

VI. COURT PROCEDURES IN CIVIL AND CRIMINAL CASES

A. The Philippine Judicial System

Judicial power, as defined in the 1987 Constitution, includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government (Article VIII, Section 1, *1987 Constitution*). This power is vested in the Supreme Court created by the Constitution and such other lower courts established pursuant to laws enacted by Congress. A policy of strict observance of such hierarchical organization of our courts is enforced by the Supreme Court which will not entertain direct resort to it unless the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for its primary jurisdiction (Article VIII, Section 1, *1987 Constitution*).

1. The Supreme Court

At the apex of the Philippine judicial system is the Supreme Court which is the only constitutional court, the sole judicial body created by the Constitution itself. It is composed of a Chief Justice and fourteen Associate Justices who may sit *en banc* or in its discretion, in divisions of three, five, or seven Members (Article VIII, Section 4 (1), *1987 Constitution*). All cases involving the constitutionality of a treaty, international or executive agreement, or law, and all other cases required by the Rules of Court to be heard *en banc*, including those involving the constitutionality, application or operation of presidential decrees, proclamations, orders, instructions, ordinances, and other regulations, are heard by the Supreme Court *en banc* and decided by it with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon (Article VIII, Section 4 (2), *1987 Constitution*).

Cases or matters heard by a division are decided or resolved with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon, and in no case, without the concurrence of at least three of such Members. No doctrine or principle of law laid down by the Court in a decision rendered *en banc* or in division may be modified or reversed except by the Court sitting *en banc* (Article VIII, Section 4 (3), *1987 Constitution*).

2. The Court of Appeals

The Court of Appeals is headed by a Presiding Justice with sixty-eight (68) Associate Justices as members (*Batas Pambansa Blg. 129* (1980), as amended by Executive Order No. 33 (promulgated on July 28, 1986) and *Republic Act No. 8246* (approved on December 30, 1996)). It exercises its powers, functions and duties through seventeen divisions, each division composed of three members, and sits *en banc* only for the purpose of exercising administrative, ceremonial or other non-adjudicatory functions (Sec. 4, *B.P. 129*, as amended by *Republic Act No. 8246*). For its *en banc* sessions, a majority of the actual members of the Court shall constitute a quorum. For the sessions of a division, three members shall constitute a quorum, and their unanimous vote shall be necessary for the pronouncement of a decision or final resolution, which shall be reached in consultation before the writing of the opinion by any member of the division. If the three members fail to reach a unanimous vote, the Presiding Justice shall designate two Justices chosen by raffle to sit temporarily with them, forming a special division of five Justices, the concurrence of a majority of which is required for the pronouncement of a judgment or final resolution (Sec. 11, *B.P. 129*, as amended by Executive Order No. 33; Sections 2 and 3, Rule 51, *1997 Rules of Civil Procedure*).

The Court of Appeals shall have its permanent stations as follows: The first seventeen (17) divisions shall be stationed in the City of Manila for cases coming from the First to the Fifth Judicial Regions; the Eighteenth, Nineteenth, and Twentieth Divisions shall be in Cebu City for cases coming from the Sixth, Seventh and Eighth Judicial Regions; the Twenty-first, Twenty-second and Twenty-third Divisions shall be in Cagayan de Oro City for cases coming from the Ninth, Tenth, Eleventh, and Twelfth Judicial Regions. Whenever demanded by public interest, or whenever justified by an increase in case load, the Supreme Court, upon its own initiative or upon recommendation of the Presiding Justice, may authorize any division of the Court to

hold sessions periodically, or for such periods and at such places as the Supreme Court may determine, for the purpose of hearing and deciding cases (Section 10 of *B.P. 129*, as amended by Section 3 of *Republic Act No. 8246*).

3. Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts

Regional Trial Courts (RTCs) are established in the thirteen Judicial Regions of the country. At present, there is a total of 950 existing branches of RTC, with 875 organized courts and 82 unorganized courts (Profile of Lower Courts by Provinces as of December 31, 1999 prepared by the Court Management Office of the Supreme Court, Annex "E" of the *1999 Annual Report of the Supreme Court of the Philippines*).

Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts are the so-called first level courts. There is a Metropolitan Trial Court (MeTC) in each metropolitan area established by law, a Municipal Trial Court in each of the other cities or municipalities and a Municipal Circuit Trial Court in each circuit comprising such cities and/or municipalities as are grouped together pursuant to law (Section 25, *B.P. 129*). There are 82 branches of Metropolitan Trial Court in Metro Manila for the National Capital Region (Section 27, *B.P. 129*). The Supreme Court shall constitute Metropolitan Trial Courts in such other metropolitan areas as may be established by law whose territorial jurisdiction shall be co-extensive with the cities and municipalities comprising the metropolitan area (Section 28, *B.P. 129*). There are presently 141 municipal trial courts in cities (MTCCs) (Profile of Lower Courts by Provinces, *supra*). In every city which does not form part of a metropolitan area, there shall be a Municipal Trial Court (MTC) with one branch except in certain designated cities where there shall be two or more branches (Section 29, *B.P. 129*). In each of the municipalities that are not comprised within a metropolitan area and a municipal circuit there shall be a Municipal Trial Court which shall have one branch except in certain designated municipalities which shall have two or more branches (Section 30, *B.P. 129*). There are presently 425 existing municipal trial courts, with 422 organized courts and 3 unorganized courts, while for municipal circuit trial courts, the total number is 476 (Profile of Lower Courts by Provinces, *supra*).

4. Shari'a Courts

For Filipino Muslims in Mindanao, *Shari'a* District and Circuit Courts were created under Presidential Decree No. 1083, otherwise known as the "Code of Muslim Personal Laws of the Philippines." *Shari'a* District Courts and Circuit Courts were established in five judicial regions, namely, the Province of Sulu; the Province of Tawi-Tawi; the Provinces of Basilan, Zamboanga del Norte and Zamboanga del Sur, and the Cities of Iligan and Marawi; and the Provinces of Maguindanao, North Cotabato and Sultan Kudarat, and the City of Cotabato. The territorial jurisdiction of each of the *Shari'a* Circuit Courts shall be fixed by the Supreme Court on the basis of geographical contiguity of the municipalities and cities concerned and their Muslim population (Articles 138 and 150, P.D. 1083). A third *Shari'a* court, the *Shari'a* Appellate Court, was created by Republic Act No. 6734, otherwise known as "The Organic Act for the Autonomous Region in Muslim Mindanao." It is composed of a Presiding Justice and two Associate Justices whose qualifications shall be the same as those for Justices of the Court of Appeals and must be learned in Islamic Law and jurisprudence (Article IX, Sections 4 and 13, Republic Act No. 6734 approved on August 1, 1989). In its Resolution in A.M. No. 99-4-06-SC (June 8, 1999), the Supreme Court authorized the organization of the *Shari'a* Appellate Court and directed the Committee on the Revision of the Rules of Court to draft the Internal Rules of the *Shari'a* Appellate Court.

5. Other Special Courts

The *Sandiganbayan* is a special court created pursuant to the 1973 Constitution, which will try and decide criminal and civil cases involving graft and corruption practices and other such offenses committed by public officers and employees, including those in government-owned or controlled corporations in relation to their office, as may be determined by law (Article III, Section 5). Its mandate was reaffirmed by the 1987 Constitution which provided that the *Sandiganbayan* shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law (Article XI, Section 4). The implementing law of the constitutional provision is Presidential Decree No. 1486, as amended by P.D. No. 1606 (effective December 10, 1978). Republic Act No. 7975 ("An Act To Strengthen the Functional and Structural Organization of the *Sandiganbayan*, Amending for that Purpose Presidential Decree No. 1606, As Amended," approved on March 30, 1995 and took effect on May 16, 1995) further strengthened its functions and structure, and Republic Act No. 8249 ("An Act

Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, As Amended; Providing Funds Therefor, and For Other Purposes,” approved on February 5, 1997) further defined its jurisdiction. The Sandiganbayan, composed of a Presiding Justice and fourteen Associate Justices, is a “special court, of the same level as the Court of Appeals and possessing all the inherent powers of a court of justice.” (Section 1, P.D. 1606, as amended by *Republic Act No. 8249*). It sits in divisions of three Justices each and the divisions may sit at the same time (Section 3, P.D. 1606). It shall have its principal office in the Metro Manila area and shall hold sessions thereat for the trial and determination of cases filed with it. However, cases originating from the principal geographical regions of the country, that is from Luzon, Visayas, and Mindanao, shall be heard in their respective regions of origin except only when the greater convenience of the accused and of the witnesses, or other compelling considerations require the contrary, in which instance a case originating from one geographical region may be heard in another geographical region. For this purpose, the Presiding Justice shall authorize any division or divisions to hold sessions at any time and place outside Metro Manila and, when the interest of justice so requires, outside the territorial boundaries of the Philippines. The Sandiganbayan may require the services of the personnel and the use of facilities of the courts or other government offices where any of the divisions is holding sessions and the personnel of such courts or offices shall be subject to its orders (Section 2, P.D. 1606, as amended by *Republic Act No. 8249*).

The *Court of Tax Appeals* was established under Republic Act No. 1125 and is composed of a Presiding Justice and two Associate Justices (Section 1, Republic Act No. 1125). Its mandate is to adjudicate appeals involving internal revenue tax and customs cases in order to assist the government in the expeditious collection of revenues as well as provide a forum for taxpayers against unjust and erroneous tax assessments and impositions. Taxation being a specialized and technical field of law, the Court of Tax Appeals was conceived as “a special court that would set comprehensive, logical and clear-cut judicial rulings on taxation” towards better revenue administration and development of jurisprudence on tax matters (See Explanatory Note, Senate Bill No. 2, Third Congress of the Philippines).

6. Family Courts

The latest addition to the Philippine judicial system is the *Family Court* created under Republic Act No. 8369, otherwise known as “The Family Courts Act of 1997,” which shall be established in every province and city. In case where the city is the capital of the province, the Family Court shall be established in the municipality which has the highest population (Section 3, Republic Act No. 8369). Family Court judges shall possess the same qualifications as those provided for Regional Trial Court judges and shall undergo training and must have the experience demonstrated ability in dealing with child and family cases (Section 4, *Republic Act No. 8369*). By providing a system of adjudication for youthful offenders which takes into account their peculiar circumstances, said law concretizes the Philippines’ commitment to the principles enshrined in the United States Convention on the Rights of the Child for the protection of the rights and promotion of the welfare of children. It also implements the constitutional provisions that strengthen and protect the family a basic institution in Philippine society (Section 2, Republic Act No. 8369; Article XV, 1987 Constitution). The Supreme Court shall promulgate special rules of procedure for the transfer of cases to the new courts during the transition period and for the disposition of family cases with the best interests of the child and the protection of the family as a primary consideration, taking into account the United Nations Convention on the Rights of the Child (Section 13, Republic Act No. 8369). Pending the establishment of such family courts, the Supreme Court shall designate from among the branches of the Regional Trial Court at least one Family Court in each of the cities of Manila, Quezon, Pasay, Caloocan, Makati, Pasig, Mandaluyong, Muntinlupa, Laoag, Baguio, Santiago, Dagupan, Olongapo, Cabanatuan, San Jose, Angeles, Cavite, Batangas, Lucena, Naga, Iriga, Legaspi, Roxas, Iloilo, Bacolod, Dumaguete, Tacloban, Cebu, Mandaue, Tagbilaran, Surigao, Butuan, Cagayan de Oro, Davao, General Santos, Oroquieta, Ozamis, Dipolog, Zamboanga, Pagadian, Iligan and in such other places as the Supreme Court may deem necessary. In areas where there are no Family Courts, cases falling within the jurisdiction of the said courts shall be adjudicated by the Regional Trial Court (Section 17, Republic Act No. 8369). A Committee formed by the Supreme Court’s Committee on Revision of Rules chaired by Mr. Justice Reynato Puno is still in the process of drafting the Rules of the Family Court. Meanwhile, pending the constitution and organization of the Family Courts and the designation of branches of the Regional Trial Courts as Family Courts in accordance with Section 17 of R.A. 8369,

