjoinder of parties. The transactions were different.

2. Mr. A lent money to Mr. B and Mr. C as joint debtors. If both of them fail to pay upon demand, can Mr. A file one suit against them?

1. Yes, because the claims arose from the same transaction.
3. Mr. A lent money to Mr. B and Mr. C as solidary debtors. If both of them fail to pay upon demand, can Mr. A file one suit against them?
  1. Yes, because the claims arose from the same transaction.
4. Mr. B and Mr. C bumped their vehicles. Mr. A was injured while being a passenger of Mr. B. Can Mr. A join Mr. B and Mr. C in one action?
  1. Yes, because the claims arose out of the same transaction.
5. Mr. A lent money to Mr. B. Mr. C, as an accommodation mortgagor, mortgaged his property in order to secure the loan obtained by Mr. B. If Mr. B fails to pay upon demand, can Mr. A join Mr. B and Mr. C in one action?
  1. Yes, because A's claims against Mr. B and Mr. C arose from a SERIES of transactions. However, there is ONLY ONE CAUSE OF ACTION, because only Mr. B failed to pay.
6. Now what if Mr. C also failed to pay upon demand?
  1. Still, there's ONE CAUSE OF ACTION. Accommodation mortgagors are not in any way liable for the payment of the loan or principal obligation of the debtor/borrower. The liability of the accommodation mortgagors extends only up to the loan value of their mortgaged property. (Spouses Belo v. PNB, 2001).
7. In the afternoon of October 28, 1984, Crispin Gicale was driving the passenger jeepney owned by his mother Martina Gicale. It was then raining. While driving north bound along the National Highway in Talavera, Nueva Ecija, a passenger bus, owned by Pantranco North Express, Inc., driven by Alexander Buncan, was trailing behind. When the two vehicles were negotiating a curve along the highway, the passenger bus overtook the jeepney. In so doing, the passenger bus hit the left rear side of the jeepney and sped away. Thus, Crispin Gicale reported the incident with the Talavera Police Station and respondent Standard Insurance Co., Inc., insurer of the jeepney. The total cost of the repair was ₱21,415.00, but respondent Standard paid only ₱8,000.00. Martina Gicale shouldered the balance of ₱13,415.00. Later, Standard Insurance Co. and Martina Gicale filed an action against Pantranco North Express, Inc. and Alexander Buncan.
  1. Did Standard Insurance Co. and Martina Gicale comply with the rules on joinder of parties?
    1. Yes, Standard Insurance Co. and Martina Gicale complied with the rules on joinder of parties.
    2. Case law dictates that permissive joinder of parties requires that: (a) **the right to relief arises out of the same transaction or series of transactions;** (b) there is a question of law or fact common to all the plaintiffs or defendants; and (c) such joinder is not

otherwise proscribed by the provisions of the Rules on jurisdiction and venue.

3. Here, Standard Insurance Co. and Martina Gicale complied with the rules on joinder of parties, because there is a single transaction common to all, that is, Pantranco's bus hitting the rear side of the jeepney. There is also a common question of fact, that is, whether Pantranco and Alexander Buncan are negligent.
2. How many causes of action are there?
  1. There are multiple causes of action.
  2. Under the Rules of Court, a cause of action is the act or omission by which a party violates a right of another.
  3. Here, there was multiple causes of action, such as (1) the civil liability arising from delict that Martina Gicale can file against Alexander Buncan, and (2) the quasi-delict that Martina can file against Pantranco and Alexander Buncan.
4. "Special civil actions/Governed by special rules"
  - i. Partition and collection of sum of money cannot be joined, because partition is a special civil action.
  - ii. Forcible entry and collection of sum of money cannot be joined, because forcible entry is a special civil action.
  - iii. Settlement of estate and reconveyance of property cannot be joined, because settlement of estate is a special proceeding.
  - iv. Habeas corpus and certiorari cannot be joined, because the two remedies are governed by different set of rules. (Caballes v. CA, 2005)
5. "Different venue or jurisdiction; joinder in the RTC"
  - i. NOTE: The Section states "RTC" and not "MTC."
  - ii. EXAMPLES:
    1. A has 2 parcels of land. The first has an assessed value of P5,000, while the second has an assessed value of P5,000,000. The properties are situated in different provinces. B forcibly entered into both of these parcels of land in 2019. It is now 2021.
      1. How many causes of action are there?
        1. There were two causes of action, since two separate properties were forcibly entered into by B.
      2. Should A file an ejectment suit or an accion publiciana?
        1. A must file an accion publiciana since 1 year has elapsed from the time B forcibly entered into the properties of A.
    3. Can A file one action to recover the possession of the two parcels of land?

1. Yes, A can join both of these causes of action against B with the RTC of the province where the second property is situated.
  2. Under the Rules of Court, 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, 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.
  3. Here, A can join both of these causes of action against B with the RTC of the province where the second property is situated, because (1) the causes of action are between A and B, (2) they pertain to different venues or jurisdictions, since the two causes of action must be filed with different courts and the properties were situated in a different provinces, but (3) the RTC of the province where the second property was situated has jurisdiction over the action, since an accion publiciana is an action involving possession of real property, and the assessed value of the real property was PhP5,000,000.
2. A has 2 parcels of land, with an assessed value of P5,000, situated in different provinces. B forcibly entered into both these parcels of lands in 2019. It is now 2021.
    1. Can A file one action to recover the possession of the two parcels of land?
      1. No, A must file separate suits of accion publiciana with the MTC of each province where the parcel of land is situated.
      2. Under the Rules, when the causes of action between the same parties pertain to different venues, the joinder may be allowed in the RTC.
      3. Here, A must file separate suits of accion publiciana with the MTC of each province where the parcel of land is situated, because the Rules do not cover the first-level courts. The Rules only allow a joinder if one of the causes of actions pertain to the second-level courts.
    2. Can this be covered by the totality rule?
      1. No, because the totality rule only applies to amount of claim/demand.

