

[1997 RULES OF CIVIL PROCEDURE, July 01, 1997]

1997 RULES OF CIVIL PROCEDURE AS AMENDED (RULES 1 – 71, RULES OF COURT)

PER RESOLUTION OF THE SUPREME COURT IN
BAR MATTER NO. 803 ADOPTED IN BAGUIO CITY ON
APRIL 8, 1997

RULES OF COURT

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

RULE 1 GENERAL PROVISIONS

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

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

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

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

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

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

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

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

SEC. 5. *Commencement of action.*— A civil action is commenced by the filing of the original complaint in court. If an additional defendant is impleaded in a later

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

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

CIVIL ACTIONS ORDINARY CIVIL ACTIONS

RULE 2 CAUSE OF ACTION

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

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

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

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

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

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

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

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

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

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

RULE 3
PARTIES TO CIVIL ACTIONS

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

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

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

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

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

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

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

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

SEC. 9. *Non-joinder of necessary parties to be pleaded.*— Whenever in any

pleading in which a claim is asserted a necessary party is not joined, the pleader shall set forth his name, if known, and shall state why he is omitted. Should the court find the reason for the omission unmeritorious, it may order the inclusion of the omitted necessary party if jurisdiction over his person may be obtained.

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

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

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

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

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

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

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

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

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

SEC 16. Death of party; duty of counsel— Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives.

Failure of counsel to comply with this duty shall be a ground for disciplinary action.

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

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

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

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

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

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

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

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

Such authority shall include an exemption from payment of docket and other lawful