

(Notes in **red** are opinions of the lecturers, of authors on the subject, or of the reviewee.
Cited provisions are from the Rules of Court unless otherwise provided.)

REMEDIAL LAW

Substantive & remedial law, distinguished

SUBSTANTIVE LAW	REMEDIAL (PROCEDURAL) LAW
Creates/defines/regulates rights re: (a) Life, liberty, property (b) Powers of agencies/instrumentalities for the administration of public affairs <i>Violation</i> : gives rise to a cause of action	Prescribes methods of enforcing rights & obligations created by substantive law
Creates vested rights	Does not create vested rights
Prescriptive in application	Retroactive in application
SC cannot enact substantive laws	SC is empowered to promulgate remedial laws

Rules on retroactivity of laws (cf. Art. 4, CC)

GR: *Lex prospicit, non respicit*, i.e. laws shall have no retroactive effect

XPN: [TEEN CRIP] (tfw racist mnemonic)

1. Tax law
2. Emergency laws
3. When the law expressly provides
4. Laws creating new substantive rights
5. Curative statutes
6. **Remedial law**
7. Interpretative statutes
8. Penal law favorable to the accused, *provided* he/she is not a habitual criminal

XPN to XPN: No retroactivity where such would result in:

1. Impairment of obligation of contracts
2. *Ex post facto* law

NATURE OF PHILIPPINE COURTS

Court: organ of gov't, belonging to the judicial department, whose function is the application of law to controversies brought before it, & public administration of justice (*Black's Law Dictionary*)

Hierarchy of courts (Case: **St. Martin Funeral Homes vs. NLRC**)

GR: A higher court will not entertain direct resort to it

 ↳ SC = court of last resort (& must remain so to satisfactorily perform its functions)

XPN: SC may disregard hierarchy if warranted by the nature & importance of the issues raised in the interest of speedy justice & to avoid future litigations (i.e. where the redress desired cannot be obtained in the appropriate courts)

Judicial stability (Cases: **Lapu-Lapu Dev't vs. GMC, Villasi vs. Garcia**)

GR: No court has the authority to:

1. Interfere by injunction w/ the judgment of another court of coordinate jurisdiction
2. Pass upon/scrutinize/declare as unjust a judgment of another court

XPN: Where a 3rd party claimant is involved (*terceria*)

DOCTRINES RELATED TO JURISDICTION

(A few all-encompassing doctrines on jurisdiction and related matters are tackled here. See "CivPro" and "CrimPro" for a more detailed discussion on jurisdiction in civil & criminal cases.)

Primary jurisdiction

Case: **Villaflores vs. CA** – courts will not resolve a controversy involving a question w/in the jurisdiction of an administrative tribunal, esp. where the question demands the exercise of sound administrative discretion requiring special knowledge/experience in determining technical & intricate matters of fact

Adherence to jurisdiction (Cases: **Echegaray vs. Sec. of Justice, Manotoc vs. CA**)

GR: 1. Jurisdiction, once attached, cannot be ousted by subsequent happenings/events although of a character w/c would have prevented jurisdiction from attaching in the first instance

2. The court retains jurisdiction until it finally disposes of the case

XPN: Jurisdiction may be ousted where:

1. A subsequent statute expressly prohibits continued exercise of jurisdiction
2. A penal law is repealed by a subsequent law
3. Accused is deprived of his constitutional right(s) (e.g. right to counsel)
4. The statute expressly provides, or is construed to the effect that it is intended to operate as to actions pending before its enactment
5. Proceedings in court acquiring jurisdiction is terminated/abandoned/declared void
6. Appeal has been perfected
7. Provided for by curative statutes

RES JUDICATA

Res judicata – an existing final judgment/decree rendered on the merits, w/o fraud/collusion, by a court of competent jurisdiction, upon any matter w/in its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions/suits in the same or any other jud. tribunal of concurrent jurisdiction on the matters in issue in the 1st suit (Case: **Selga vs. Brar**)

Grounds for application: 1. Public policy & necessity
2. Hardship upon one should he be vexed twice for the same cause

Requisites [+2 aspects of res judicata] (Case: **PNB vs. Sia)**

1. Judgment/order sought to bar the new action = final
2. Decision, rendered by a court w/ jurisdiction over the subject matter & the parties
3. Disposition of the 1st case = on the merits
4. Identity of parties, subject matter & causes of action between the 1st & 2nd actions

Aspects of res judicata: (a) **Bar by prior judgment (i.e. claim preclusion) (R39 S47[b])** – where all three concur as re: the 1st & 2nd cases!

(b) **Conclusiveness of judgment (i.e. issue preclusion; collateral estoppel) (R39 S47[c])** – facts & issues actually & directly resolved in a former suit cannot again be raised in any future case between the same parties re: different cause of action (cf. Case: **Piñero vs. NLRC**)

STARE DECISIS

Stare decisis [*et non quieta movere*] (i.e. “adherence to precedents”) enjoins adherence by lower courts to doctrinal rules established by the SC in its final decisions (*basis: once a question of law has been examined & decided, it should be deemed settled & closed to further argument*)

Case: **Ting vs. Velez-Ting** – kinds of *stare decisis*:

1. **Vertical**: duty of lower courts to apply decisions of higher courts in cases re: same facts
2. **Horizontal**: high courts must follow its own precedents
 - (a) **Constitutional**: involves judicial interpretations of the Constitution
 - (b) **Statutory**: involves interpretations of statutes

LITIS PENDENTIA

Litis pendentia refers to a situation where 2 actions are pending between the same parties for the same cause of action, so that one of them becomes unnecessary & vexatious, based on the policy vs. multiplicity of suits & authorizes *motu proprio* dismissal (Case: **Republic vs. Carmel**)

Reqs.: 1. Identity of parties (*or* at least such as representing the same interest in both actions)
2. Identity of rights asserted & relief prayed for
3. Identity of the two cases, such that judgment in one, regardless of w/c party is successful, would amount to *res judicata* in the other

Which action should prevail? – the ff. considerations should be made, in order:

1. Date of filing (**prior est tempore?** 😊)
2. WON the action sought to be dismissed was filed merely to pre-empt the later action
3. WON the action is the appropriate vehicle for litigating the issues

SUPREME COURT’S RULE-MAKING POWER

Art. VIII, Sec. 5, CONST. (SC’s rule-making power)

SC has the power to promulgate rules re:

1. Protection & enforcement of constitutional rights
2. Pleading, practice, & procedure in all courts
3. Admission to the practice of law
4. The Integrated Bar
5. Legal assistance to the underprivileged

Limitations on the rule-making power

The rules so promulgated shall: **[SUN]**

1. Provide a simplified, inexpensive procedure for the speedy disposition of cases
2. Be uniform for all courts of the same grade
3. Not [DIM] diminish/increase/modify substantive rights

Power to amend/suspend procedural rules

- Cases: (a) **Makati Insurance vs. Reyes** – SC has the power to amend/repeal/establish new rules for a more simplified & inexpensive process, & speedy disposition of cases
- (b) **CIR vs. Mirant Pagbilao** – SC can do this when...
- The purpose of justice requires it, or
- When compelling reasons so warrant
- (c) **Sarmiento vs. Zaratan** – “compelling reasons” include...
- Existence of special/compelling circumstances
- Merits of the case

- Cause not entirely attrib. to fault/negligence of party favored by suspension
- Lack of any showing that the review sought is merely frivolous & dilatory
- Other party will not be unduly prejudiced thereby

R1 S6 (interpretation of the RoC)

GR: Liberal construction (in order to promote its objective of securing a just, speedy, & inexpensive disposition of every action & proceeding)

XPN: Strict construction of the ff.:

1. Reglementary periods
2. Rule on forum shopping
3. Service of summons

R143 (applicability of the RoC)

GR: The RoC shall not apply to the ff. cases: [**NICOLE**]

1. Naturalization
2. Insolvency
3. Cadastral
4. Others not provided for therein
5. Land registration
6. Election

XPN: The RoC can apply to the above:

1. Only by analogy or suppletorily, &
2. Wherever practicable & convenient

SUMMARY PROCEDURE

Sec. 1, RSP (applicability)

(see corresponding sections in "CivPro" & "CrimPro" re: jurisdiction of MTCs)

Sec. 3, RSP (allowed pleadings)

1. Complaints
2. Compulsory counterclaims
3. Cross-claims
4. Answers thereto

Sec. 19, RSP (prohibited pleadings)

1. Motion to dismiss the complaint or to quash the complaint/information

XPN: Where the ground is:

- (a) Lack of jurisdiction over the subject matter; or
- (b) Failure to comply w/ prior referral to Lupong Tagapamayapa for conciliation
 - ↳ (**cf. Sec. 18, RSP**) noncompliance can lead to dismissal w/ prejudice

2. Motion for bill of particulars
3. Motion for new trial/ reconsideration/reopening of trial
4. Petition for relief from judgment
5. Motion for extension of time to file pleadings/affidavits/any other paper
6. Memoranda
7. Petition for *certiorari*/prohibition/*mandamus* against any interlocutory order by the court
8. Motion to declare defendant in default
9. Reply
10. 3rd party complaints

11. Interventions

Sec. 6, RSP (effect of defendant's failure to timely answer the complaint)

Period to answer: 10 days from service of summons (cf. Sec. 5, RSP)

Effect of failure to answer: the court, *motu proprio* or on motion of plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint & limited to what is prayed for

- ↳ w/o prejudice to **R18 S4** (re: non-appearance of party = excused if (a) there is valid cause therefor, or (b) he/she has a representative fully authorized in writing) in case there are 2+ defendants

Sec 7, RSP (effect of failure to appear in preliminary conference)

1. *Plaintiff fails to appear:*
 - (a) Cause for dismissal of the complaint
 - (b) Defendant = judgment on counterclaim (if any); apply Sec. 6 (see above)
 - (c) All cross-claims shall be dismissed
2. Sole defendant fails to appear: apply Sec. 6 (see above)

KATARUNGANG PAMBARANGAY

Covered cases

<i>Civil</i>	All disputes involving parties who <u>actually reside in same city/municipality</u> GR: No authority if parties actually reside in barangays of diff. cities/municipalities XPN: Where such barangays <i>adjoin each other</i>
<i>Criminal</i>	Offenses punishable by imprisonment of ≤ 1 yr. or fine of ≤ P5K (Sec. 508, LGC)

Procedure

1. Complainant complains (orally or in writing) to *Lupon* chairman of the barangay
2. *W/in the NEXT WORKING DAY from receipt of complaint*, *Lupon* chairman summons respondent, w/ notice to complainant, for them & their witnesses to appear for mediation
3. *If Lupon chairman fails in mediation efforts w/in 15 DAYS from 1st meeting of the parties*, he/she shall set the date for the constitution of the *Pangkat*
4. *Pangkat* convenes **≤3 DAYS** from its constitution to hear both parties & their witnesses, simplify issues, & explore all possibilities for amicable settlement
5. *Pangkat* arrives @ settlement or resolution of the dispute w/in **15 DAYS** from convention (*period to decide, extendible for another 15 DAYS*)

Cases with no prior barangay conciliation/mediation req't

1. One party is –
 - (a) The gov't (or any subdivision/instrumentality thereof)
 - (b) Public officer/EE; dispute relates to performance of his/her official functions
2. Dispute involves real property located in different cities/municipalities
XPN: Parties agree to submit dispute to amicable settlement by an appropriate *Lupon*
3. Any complaint by/against corporations/partnerships/other juridical entities
4. Where parties actually reside in barangays of diff. cities/municipalities (see above)
5. Offenses w/ –
 - (a) Max. penalty of imprisonment > 1 yr. or fine > P5K (see above)
 - (b) No private offended party
6. Disputes where urgent legal action is necessary to prevent injustice –
 - (a) Criminal cases where accused is under police custody or detention
 - (b) *Habeas corpus*

[DEJA ENTENDU NOTES] [Preliminaries] [v.1.1, 2018]

deja [already] + *entendu* [heard] = you've heard all of this before

- (c) Actions coupled w/ provisional remedies
- (d) Actions w/c may be barred by prescription
- 7. Any class of disputes w/c the President may determine –
 - (a) In the interest of justice; or
 - (b) Per recommendation of the Secretary of Justice
- 8. Disputes arising from the CARP
- 9. Labor disputes
- 10. Actions to annul judgment upon a compromise (Adm. Circ. 14-93, par. 11)

Rules on venue

	SAME BARANGAY →	<i>Lupon</i> of said barangay
[1] DISPUTES BETWEEN PERSONS ACTUALLY RESIDING IN...	DIFFERENT BARANGAYS W/IN SAME CITY/MUN. →	1. <i>One respondent only</i> : barangay where the respondent resides 2. <i>Multiple respondents</i> : barangay where any of the respondents actually resides, at the election of the complainant
[2] DISPUTES INVOLVING REAL PROPERTY OR ANY INTEREST THEREIN →		Barangay where the real property (or the larger portion thereof) is situated
[3] WORKPLACE/ON-CAMPUS DISPUTES →		Barangay where such workplace or institution is located

Case: **Judge Villanueva of Baguio case** –

- (a) Postal address ≠ residential address
- (b) Residential address is the one contemplated by the provisions of the KPL!

Amicable settlement/compromise agreement; repudiation; non-compliance

<i>Context</i>		
BARANGAY CONCILIATION	→ AMICABLE SETTLEMENT →	COMPROMISE AGREEMENT

- 1. *Who*: any party to the settlement
- 2. *Where*: w/ the *Lupon* chairman
- 3. *When*: w/in **10 DAYS** from the date of the amicable settlement
- 4. *How*: by filing a statement of repudiation, sworn to before the *Lupon* chairman, on the ground of vitiated consent (i.e. fraud, violence, intimidation)

Effect of repudiation: sufficient basis for issuance of certification to file action (**Sec. 418, LGC**)

Effect if not repudiated w/in 10 days: the amicable settlement has the effect of a final judgment!

- ⊃ May then be enforced by execution by the *Lupon* w/in **6 MOS.** from date of settlement
- After the lapse of the 6-month period*: may be enforced by action in the MTC!

Case: **Miguel vs. Montañez** – a party's non-compliance with the amicable settlement paves the way for the application of Art. 2041, CC, under w/c the other party may:

- 1. Enforce the compromise, following the procedure laid out in the KPL; or
- 2. Consider it as rescinded and insist upon his/her original demand

2016 REVISED PROCEDURE ON SMALL CLAIMS (A.M. No. 08-8-7-SC, as amended)

Sec. 3 (objectives)

- 1. To protect & advance the constitutional right of persons to speedy disposition of cases

[DEJA ENTENDU NOTES] [Preliminaries] [v.1.1, 2018]

deja [already] + *entendu* [heard] = you've heard all of this before

2. To provide a simplified & inexpensive procedure for disposition of small claims cases
3. To introduce innovations & best practices for the benefit of the underprivileged

Secs. 2 & 5 (applicability) – sum-of-money¹ cases (Sec. 5[a])

↳ The Rules on Small Claims apply in actions w/c are PURELY CIVIL in nature

Threshold amount: **≤P300K** (exclusive of DILeC) [**no attorney's fees – walang abugado dito!**]

Also applicable in:

1. *Damages* cases – for liquidated damages arising from contract! (Sec. 5[b])
2. *Brgy. amicable settlement or arbitral award re: money claims* under KPL (Sec. 5[c])

Sec. 8 (joinder of claims) – ALLOWED, *provided* the aggregate amt. does not exceed P300K!

NOTE: The 2018 amendment only changed Sections 2 & 8 of the Rules on Small Claims. Purportedly, no changes seem to have been made regarding the clause in FORM 1-SCC waiving the excess should someone file a small claim but exceeding the old threshold amount of P200K. Be that as it may, it would make sense to argue that the threshold value in FORM 1-SCC would naturally increase, in view of said amendments.

You can file a claim exceeding P300K as a small claim!

↳ *Effect:* you are deemed to have waived the excess (*cf. FORM 1-SCC*)

Re: interplay between BP 22 & the Rules on Small Claims –

1. ***Hindi naiso-small claims ang (civil aspect ng) BP 22 cases!***

↳ No reservation to file civil action allowed re: BP 22 (*cf. R111 S1[b], RoC*)

2. But what if a small claims case re: bounced check is filed first? Can a BP 22 case be filed during the pendency of the small claim? **NO!** Item 4 of Form 1-A-SCC (*verification & certification against forum shopping*) provides for a waiver of filing a BP 22 case later on (i.e. **filing a small claims case constitutes waiver to later file a BP 22 case** ☺)

Sec. 7 (venue)

GR: Regular rules on venue apply!

XPN: Plaintiff is engaged in the business of banking/lending/similar activities, & has a branch in the city/municipality where defendant resides – *MTC where that branch is located*

Secs. 6, 9-14 (pleadings filed) – STATEMENT OF CLAIM → RESPONSE

1. No formal pleadings (there are pre-made forms available [**for free!**] to be filled up ☺)
2. **Sec. 16 (prohibited pleadings)**
 - (a) MTD
 - (b) Motion for bill of particulars
 - (c) MR/NT, or motion for reopening of trial
 - (d) Petition for relief from judgment
 - (e) Motion for extension of time to file pleadings/affidavits/any other paper
 - (f) Memoranda
 - (g) Petition for certiorari/mandamus/prohibition vs. interlocutory order issued by the court
 - (h) Motion to declare defendant in default
 - (i) Dilatory motions for postponement
 - (j) Reply & rejoinder
 - (k) Third-party complaints
 - (l) Interventions
3. **Sec. 14 (failure to file a response)**

¹ Under sale, lease, loan, services, mortgage, etc. (**Atty. Villasis says: enumeration not exclusive**)

- (a) *If defendant also failed to appear in the hearing: court renders judgment ex parte*
- (b) *If defendant appeared in the hearing:*
 - Defendant may raise his/her defense(s)
 - Court ascertains w/c defense shall constitute defendant's response
 - Court renders judgment as if a response has been filed

Sec. 15 (allowed counterclaims)

- 1. COMPULSORY:*
 - (a) W/in the coverage of the Rules, exclusive of interest & costs;
 - (b) Arises out of the same transaction/event that is the subject matter of plaintiff's claim;
 - (c) Does not require for its adjudication the joinder of 3rd parties; *and*
 - (d) Not the subject of another pending action[*otherwise, defendant shall be barred from suing on the counterclaim]
- 2. PERMISSIVE:
 - (a) Does not arise out of the same transaction/occurrence;
 - (b) Amount & nature thereof are w/in the coverage of the Rules; *and*
 - (c) Prescribed docket and other legal fees are paid

Sec. 23 (hearing)

- 1. Judge shall first exert efforts to bring the parties to amicably settle the matter
- 2. *Failing (1)*, hearing proceeds (informal & expeditious manner; terminated w/in same day)

Sec. 18 (appearance of parties)

GR: Parties should appear personally

Sec. 20 (effect[s] of failure to appear)

- 1. Plaintiff – dismissal w/o prejudice
 - ↳ (present defendant = entitled to judgment on a permissive counterclaim)
- 2. Defendant – same effect as failure to file a response (*see previous page*)
- 3. Both – dismissal w/ prejudice of the statement of claim & any counterclaim(s)

XPN: Representatives are allowed for valid cause, *provided* the ff. reqs. concur:

- 1. Related to or next-of-kin of the party represented;
- 2. Must not be a lawyer; *and*
- 3. Authorized by an SPA (*cf. FORM 7-SCC*) to enter into amicable settlement *or* enter into stipulations/admissions of facts & documentary exhibits

Re: juridical entities – shall not be represented by a lawyer IN ANY CAPACITY!

Sec. 21 (postponement of hearing) – ALLOWED, *provided...*

- 1. Only upon proof of physical inability of the party to appear as scheduled; &
- 2. ONLY ONCE!

Sec. 28 (applicability of rules on mediation/JDR) – NOT APPLICABLE!

↳ (*inasmuch as parties may enter into compromise @ any stage of the proceedings*)

Sec. 24 (decision) – FINAL, EXECUTORY, & UNAPPEALABLE!

Re: "unappealable" – Case: ALR vs. Mondejar – the appropriate remedy for decisions in small claims actions is *certiorari* under R65 (**Atty. Villasis' take: a petition for annulment of judgment² [cf. R47 S10, RoC] can also be resorted to since it is not included in the enumeration of prohibited pleadings in Sec. 16; *expressio nullius est exclusio alterius***)

² of course, where extrinsic fraud (outside MR/NT) *or* lack of jurisdiction subsists as a ground