3. A has 2 parcels of lot. The first has an assessed value of P5,000, while the second has an assessed value of P5,000,000. The properties are situated in different provinces. B forcibly entered into both those parcels of lots in 2019. It is still 2019.
  1. Can A file one action to recover the possession of the two parcels of land
    1. No, A must file separate actions of forcible entry against B. An action for forcible entry cannot be joined because it is a special civil action.
      1. NOTE: MODE OF CANCELLATION is the key! Always apply the conditions one by one!
6. "Totality rule in Rule 2 and in BP 129"
  - i. Whether it is in the Rules of Court or in BP 129, the totality rule merely applies to **monetary claims, i.e., collection of sum of money or action for damages**. It does not apply to actions involving title to or possession of real property.
    1. You cannot join the assessed values of two properties. Treat them separately.
7. Example:
  - i. Lender extended to Borrower a P100,000.00 loan covered by a promissory note. Later, Borrower obtained another P100,000.00 loan again covered by a promissory note. Still later, Borrower obtained a P300,000.00 loan secured by a real estate mortgage on his land valued at P500,000.00. Borrower defaulted on his payments when the loans matured. Despite demand to pay the P500,000.00 loan, Borrower refused to pay. Lender, applying the totality rule, filed against Borrower with the Regional Trial Court (RTC) of Manila, a collection suit for P500,000.00. Did Lender correctly apply the totality rule and the rule on joinder of causes of action? (2015 Bar Examination)
    1. Yes, Lender correctly applied the totality rule and the rule on joinder of causes of action. However, the Regional Trial Court has no jurisdiction over the action. Under BP Blg. 129, as amended, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise exclusive original jurisdiction over civil actions, where the amount of the demand does not exceed Two Million pesos (P2,000,000.00), exclusive of interest damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: Provided, That where there are several claims or causes of action 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. Meanwhile, under the Expedited Procedures in the First Level Courts, a small claim is an action that is purely civil in nature where the claim or relief raised by the plaintiff is solely for

the payment or reimbursement of a sum of money. Further, where the claim does not exceed One Million pesos (P1,000,000.00), exclusive of interests and costs, the claim shall be subject to the Rule on Small Claims Cases. Lastly, the plaintiff may join in a single statement one or more separate small claims against a defendant provided that the total amount claimed, exclusive of interest and costs, does not exceed One Million pesos (P1,000,000.00). Here, the totality rule was properly applied by Lender because (1) he had several claims against the Borrower, and (2) these claims were embodied in the same action. Thus, the amount of demand of Lender shall be the totality of all his claims, even though the claims arose from different contracts of loan. Further, the rule on joinder of causes of action was properly applied by Lender, because he joined in a single action all of his causes of action against Borrower, with a total amount of P500,000.00. However, the action should have been filed with the MeTC of Manila and not the RTC of Manila, since the total claim does not exceed P1,000,000.00.

#### 10. MISJOINDER AND NON-JOINDER OF CAUSES OF ACTION

1. Misjoinder of causes of action is not a ground for dismissal of an action.
  - i. Misjoined causes of action may, on motion of a party or on the initiative of the court, be severed and proceeded with separately. (Sec. 6, Rule 2)
    1. NOTE: The word is “may.” Thus, misjoined causes of action can be tried in the same action if the court did not sever them. (Ada v. Baylon, 2012)
  - ii. Meanwhile, for non-joinder of causes of action, the court cannot compel, as a rule, the plaintiff to join his causes of action in one suit.
    1. Why? To repeat, joinder of causes of action is PERMISSIVE in nature.

#### 2. Example:

- i. Pauline and Regine had a dispute over a 500-square meter parcel of land that they inherited from their deceased parents, Milcah and James. During the barangay conciliation proceedings, both Pauline and Regine agreed to partition the lot in equal shares. As a result, the title to the property was cancelled and new titles were issued in favor of Pauline and Regine as to their respective lots. However, Regine discovered that the lot covered by her title was on the eastern portion rather than the northern portion, contrary to their agreement. Hence, Regine filed a “Petition for Annulment of Transfer Certificate of Title (TCT) and Barangay Partition, with Prayer for Judicial Partition of the Intestate Estate of the Spouses Milcah and James” against Pauline. After trial, the court rendered judgment in favor of Regine. Pauline then consulted a newly-minted lawyer, Atty. Terry, who explained to her that there was a misjoinder of causes of action when Regine included both annulment of TCT and the barangay partition, as well as judicial partition in the petition. Hence, the trial court erred when it ruled on both causes of action instead of dismissing the petition of Regine. Is Atty. Terry correct? Explain. (2023 Bar Examination)

1. No, Atty. Terry is wrong. Under the Rules of Court, as amended, 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, but the joinder shall not include special civil actions or actions governed by special rules. Further, 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. Lastly, case law dictates that a misjoined cause of action, if not severed upon motion of a party or by the court sua sponte, may be adjudicated by the court together with the other causes of action. Here, there was a misjoinder of causes of action, since an action for partition, a special civil action, was joined with an action for annulment of TCT, an ordinary civil action. However, the court, on its own initiative, did not sever the causes of action. The parties also did not file a motion to sever them. Thus, the court did not have to dismiss the action, since it can adjudicate misjoined causes of action.

## RULE 3 - PARTIES TO A CIVIL ACTION

1. Who may be parties
  - i. Only natural or juridical persons, or entities authorized by law may be parties in a civil action.
  - ii. Hence, animals, such as dolphins, cannot be parties to a civil action. (Resident Marine Mammals v Reyes)
  - iii. Some examples of entities authorized by law:
    - i. Corporation by estoppel
    - ii. Partnership by estoppel
    - iii. Estate of the deceased person
    - iv. Legitimate labor organization (union)
    - v. Churches
    - vi. Dissolved corporation
  - iv. Example:
    - i. Can dolphins be plaintiffs in a suit to enjoin a land reclamation that will affect a biodiverse coral reef? Explain briefly. (2020-2021 Bar Examination)
      1. No, dolphins cannot be plaintiffs in a suit. Under the Rules of Court, as amended, only natural or juridical persons, or entities authorized by law may be parties in a civil action. Here, dolphins cannot be plaintiffs in a suit, since these animals are not natural or juridical persons, or entities authorized by law.
2. Effect when a party impleaded is not authorized to be a party
  - i. If the plaintiff is NOT authorized to be a party (animal), the case may be dismissed based on the affirmative defense of lack of capacity to sue.
  - ii. If the plaintiff is authorized to be a party (natural person), and the defendant is an animal, the ground is failure to state cause of action.
  - iii. If the plaintiff is a child, without the assistance of his parents, the case may be dismissed based on lack of capacity to sue.
  - iv. If the plaintiff is authorized to be a party (natural person), and the defendant is a child, the action will not be dismissed. It will proceed, but a guardian ad litem will be appointed for the child. (Sec. 5, Rule 3)
3. Real parties in interest
  - i. A real party in interest is a party who STANDS to be benefited or injured by the judgment in the suit, or is the party ENTITLED to the avails of the suit. (Sec. 2, Rule 3)
    - i. If the plaintiff is NOT a real party in interest, i.e., he does not have a right to the property he is claiming, the case may be **dismissed** for failure to state cause of action.
  - ii. EXAMPLE:
    1. Mr. A is a stockholder of ABC Corporation. ABC Corporation entered into a contract of sale with DEF Corporation. DEF Corporation committed fraud in the performance of the contract. Thus, Mr. A, in his own name, filed an action for damages against DEF Corporation. Should the action be dismissed?

1. Yes, the action should be dismissed due to failure to state cause of action. A corporation has a separate and distinct personality from its stockholders, so ABC Corporation is the real party in interest, not Mr. A.

4. Representatives as parties

- i. Where the action is allowed to be prosecuted and defended by a representative or someone acting in a fiduciary capacity,
  - i. The beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest.
- ii. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal
  - i. Except when the contract involves things belonging to the principal. (Sec. 3, Rule 3)
- iii. NOTE: Sec. 3, Rule 3 is usually applied when an action was filed by an agent of a principal. For minors who want to file an action, Sec. 5, Rule 3 applies.
- iv. EXAMPLES:
  - i. Mr. A is an OFW. Mr. C obtained a P1Million loan from Mr. A. Mr. C failed to pay the due and demandable loan upon demand. Thus, Mr. A authorized Mr. B, through a special power of attorney, to file an action for collection of sum of money against Mr. C. On January 3, 2023, Mr. B filed the said action against Mr. C. Mr. B disclosed that Mr. A is his principal, and the supposed creditor of Mr. C. However, Mr. B did not include Mr. A in the title of the case. Mr. C file an answer, raising the affirmative defense of failure to state cause of action. Should the action be dismissed for failure to state cause of action?
    1. Yes, the action should be dismissed for failure to state cause of action.
    2. Under the Rules, where the action is allowed to be prosecuted and 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.
    3. Here, the action should be dismissed for failure to state cause of action, because Mr. A, the principal and the real party in interest, was not included in the title of the case.
      1. **NOTE:** The case should have been titled as “Mr. A, represented by Mr. B, versus Mr. C”
  - ii. Mr. A is an OFW. Mr. C obtained a P1Million loan from Mr. A. Mr. C failed to pay the due and demandable loan upon demand. Thus, Mr. A authorized Mr. B, through a special power of attorney, to file an action for collection of sum of money against Mr. C. On January 3, 2023, Mr. B filed the said action against Mr. C. Mr. B did not disclose that Mr. A is his principal, and the supposed creditor of Mr. C. Further, Mr. B did not include Mr. A in the title of the case. Mr. C file an answer, raising the affirmative defense of failure to state cause of action. Should the action be dismissed for failure to state cause of action?
    1. Yes, the action should be dismissed for failure to state cause of action.
    2. Case law dictates that an agent may sue or be sued solely in its own name and without joining the principal when the following elements

- concur: (1) the agent acted in his own name during the transaction; (2) the agent acted for the benefit of an undisclosed principal; and (3) the transaction did not involve the property of the principal. (V-Gent Inc. v. Morning Star Travel and Tours, 2015)
3. Here, the action should be dismissed for failure to state cause of action, because Mr. B, the agent, did not act in his own name during the execution of the contract of loan. It was Mr. A who executed the contract of loan as the creditor of Mr. C, and the contract of loan involved the money of Mr. A. Thus, Mr. A should have been included in the title of the case as he is the real party in interest.
- iii. Mr. A is an OFW. Mr. A authorized Mr. B, through a special power of attorney, to enter, for and on his behalf, into a contract of loan with Mr. C. Later, Mr. B, without disclosing that Mr. A was his principal, executed a contract of loan with Mr. C. However, Mr. C failed to pay the due and demandable loan upon demand. Thus, Mr. A authorized Mr. B, through another special power of attorney, to file an action for collection of sum of money against Mr. C. On January 3, 2023, Mr. B filed the said action against Mr. C. In the action, Mr. B did not disclose that Mr. A is his principal. Further, Mr. B did not include Mr. A in the title of the case. Should the action be dismissed for failure to state cause of action?
1. Yes, the action should be dismissed for failure to state cause of action.
  2. Case law dictates that an agent may sue or be sued solely in its own name and without joining the principal when the following elements concur: (1) the agent acted in his own name during the transaction; (2) the agent acted for the benefit of an undisclosed principal; and (3) the transaction did not involve the property of the principal. (V-Gent Inc. v. Morning Star Travel and Tours, 2015)
  3. Here, the action should be dismissed for failure to state cause of action, because the contract of loan involved a property belonging to Mr. A, that is, the money that was given to Mr. C under the contract of loan. Thus, Mr. A should have been included in the title of the case as he is the real party in interest.
- iv. Sometime in June and in September 1998, the petitioner V-Gent, Inc. (V-Gent) bought twenty-six (26) two-way plane tickets (Manila-Europe-Manila) from the respondent Morning Star Travel and Tours, Inc. (Morning Star). On June 24, 1998 and September 28, 1998, V-Gent returned a total of fifteen (15) unused tickets worth \$8,747.50 to the respondent. Of the 15, Morning Star refunded only six (6) tickets worth \$3,445.62. Morning Star refused to refund the remaining nine (9) unused tickets despite repeated demands. On December 15, 2000, petitioner V-Gent filed a money claim against Morning Star for payment of the unrefunded \$5,301.88 plus attorney's fees. The complaint was raffled to Branch 2 of the Metropolitan Trial Court (MeTC) of Manila and docketed as Civil Case No. 169296-CV. Morning Star questioned V-Gent's personality to file the suit. It asserted that the passengers, in whose names the tickets were issued, are the real parties-in-interest. On January 27, 2006, the MeTC declared that, as agent of the

passengers who paid for the tickets, V-Gent stood as the real party-in-interest. Should the passengers be included in the title of the case?

1. Yes, the passengers should be included in the title of the case.
2. Case law dictates that an agent may sue or be sued solely in its own name and without joining the principal when the following elements concur: (1) the agent acted in his own name during the transaction; (2) the agent acted for the benefit of an undisclosed principal; and (3) the transaction did not involve the property of the principal.
3. In the present case, only the first element is present; the purchase order and the receipt were in the name of V-Gent. However, the remaining elements are absent because: **(1) V-Gent disclosed the names of the passengers to Morning Star - in fact the tickets were in their names; and (2) the transaction was paid using the passengers' money.** Therefore, Rule 3, Section 3 of the Rules of Court cannot apply. To define the actual factual situation, V-Gent, the agent, is suing to recover the money of its principals - the passengers - who are the real parties-in-interest because they stand to be injured or benefited in case Morning Star refuses or agrees to grant the refund because the money belongs to them. From this perspective, V-Gent evidently does not have a legal standing to file the complaint. (V-Gent Inc. v. Morning Star Travel and Tours, 2015)

5. **Minor or incompetent person as party**

- i. 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 [Sec. 5, Rule 3].

6. **Indispensable parties**

- i. An indispensable party is a real party in interest without whom no final determination can be had of an action. (Sec. 7, Rule 3)
  - i. In other words, if this party will not be joined, the issues in the case cannot be finally determined.
- ii. **Nature of interest**
  - i. An indispensable party is one whose interest in the subject matter of the suit and the relief sought are so inextricably intertwined with the other parties that his legal presence as a party to the proceeding is an absolute necessity. (Benedicto-Munoz v. Cacho-Olivares, 2015)

iii. **Examples:**

- i. Mr. A was the creditor of joint debtors Mr. B and Mr. C. Mr. B and Mr. C failed to pay the loan upon demand. Mr. A first filed an action against Mr. B. Is Mr. C an indispensable party?
  1. No, Mr. C is not an indispensable party, because there can be a final determination of the action filed against Mr. B without impleading Mr. C.
    1. Why? Because the issues as to the share of one joint debtor can be resolved without impleading the other joint debtors. Each

joint debtor is only an indispensable party with respect to his share and not the share of the other joint debtor.

- ii. What then is a joint debtor?
  1. A joint debtor is a necessary party.
  2. Under the Rules, a necessary party is one who is not indispensable, but ought to be joined as a party, if complete relief is to be accorded, or for the complete determination or settlement of the claim subject of the action.
  3. A joint debtor is a necessary party because impleading all joint debtors would accord complete relief to the plaintiff-creditor. It would allow him to completely settle the loan.
- iii. Mr. A was the creditor of solidary debtors Mr. B and Mr. C. Mr. B and Mr. C failed to pay the loan upon demand. Mr. A first filed an action against Mr. B. Is Mr. C an indispensable party?
  1. No, Mr. C is not an indispensable party, because there can be a final determination of the action filed against Mr. B without impleading Mr. C.
    1. Why? The nature of the solidary obligation does not make one an indispensable party. (*Living @ Sense v. Malayan Insurance*, 2012)
- iv. What then is a solidary debtor?
  1. A solidary debtor is neither an indispensable party nor a necessary party.
  2. The nature of the solidary obligation does not make one an indispensable party. (*Living @ Sense v. Malayan Insurance*, 2012)
  3. The solidary debtor is also not a necessary party.
    1. Why? Because in solidary obligations, the creditor can proceed against one, some, or all of the solidary debtors simultaneously for the payment of the obligation. (Art. 1216, Civil Code)
- v. Mr. A filed an action for reconveyance of real property against Mr. B. The real property was registered in the names of Mr. B and Mr. C as co-owners. Is Mr. C an indispensable party?
  1. Yes, because there cannot be a final determination of the action filed against Mr. B without impleading Mr. C.
- vi. Why is Mr. C an indispensable party?
  1. Because the true ownership of the property cannot be finally determined without giving Mr. C, a registered owner, an opportunity to present his side.
- vii. Mr. A filed an action for ejectment against Mr. C. The real property was registered in the names of Mr. A and Mr. B as co-owners. Is Mr. B an indispensable party?
  1. No, because a final determination of the action can be had without impleading Mr. B.
- viii. Why is Mr. B NOT an indispensable party?

1. Because “any one of the co-owners may bring an action in ejectment.” (Art. 487, Civil Code) Further, “ejectment” must be understood in its generic sense. Thus, it includes accion publiciana and action for reconveyance.

7. Necessary parties

- i. A necessary party is one who is not indispensable, but ought to be joined as a party, if complete relief is to be accorded, or for the complete determination or settlement of the claim subject of the action. (Sec. 8, Rule 3)
  - i. Hence, he is also a real party in interest.

8. EFFECT OF NON-JOINDER OF INDISPENSABLE PARTIES

i. **BEFORE JUDGMENT:**

- i. Neither misjoinder nor non-joinder of parties is a ground for dismissal of an action
- ii. Parties may be dropped or added, by the order of the court, on motion or on its own initiative, at any stage of the action or on such terms as are just.
- iii. Any claim against a misjoined party may be severed and proceeded with separately. (Sec. 11, Rule 3)

ii. **AFTER JUDGMENT:**

- i. Any decision rendered by the court is null and void for want of jurisdiction.
- ii. It is void not only as to the parties absent, but also as to the parties present.
- iii. If on appeal, the higher court found that indispensable parties have not been joined, there are two (2) effects: 1) all the actions of the lower court are **null and void**, and 2) the case should be **remanded** to the lower court for the inclusion of the indispensable parties and for further proceedings. (Florete Jr. v Florete Sr., 2014)
- iv. What if the judgment became final and executory and there is an indispensable party who was not joined? What’s the remedy of the indispensable party who was not joined?

1. The indispensable party who was not joined can file (1) a petition for relief from judgment, **or** (2) a petition for annulment of judgment.

1. For petition for relief from judgment, the petition must be filed within 60 days from the time the indispensable party learns of the judgment and within 6 months after the entry of judgment.
2. For petition for annulment of judgment, the petition must be filed within 4 years from the time of discovery, in case of extrinsic fraud, and before estoppel or laches sets in, in case of lack of jurisdiction.

1. As a general rule, a petition for annulment of judgment could not be availed of if a petition for relief from judgment was availed of or could have been availed of by the indispensable party. (Sec. 2, Rule 47)
2. The exception is a petition for annulment of judgment could be availed of, even if a petition for relief from judgment was availed of or could have been availed of,

if the ground raised by the petitioner is lack of jurisdiction.

1. **NOTE:** We will discuss this further LATER.

v. In short, non-joinder of an indispensable party is not a ground to dismiss the action, but non-joinder of an indispensable party will make the judgment void.

9. EFFECT OF NON-JOINDER OF NECESSARY PARTIES

i. 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. (Sec. 9, Rule 3)

i. **NOTE:** A necessary party may not be joined by the plaintiff, provided the plaintiff will set forth his name and will allege why he was omitted. In case the court finds his reason unmeritorious, the necessary party must now be joined. His joinder becomes compulsory. In case the plaintiff fails to join him in the action, the plaintiff's claims against this necessary party shall be waived. However, the plaintiff's claims against those were already joined shall be litigated by the court. These claims will not be waived.

10. Non-joinder of an indispensable party v. non-joinder of a necessary party

i. If an indispensable party was not joined, the court, on motion or on its own initiative, will order his inclusion.

i. **If the indispensable party was not joined by the plaintiff, despite the order of the court, the case can be dismissed with prejudice for failure to obey the order of the court under Rule 17.**

ii. Whenever a necessary party is not joined, the pleader shall set forth his name, if known, and shall state why he is omitted.

i. 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.

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

1. 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. (Sec. 9, Rule 3)

iii. **NOTE:** To simplify, failure to comply with the order to include an INDISPENSABLE PARTY may result to the dismissal of the case under Rule 17. On the other hand, failure to comply with the order to include a NECESSARY PARTY will not result to the dismissal of the case. Instead, the claim as to the party who was not included shall be considered waived.