the Supreme Court has ordered the transfer of all criminal cases within the jurisdiction of the Family Courts filed with the first level courts to the Regional Trial Courts (See A.M. No. 99-1-12-SC, February 9, 1999).

All hearings and conciliation of the child and family cases shall be treated in a manner consistent with the promotion of the child's and family's dignity and worth, and shall respect their privacy at all stages of the proceedings. Records of the cases shall be dealt with utmost confidentiality and the identity of parties shall not be divulged unless necessary and with authority of the judge (Sec. 12, Republic Act No. 8369).

7. Heinous Crimes Courts

In the interest of a speedy and efficient administration of justice, the Supreme Court has designated a number of branches of the Regional Trial Court in each judicial region to try and decide exclusively the following cases: (1) kidnapping and/or kidnapping for ransom, robbery in band, robbery committed against a banking or financial institution, violation of the Dangerous Drugs Act of 1972, as amended, regardless of the quantity involved, violation of the Anti-Carnapping Act of 1972, as amended, and other heinous crimes (R.A. No.7659) committed within their respective territorial jurisdictions; (2) Violations of intellectual property rights such as, but not limited to, violations of Art. 188 of the Revised Penal Code (substituting and altering trademarks, trade names, or service marks), Article 189 of the Revised Penal Code (unfair competition, fraudulent registration of trademarks, trade names or service marks, fraudulent designation of origin, and false description), P.D. No. 49 (protection of intellectual property rights), P.D. No. 87 (An Act Creating the Videogram Regulatory Board), R.A. No. 165 as amended (the Patent Law), and R.A. No. 166, as amended, (the Trademark Law); and (3) libel cases. These cases shall undergo mandatory continuous trial and shall terminate within sixty (60) days from commencement of the trial and judgment thereon shall be rendered within thirty (30) days from the submission for decision unless a shorter period is provided by law or otherwise directed by the Supreme Court (Administrative Order No. 104-96, October 21, 1996).

B. The 1997 Rules of Civil Procedure

On the Supreme Court is vested the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase or modify substantive rights (Section 5 (5), Article VIII, 1987 Constitution).

The 1964 Rules of Court had been the subject of several amendments and revisions throughout the years. In order to fully incorporate such changes in accordance with existing laws, jurisprudence and administrative issuances, the Supreme Court approved on April 2, 1997 the 1997 Rules of Civil Procedure which took effect on July 1, 1997 (Resolution of the Court En Banc dated April 8, 1997).

The Rules govern the procedure to be observed in actions, civil or criminal, and special proceedings. 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. A civil action may either be ordinary or special, and both are governed by the rules for ordinary civil actions, subject to the specific rules prescribed for a special civil action. A criminal action is one by which the State prosecutes a person for an act or omission punishable by law. A special proceeding is a remedy by which a party seeks to establish a status, a right, or a particular fact (Section 3, Rule 1). The Rules are not applicable to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not provided for by it, except by analogy or in a supplementary character and whenever practicable and convenient (Section 4, Rule 1). As to the rules of procedure of special courts and quasi-judicial agencies, they shall remain effective unless disapproved by the Supreme Court (Section 5 (5), Article VIII, 1987 Constitution).

The Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding (Section 6, Rule 2). The following are the salient features of the 1997 Rules of Civil Procedure.

1. