

[RULES OF COURT IN THE PHILIPPINES, January 01, 1964]

RULES OF COURT IN THE PHILIPPINES PROMULGATED BY THE SUPREME COURT OF THE PHILIPPINES EFFECTIVE JANUARY 1, 1964

Pursuant to the provisions of section 13 of Article VIII of the Constitution, the Supreme Court hereby adopts and promulgates the following rules governing pleading, practice and procedure in all courts of the Philippines, and the admission to the practice of law therein:

Rule 1 TITLE AND CONSTRUCTION

Section 1. *Title of the Rules.*— These rules shall be known and cited as the Rules of Court.

Sec. 2. *Construction.*—These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.

Part I CIVIL ACTIONS

Rule 2 ACTIONS IN GENERAL

Section 1. *Action defined.*— Action means an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong.

Sec. 2. *Special proceeding distinguished.*— Every other remedy, including one to establish the status or right of a party or a particular fact, shall be by special proceeding.

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.

Sec. 4. *Effect of splitting a single cause of action.*—If two or more complaints are brought for different parts of a single cause of action, the filing of the first may be pleaded in abatement of the other or others, in accordance with section 1(e) of Rule 16, and a judgment upon the merits in any one is available as a bar in the others.

Sec. 5. *Joinder of causes of action.*— Subject to rules regarding jurisdiction, venue and joinder of parties, a party may in one pleading state, in the alternative or otherwise, as many causes of action as he may have against an opposing party (a) if the said causes of action arise out of the same contract, transaction or relation between the parties, or (b) if the causes of action are for demands for money, or are of the same nature and character. In the cases falling under clause (a) of the preceding paragraph, the action shall be filed in the inferior court unless any of the causes joined falls within the jurisdiction of the Court of First Instance, in which case it shall be filed in the latter court. In the cases falling under clause (b) the jurisdiction shall be determined by the

aggregate amount of the demands, if for money, or by their nature and character, if otherwise.

Sec. 6. *Commencement of action.*— A civil action is commenced by filing a complaint with the court.

Rule 3 **PARTIES TO CIVIL ACTIONS**

Section 1. *Who may be parties.*— Only natural or juridical persons or entities authorized by law may be parties in a civil action.

Sec. 2. *Parties in interest.*— Every action must be prosecuted and defended in the name of the real party in interest. All persons having an interest in the subject of the action and in obtaining the relief demanded shall be joined as plaintiffs. All persons who claim an interest in the controversy or the subject thereof adverse to the plaintiff, or who are necessary to a complete determination or settlement of the questions involved therein shall be joined as defendants.

Sec. 3. *Representative parties.*— A trustee of an express trust, a guardian, executor or administrator, or a party authorized by statute, may sue or be sued without joining the party for whose benefit the action is presented or defended; but the court may, at any stage of the proceedings, order such beneficiary to be made a party. 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.

Sec. 4. *Married woman.*— A married woman may not sue or be sued alone without joining her husband, except in the following instances: (a) When they are judicially separated; (b) If they have in fact been separated for at least one year; (c) When there is a separation of property agreed upon in the marriage settlements; (d) If the administration of all the property in the marriage has been transferred to her, in accordance with articles 196 and 197 of the Civil Code; (e) When the litigation is between the husband and the wife; (f) If the suit concerns her paraphernal property; (g) When the action is upon the civil liability arising from a criminal offense; (h) If the litigation is incidental to the profession, occupation or business in which she is engaged; (i) In any civil action referred to in articles 25 to 35 of the Civil Code; and (j) In an action upon a quasi delict. In the cases mentioned in paragraphs (g) to (j), the husband must be joined as a party defendant if the third paragraph of article 163 of the Civil Code is applicable.

Sec. 5. *Infants, or incompetent persons.*— A minor not emancipated, or an insane person, or one declared judicially to be incompetent, may sue or be sued in the cases provided by law, through his father, mother, guardian, or if he has none, through a guardian ad litem appointed by the court. A minor emancipated by marriage or voluntary concession can sue and be sued in court only with the assistance of his father, mother, guardian, or guardian ad litem.

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.

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.

Sec. 8. *Joinder of proper parties.*— When persons who are not indispensable but who ought to be parties if complete relief is to be accorded as between those already parties, have not been made parties and are subject to the jurisdiction of the court as to both service of process and venue, the court shall order them summoned to appear in the action. But the court may, in its discretion, proceed in the action without making such persons parties, and the judgment rendered therein shall be without prejudice to the rights of such persons.

Sec. 9. *Non-joinder of proper parties to be pleaded.*— In any pleading in which relief is asked, the pleader shall set forth the names, if known to him, of persons who ought to be parties if complete relief is to be accorded between those already parties, but who are not joined, and shall state why they are omitted.

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.

Sec. 11. *Misjoinder and non-joinder of parties.*— Mis-joinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

Sec. 12. *Class suit.*— When the subject matter of the controversy is one of common or general interest to many persons, and the parties are so numerous that it is impracticable to bring them all before the court, one or more may sue or defend for the benefit of all. But in such case the court shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests concerned are fully protected. Any party in interest shall have a right to intervene in protection of his individual interest.

Sec. 13. *Alternative defendants.*— Where the plaintiff is uncertain against which 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 to relief against the other.

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.

Sec. 15. *Associations as defendants.*— When two or more persons, associated in any business, transact such business under a common name, whether it comprises names of such persons or not, the associates may be sued by such common name. Persons associated in business who are sued under a common name must all be named individually in the answer filed by them or on their behalf with their business address.

Sec. 16. *Duty of attorney upon death, incapacity, or incompetency of party.*— Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative.

Sec. 17. *Death of party.*— After a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a legal representative of the deceased within a time to be specified by the court, and the representative shall immediately appear for and on behalf of the interest of the deceased. The court charges involved in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. 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 guardian ad litem for the minor heirs.

Sec. 18. *Death or separation of a party who is a government officer.*— When an officer of the Philippines is a party in an action 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 it is satisfactorily shown to the court that there is a substantial need for so continuing and maintaining it. Substitution pursuant to this rule may be made when it is shown by supplemental pleading that the successor of an officer adopts or continues or threatens to adopt or continue the action of his predecessor in enforcing a law averred to be in violation of the Constitution of the Philippines. 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 object.

Sec. 19. *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 his representative.

Sec. 20. *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.

Sec. 21. *Where claim does not survive.*— When the action is for recovery of money, debt or interest thereon, and the defendant dies before final judgment in the Court of First Instance, it shall be dismissed to be prosecuted in the manner especially provided in these rules.

Sec. 22. *Pauper litigant.*— Any court may authorize a litigant to prosecute his action or defense as a pauper upon a proper showing that he has no means to that effect by affidavits, certificate of the corresponding provincial, city or municipal treasurer, or otherwise. Such authority once given shall include an exemption from payment of legal fees and from filing appeal bond, printed record and printed brief. The legal fees shall be a lien to any judgment rendered in the case favorably to the pauper, unless the court otherwise provides.

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

Rule 4 VENUE OF ACTIONS

Section 1. *Venue in inferior courts.*— (a) *Real actions.*— Forcible entry and detainer actions regarding real property shall be brought in the municipality or city in which the

subject matter thereof is situated. If the property be found in two or more municipalities or cities, actions may be brought in any of them, at the option of the plaintiff.(b) *Personal actions*.— All other civil actions in inferior courts shall be brought:

1. In the place specified by the parties by means of a written agreement, whenever the court shall have jurisdiction to try the action by reason of its nature or the amount involved;
2. If there is no such agreement, in the place of the execution of the contract sued upon as appears therefrom;
3. When the place of execution of the written contract sued upon does not appear therein, or the action is not upon a written contract, then in the municipality where the defendant or any of the defendants resides or may be served with summons.

Sec. 2. *Venue in Courts of First Instance*.— (a) *Real actions*.—Actions affecting title to, or for recovery of possession, or for partition or condemnation of, or foreclosure of mortgage on, real property, shall be commenced and tried in the province where the property or any part thereof lies.(b) *Personal actions*.— All other actions may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiffs resides, at the election of the plaintiff.(c) *Actions against nonresidents*.—If any of the defendants does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff, or any property of the defendant located in the Philippines, the action may be commenced and tried in the province where the plaintiff resides or the property, or any portion thereof, is situated or found.

Sec. 3. *Venue by agreement*.— By written agreement of the parties the venue of an action may be changed or transferred from one province to another.

Sec. 4. *Waiver of objection*.— When improper venue is not objected to in a motion to dismiss it is deemed waived.

Sec. 5. *When rule not applicable*.— This rule shall not apply in those cases where a specific rule or law provides otherwise.

Rule 5PROCEDURE IN INFERIOR COURTS

Section 1. *Meaning of words*.— The words "inferior courts" include both "justice of the peace courts" and "municipal courts."

Sec. 2. *The complaint*.— The complaint shall state the name and residence of the plaintiff and those of the defendant, the substance of the claim made, the grounds of action, the relief sought, and the date when the claim arose.

Sec. 3. *Date of filing of complaint*.— Upon the filing of a complaint in an inferior court, the judge or clerk if any, shall indorse thereon the day, month, and year upon which it was filed, and forthwith issue the corresponding summons to the defendants.

Sec. 4. *Summons*.— The provisions of Rule 14 hereof shall, so far as applicable, regulate summons issued by inferior courts; but the direction contained in the summons must be that the defendant answer the complaint, and Produce his evidence at a stated place, day, and hour, which shall be not less than two (2) days nor more than five (5) days after the service of the summons it be served in the municipality or city in which the action is brought, nor less than ten (10) days nor more than twenty (20) days after such service if summons be served out of the municipality or city. The plaintiff must be notified of the date, time and place set for the trial.