11. Examples:

- i. Ms. A filed a complaint for damages against Ms. B, alleging that Ms. B negligently caused the demolition of her house's concrete fence, the top half of which fell on the front portion of Ms. A's car and permanently damaged its engine. In her answer, Ms. B denied any personal liability for the damage caused to Ms. A's car, averring that she merely acquiesced to the advice of her contractor, XYZ Construction Co., to have the concrete fence demolished. Thus, damages, if any, should be collected from it. Thereafter, Ms. A filed a motion for judgment on the pleadings, alleging that Ms. B's statement in her answer is actually a negative pregnant. Ms. B opposed the motion, reiterating her defense in her answer which purportedly rendered judgment on the pleadings improper. Ms. B also moved for the dismissal of the case on the ground of non-joinder of XYZ Construction Co., which she alleged is an indispensable party to the case. (2019 Bar Examination) Is XYZ Construction Co. an indispensable or a necessary party? Explain. (3%)

1. XYZ Construction Co. is a necessary party. Under the Rules of Civil Procedure, a necessary party is one who is not indispensable but who is ought to be joined as a party if complete relief is to be accorded as to those already parties in the case, or for complete determination or settlement of the claim subject of the action. Here, XYZ Construction Co. is a mere necessary party who should be joined as a party to the case to accord complete relief to Ms. A. It is Ms. B who is an indispensable party as the defendant in this case, without whom no final determination can be had as an action.

- ii. Assuming that XYZ Construction Co. is an indispensable party, is its non-joinder a ground for the dismissal of the case? Explain. (3%)

2. No, assuming that XYZ Construction Co. is an indispensable party, its non-joinder is not a ground for dismissal of the case. Case law dictates that the non-joinder of an indispensable party is not a ground for dismissal of a case. The remedy is to implead the indispensable party in the case. Thus, assuming that XYZ Construction Co. is an indispensable party, its non-joinder should not result to the dismissal of the case. The remedy is for Ms. A to implead XYZ Construction Co. in the case filed against Ms. B.

- iii. Hanna, a resident of Manila, filed a complaint for the partition of a large tract of land located in Oriental Mindoro. She impleaded her two brothers John and Adrian as defendants but did not implead Leica and Agatha, her two sisters who were permanent residents of Australia. Arguing that there could be no final determination of the case without impleading all indispensable parties, John and Adrian moved to dismiss the complaint. Does the trial court have a reason to deny the motion? Explain your answer. (4%) (2017 Bar Examination)

3. Yes, the trial court has a reason to deny the motion to dismiss filed by John and Adrian. Under the Rules of Civil Procedure, non-joinder of parties is not a 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 the action and on such terms as are just. Here, failure to implead the two sisters, Leica and Agatha will not result to dismissal of the case filed by Hanna.

iv. Strauss filed a complaint against Wagner for cancellation of the title. Wagner moved to dismiss the complaint because Grieg, to whom he mortgaged the property as duly annotated in the TCT, was not impleaded as defendant. a.) Should the complaint be dismissed? (3%) b.) If the case should proceed to trial without Grieg being impleaded as a party to the case, what is his remedy to protect his interest? (2%) (2015 Bar Examination)

a. No, the complaint should not be dismissed. Under the Rules of Court, as amended, 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 the action and on such terms as are just. Any claim against a misjoined party may be severed and proceeded with separately. Further, an “indispensable party” is a party in interest without whom no final determination can be had of an action. Here, Grieg is an indispensable party, since the action is for annulment of title, and Grieg’s right as a mortgagee was annotated in the said title. However, the non-joinder of Grieg, as an indispensable party, does not warrant the dismissal of the complaint.

b. The remedy of Grieg is to file a motion for leave to intervene in the action. Under the Rules of Court, as amended, 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. Here, Grieg has a legal interest in the matter in litigation, since his right as a mortgagee was annotated in the title that was sought to be annulled. Thus, he can file a motion for leave to intervene in the action, so he can protect his rights.

## 12. CLASS SUIT

i. Requisites:

- iv. The subject matter must be of **COMMON OR GENERAL INTEREST** to many persons;
- v. The persons are **SO NUMEROUS** that it is impracticable to join all as parties;
- vi. The parties actually before the court are **SUFFICIENTLY NUMEROUS** and representative as to fully protect the interests of all concerned; and
- vii. The representatives sue or defend for the **BENEFIT OF ALL**. (Sec. 12, Rule 3)

ii. “Subject matter of common or general interest”

- iv. “Common or general interest” is the most important requisite for class suits. Often, suits are not considered class suits because each plaintiff has a **separate and distinct injury or interest**.

1. **NOTE:** Ask yourself if ALL of those concerned can protect their interests in the SAME MANNER or in a DIFFERENT MANNER. If they have to protect their interests in a DIFFERENT MANNER, then the representatives cannot fully protect the rights of those were not impleaded. Thus, ALL of those concerned must be impleaded in the suit.
  1. What then is the remedy? They cannot file a class suit. Instead, they can file one action and there will be joinder of causes of action and parties. The big difference is in joinder of causes of action and parties, ALL OF THEM MUST BE IMPLEADED.

**v. Examples of existence of "common or general interest"**

1. The cancellation of timber licenses to protect the environment for all Filipino citizens, including generations yet unborn. (*Oposa v. Factoran*)
2. The residents of the subdivision who were deprived of the use of La Paz Road by Fil-Estate Land. (*Juana Complex v. Fil-Estate Land*)

**vi. Examples of non-existence of "common or general interest"**

1. Heirs of the victims of a plane crash or a shipwreck
2. Residents exposed to the chemicals from a cooking gas plant;
3. Residents who are opposed or in favor of the recovery of patron saint statue;
4. A corporation suing in behalf of its stockholders for the recovery of certain parcels of land (Corporation is merely the agent of the stockholders. Each of the stockholders has a separate and distinct interest);
5. Association of sugar planters filed a claim for damages, in behalf of each sugar planter, because a libelous article ruined their personal reputation.
6. A libelous article directed at a group of persons cannot be a subject of a class suit. It is not a case where one or more may sue for the benefit of all or where the representation of class interest affected by the judgment or decree is indispensable to make each member of the class an actual party. Each of the plaintiffs here has a separate and distinct reputation in the community. They do not have a common or general interest in the subject matter of the controversy. (*Newsweek, Inc. vs. Intermediate Appellate Court*, May 30, 1986)

**vii. Is a derivative suit a class suit?**

1. No, a derivative suit is not a class suit.
2. A derivative suit must be differentiated from individual and representative or class suits, thus: "Suits by stockholders or members of a corporation based on wrongful or fraudulent acts of directors or other persons may be classified into individual suits, class suits, and derivative suits. Where a stockholder or member is denied the right of inspection, his suit would be individual because the wrong is done to him personally and not to the other stockholders or the corporation. Where the wrong is done to a group of stockholders, as where preferred stockholders' rights are violated, a class or representative suit will be proper for the protection of all stockholders belonging to the same

group. **But where the acts complained of constitute a wrong to the corporation itself, the cause of action belongs to the corporation and not to the individual stockholder or member.** Although in most every case of wrong to the corporation, each stockholder is necessarily affected because the value of his interest therein would be impaired, this fact of itself is not sufficient to give him an individual cause of action **since the corporation is a person distinct and separate from him, and can and should itself sue the wrongdoer.** Otherwise, not only would the theory of separate entity be violated, but there would be multiplicity of suits as well as a violation of the priority rights of creditors. **Furthermore, there is the difficulty of determining the amount of damages that should be paid to each individual stockholder.** However, in cases of mismanagement where the wrongful acts are committed by the directors or trustees themselves, a stockholder or member may find that he has no redress because the former are vested by law with the right to decide whether or not the corporation should sue, and they will never be willing to sue themselves. The corporation would thus be helpless to seek remedy. Because of the frequent occurrence of such a situation, the common law gradually recognized the right of a stockholder to sue on behalf of a corporation in what eventually became known as a "derivative suit." It has been proven to be an effective remedy of the minority against the abuses of management. **Thus, an individual stockholder is permitted to institute a derivative suit on behalf of the corporation wherein he holds stock in order to protect or vindicate corporate rights, whenever officials of the corporation refuse to sue or are the ones to be sued or hold the control of the corporation. In such actions, the suing stockholder is regarded as the nominal party, with the corporation as the party in interest.**" (Cua Jr. v. Tan, 2009)

viii. Differentiate class suit and representative suit

1. CS - The plaintiffs themselves are real parties in interest and they also act on behalf of the other real parties in interest.
2. RS - They act on behalf of the real parties in interest. They themselves are not real parties in interest.

ix. Differentiate class suit and joinder of parties

1. A class suit is a form of joinder.
  1. However, a class suit is stricter because it requires the plaintiffs to have a "common and general interest" over the subject matter.
  2. Meanwhile, the joinder will still be allowed despite the parties having separate interests, if the right of relief arose from the same transaction and the parties have a common question of law or fact between them.

1. An example is the heirs of the victims of a shipwreck.

13. Suits against entities without juridical personality

- i. 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 AND COMMONLY KNOWN**. (Sec. 15, Rule 3)
  - iv. This usually applies to corporation by estoppel and partnership by estoppel.
  - v. This is PERMISSIVE in nature, since Sec. 15 used the word “may.”
- ii. Example:
  - iv. Mr. A and Mr. B bought raw materials, under the corporate name “ABC Corporation,” from Mr. C. However, upon checking with the SEC, it was revealed that ABC Corp. did not exist. Mr. A and Mr. B did not pay the purchase price upon demand. How can Mr. C file an action against Mr. A and Mr. B?
    - 1. Mr. C may sue them under the corporate name ABC Corporation, the name which they were generally and commonly known.

#### 14. Transfer of Interest

- i. 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. (Sec. 19, Rule 3)
  - iv. Court discretion
    - 1. The above provision gives the trial court discretion to allow or disallow the substitution or joinder by the transferee. Discretion is permitted because, in general, the transferee’s interest is deemed by law as adequately represented and protected by the participation of his transferors in the case. There may be no need for the transferee pendente lite to be substituted or joined in the case because, in legal contemplation, he is not really denied protection as his interest is one and the same as his transferors, who are already parties to the case. (Santiago Land Development Corporation v. Court of Appeals, 1997)
  - v. Who files the “motion”?
    - 1. The transferee, a stranger to the action, may file the motion for substitution or joinder. (Heirs of Medrano v. De Vera, 2010)
- ii. EXAMPLE:
  - iv. Mr. A is the creditor of Mr. B. Later, Mr. B failed to pay upon demand. Thus, Mr. A filed an action for collection of sum of money against Mr. B. During the pendency of the proceedings, Mr. A assigned his credit to Mr. C. Mr. B is now contending that the action must be dismissed, since Mr. A ceased to have any interest over the credit. Should the action be dismissed?
    - 1. No, the action should not be dismissed.
    - 2. Under the Rules, 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.
    - 3. Here, the action should not be dismissed, because despite the assignment of interest to Mr. C, the action for collection of sum of money will still be continued by Mr. A, the original party, against Mr. B, unless the court, upon motion, directs Mr. A to be substituted by Mr. C or directs Mr. C to be joined with Mr. A.

15. Effect of death of party litigant

- i. It extinguishes the attorney-client relationship. The attorney of the deceased client must inform the Court of the death of the client. Failure to do so would result to **disciplinary action** against the attorney.
- ii. This Section applies to civil and criminal cases.
- iii. What if the attorney failed to inform the court?
  - iv. Then the case will proceed, because the courts cannot be expected to assume the death of the party without the counsel's proper manifestation. (Tuano vs. People, 2016)
  - v. Further, failure of the counsel to inform the court of the death of his client, does **NOT DEPRIVE THE COURT OF JURISDICTION**. The decision of the court is **BINDING** upon the successors-in-interest of the deceased. (Florendo Jr. v Coloma)
- iv. What if he informed the court?
  - iv. The hearings will be suspended, until the heir, executor, or administrator of the estate of the deceased client is able to **SUBSTITUTE** him in the action. This is in compliance with **DUE PROCESS**.
    1. If the proceedings continued, despite being informed of the death of the client, the proceedings will be considered null and void for being violative of the right to due process.

16. **INDIGENT PARTIES**

i. **Indigent Parties [Rule 21]**

One who has no money or property sufficient and available for food, shelter, and basic necessities [Sec. 21, Rule 3].

ii. No condition for exemption to apply.

iii. **Exemptions from legal fees.**

1. Exemption from payment of docket and other lawful fees, and of transcripts of stenographic notes which the court may order to be furnished him
2. Amount of the docket and other lawful fees shall be a lien on any judgment rendered in the case favorable to the indigent, unless the court otherwise provides

iv. **Consequence if party not actually indigent:**

- i. The proper docket and other lawful fees shall be assessed and collected by the clerk of court.
- ii. 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.

16. **INDIGENT LITIGANTS**

a. **Indigent Litigants [Sec. 19, Rule 141]**

One whose gross income and that of their immediate family do not exceed an amount double the monthly minimum wage of an employee, and who does not own real property with a fair market value of more than PHP300,000.

b. There is a condition for exemption.

The Litigant shall execute an affidavit that he and his immediate family do not earn a gross income above mentioned, nor they own any real property with the assessed value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the litigant's affidavit. The following are

**c. Exemptions from legal fees.**

1. Exempt from the payment of legal fees.
2. The legal fees shall be a lien on any judgment rendered in the case favorably to the indigent litigant, unless the court otherwise provides.

- d.** Any falsity in the affidavit of a litigant or a disinterested party shall be sufficient cause to dismiss the complaint or action or to strike out the pleading of that party, prejudice whatever liability may have been incurred.

**17. Summary of rules for indigent litigants**

If the applicant for exemption meets the salary and property requirements under Sec. 19 of Rule 141, then the grant of the application is mandatory.

On the other hand, when the application does not satisfy one or both requirements, then the application should not be denied outright; instead, the court should apply the "indigency test" under Sec. 21, Rule 3 and use its sound discretion in determining the merits of the prayer for exemption [Sps. Algura v. City of Naga, G.R. No. 150135 (2006)].

**18. Death of a party litigant; Action of the courts**

- a. First, the court will check if the claim has been extinguished due to the death of the party litigant
  1. If it is deemed extinguished, then the case will be dismissed. e.g. legal separation case.
  2. If it is not extinguished, then the following will take place:
    1. The Court shall order the legal representative/s of the deceased, named by the counsel, to appear and be SUBSTITUTED within 30 days from notice. (Sec. 16, Rule 3)
    2. **The heirs of the deceased may be allowed to be substituted without requiring the appointment of an executor/administrator.** Formal substitution is not necessary. (Sec. 16, Rule 3)
      1. Basis? Art. 777 of the Civil Code provides that "the rights to the succession are transmitted from the moment of the death of the decedent." (San Juan v Cruz)
    3. Now, if 1) the counsel did not name a substitute/representative, or 2) the one named fails to appear within the specified period, the Court may order the opposing party to procure the appointment of an executor/administrator for the estate of the deceased, within a specified time.
      1. There is no need for summons to be served to the heirs who will substitute or for the complaint to be amended. **Jurisdiction over**

**the person of the heirs, the executor, and the administrator is acquired by the service of the order of substitution.**

19. Actions for recover of money arising from contractual obligations

- a. This applies to QUASI-CONTRACTS, and those obligations arising from LAW. It does not apply to quasi-delicts or delicts. Why? Because Sec. 20 states "express or implied."
- b. Recovery of money arising from contract is not extinguished by the death of the party litigant.
  1. Hence, if the defendant dies BEFORE the ENTRY OF FINAL JUDGMENT, the court shall NOT dismiss the suit.
    1. This case shall be allowed to CONTINUE until entry of final judgment.
      1. **NOTE:** This presupposes that the complaint for the recovery of money arising from contract was ALREADY FILED. If it was not filed, at the time of the death of the party litigant, Sec. 20, Rule 3 will not apply.
    2. On the other hand, if the defendant dies AFTER the ENTRY OF FINAL JUDGMENT, the case would obviously not be dismissed, since the case has been disposed of.
- c. How can we correlate Sec. 16 on death of party litigant and Section 20?
  1. For an action for recovery of money arising from contractual obligations, the court will NOT dismiss the action if the defendant dies. Instead, the action shall be ALLOWED TO CONTINUE until the entry of final judgment. (Sec. 20, Rule 3)
  2. However, before the action will be allowed to continue, the counsel of the party who died must inform the court of (1) the fact of his death, and (2) the person who will substitute the party litigant in the action. (Sec. 16, Rule 3)
  3. Once the steps in Sec. 16 were complied with, then the action will now be ALLOWED TO CONTINUE. (Sec. 20, Rule 3)
- d. As stated, the case shall be allowed to continue until entry of final judgment.
  1. What happens if the plaintiff prevails in the action for recovery of money arising from contractual obligations?
    1. The trial court cannot issue an order of execution. Instead, if the plaintiff obtains a favorable judgment, said judgment shall be enforced following the Rules for **prosecuting claims against the estate of the deceased.**
    2. In other words, the motion for issuance of writ of execution will not lie. Instead, the plaintiff must **submit his claim in the action for the settlement of estate of the deceased litigant.** (Rule 86)

20. Distinguish Sec. 20, Rule 3, Sec. 1, Rule 86, and Sec. 7, Rule 39

Sec. 20, Rule 3	Sec. 1, Rule 86	Sec. 7, Rule 39
This applies in actions for recover of money arising from contractual obligations, and the defendant dies BEFORE entry of final judgment.	This applies to all money claims against the decedent. Sec. 20, Rule 3 and Rule 86 work hand in hand.	This applies to special circumstances. If these circumstances do not apply to the factual circumstances in the Bar question, we go to Sec. 20, Rule 3 and Sec. 1, Rule 86.
This only applies to the death of the defendant.	This only applies to the death of the defendant.	This applies to the death of the defendant or the plaintiff.

1. What is Sec. 1, Rule 86?
  - a. Immediately after granting letters testamentary or of administration, the court shall issue a notice requiring all persons having **money claims against the decedent** to file them in the office of the clerk of said court.
2. What is Sec. 7, Rule 39?
  - a. In case of the death of a party, execution may issue or be enforced in the following manner:
    1. In case of the death of the judgment obligee, upon the application of his executor or administrator, or successor in interest;
    2. 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;
    3. 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.
  - b. EXAMPLES:
    1. Mr. A filed an action for collection of sum of money against Mr. B. While the case is pending, Mr. B died. What provision will apply?
      1. Sec. 20, Rule 3. Thus, the action will not be dismissed and it shall continue. If the plaintiff prevails, his money claim will be submitted in the estate settlement proceedings, under Rule 86.
    2. Mr. A filed an action for collection of sum of money against Mr. B. Mr. A prevailed. During the execution stage, Mr. B died. What provision will apply?
      1. Rule 86. Thus, his money claim will be submitted in the estate settlement proceedings.
    3. Mr. A filed an action for collection of sum of money against Mr. B. Mr. A prevailed. During the execution stage, the sheriff was able to levy the motor

vehicle of Mr. B. Before the motor vehicle was sold in a public action, Mr. B died. What provision will apply?

1. Section 7(3), Rule 39. Since Mr. B died after the sheriff **LEVIED** his motor vehicle, this vehicle may be sold to satisfy the judgment in favor of Mr. A.
4. Mr. A filed an action for reconveyance of real property against Mr. B. Mr. A prevailed. During the execution stage, Mr. B died. What provision will apply?
  1. Sec. 7(2), Rule 39. Since the judgment is for **RECOVERY OF PROPERTY**, the execution will be enforced against the administrator of Mr. B's estate. The plaintiff will be able to recover the property, without resort to Rule 86.
5. Mr. A filed an action for collection of sum of money against Mr. B. Mr. A prevailed. During the execution stage, Mr. A died. What provision will apply?
  1. Sec. 7(1), Rule 39. Thus, the execution may be enforced upon the application of the administrator of the estate of the plaintiff.

ARRC

## RULE 6 - KINDS OF PLEADINGS

### 1. PLEADINGS

#### 1. Kinds of pleadings and when they should be filed

##### 1. Complaint

1. The filing of the same commences the civil action and interrupts the prescriptive period of actions under Art. 1155 of the Civil Code.

1. However, if additional defendants are impleaded in a later pleading (such as amended pleading), the action is commenced with regard to them from the date of the filing of the later pleading, irrespective of whether the motion for its admission (amendment as a matter of discretion) is denied by the court. (Sec. 5, Rule 1)

##### 2. EXAMPLE:

1. Mr. A entered into a written contract of loan with Mr. B and Mr. C. Mr. B and Mr. C were joint debtors. Once the loan became due and demandable, Mr. A sent demand letters to Mr. B and Mr. C for the payment of the same. Mr. B and Mr. C was not able to pay upon demand. After 9 years, Mr. A filed an action for collection of sum of money against Mr. B. 2 years later, Mr. A impleaded Mr. C in the same action as a defendant.

1. Should the action against Mr. B be dismissed?

1. No, the action against Mr. B should not be dismissed.

2. Under the Rules, 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 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. Under the Civil Code, prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor. Further, an action based on a written contract must be brought within 10 years from the time the right of action accrues.

3. Here, the action against Mr. B should not be dismissed, because an action

based on a written contract of loan prescribes in 10 years, and the prescriptive period was interrupted when Mr. A filed an action for collection of sum of money against Mr. B, 9 years after Mr. A sent a demand letter to Mr. B.

2. Should the action against Mr. C be dismissed?
  1. Yes, the action against Mr. C should be dismissed.
  2. Under the Rules, 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 regard to him on the dated of the filing of such later pleading, irrespective of whether the motion for its admission, if necessary, is denied by the court. Under the Civil Code, prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor. Further, an action based on a written contract must be brought within 10 years from the time the right of action accrues.
  3. Here, the action against Mr. C should be dismissed, because an action based on a written contract of loan prescribes in 10 years, and the prescriptive period was interrupted when Mr. A impleaded Mr. C in the action for collection of sum of money against Mr. B, which was already 11 years after Mr. A sent a demand letter to Mr. C.

2. Payment of docket fees and acquisition of jurisdiction

1. General Rule: The filing of the complaint AND the payment of the prescribed docket fees will vest the trial court with JURISDICTION over the subject matter or nature of the action. (Sun Life Insurance Office v. Asuncion, 1989) Thus, if the prescribed docket fee was not paid, the court does not acquire jurisdiction over the subject matter or nature of the action.

1. Exception: The Court has applied the rule on liberal interpretation for payment of docket fees. If the complaint was not accompanied by payment of the docket fees, at the time of its filing, this does not automatically cause the dismissal of the case, as long as the fee is paid WITHIN THE APPLICABLE PRESCRIPTIVE PERIOD OR REGLEMENTARY PERIOD. (Heirs of Reinoso Sr. v. CA)
2. Moreover, there must be **no intent to defraud** the government by the failure to pay the correct amount of the filing fees. (Heirs of Hinog v. Melicor, 2005) In case where the party does not deliberately intend to defraud the court in payment of docket fees, and manifests its willingness to abide by the rules by paying additional docket fees when required by the court, the liberal doctrine applies. (United Overseas Bank v. Ros, 2007)
  1. **NOTE:** Thus, the exception applies when (1) the fee is paid within a reasonable period of time, and (2) there is no intent to defraud the government. If there was intent to defraud the government, the general rule applies.
2. The same rule applies to **permissive counterclaims, third-party claims and similar pleadings**, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period. (Sun Life Insurance v. Asuncion, 1989)
3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, **the additional filing fee therefor shall constitute a lien on the judgment**. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee. (Sun Life Insurance v. Asuncion, 1989)
4. **EXAMPLES:**
  1. Mr. A filed a complaint for specific performance against Mr. B. In the body of the complaint, Mr. A alleged that the Mr. B was liable for damages in the amount of P78,750,000.00. However, this amount of damages was not stated in the prayer of the complaint. Thus, Mr. A only paid P410.00 as filing fees, considering the action was supposedly incapable of pecuniary estimation.

Later, Mr. B filed his answer, alleging that the complaint must be dismissed for lack of jurisdiction. Should the action be dismissed?

1. Yes, the action should be dismissed.
2. Case law dictates that there must be no intent to defraud the government by the failure to pay the correct amount of the filing fees. Otherwise, the courts will not acquire jurisdiction over the case.
3. Here, the action should be dismissed, because it appears that Mr. A did not allege the amount of damages he was seeking in the prayer of the complaint, in order to evade the payment of docket fees. Thus, Mr. A intended to defraud the government.

2. The Regional Trial Court (RTC) rendered a decision against Kat. She received a copy of the decision on December 26, 2021. Kat's counsel filed with the Supreme Court a petition for review on certiorari under Rule 45 by registered mail on January 10, 2022. The petition was dismissed for failure to pay the docket fees within the reglementary period. Kat's counsel challenged the dismissal arguing that: (i) the intention was to pay the docket fees after the same is assessed upon the court's receipt of the petition by registered mail; and (ii) the dismissal of the petition effectively rendered nugatory a party's statutory right to appeal by registered mail under the rules. Kat's counsel also added that she did not want to include cash money in the mail. Is Kat's counsel, correct? Explain briefly. (5 points) (2022 Bar Examination)

- ii. No, Kat's counsel is not correct. Case law dictates that the right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. Further, under the Rules of Court, in a petition for review on certiorari under Rule 45, 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. SUGGESTED ANSWER: Here, the first

contention of Kat's counsel is wrong, because the docket fees must be paid at the time of the filing of the petition, and not at a later time. Further, the second contention is wrong, because Kat's counsel failed to follow the Rules of Court. Thus, the petition was dismissed due to the fault of Kat's counsel. Kat's statutory right to appeal was not violated.

3. Spouses Marlon and Edith have three (3) children ages 15, 12 and 7, who are studying at public schools. They have a combined gross monthly income of P30,000.00 and they stay in an apartment in Manila with a monthly rent of P5,000.00. The monthly minimum wage per employee in Metro Manila does not exceed P13,000.00. They do not own any real property. The spouses want to collect a loan of P25,000.00 from Jojo but do not have the money to pay the filing fees. (2016 Bar Examination)
  - a. Would the spouses qualify as indigent litigants under Section 19, Rule 141 on Legal Fees? (2.5%)
    - (a) No, the spouses will not qualify as indigent litigants under Section 19, Rule 141 of the Rules of Court which states that indigent litigants (a) whose gross income and that of their immediate family do not exceed four thousand (P4,000.00) pesos a month if residing in Metro Manila and (b) who do not own real property with an assessed value of more than fifty thousand (P50,000.00) pesos shall be exempt from the payment of legal fees. Here, although the spouses do not own real property, their combined grossly income of PhP30,000 is more than PhP4,000.
  - b. If the spouses do not qualify under Rule 141, what other remedy can they avail of under the rules to exempt them from paying the filing fees? (2.5%)
    - (b) The spouses may seek authority from the court to litigate their claim as an indigent. The spouses may file an ex parte application indicating therein that they have no money or property sufficient and available for food, shelter and basic necessities for himself and his family.

**NOTE: Under the Amended Rules**

However, the contents of pleadings are no longer limited to ultimate facts.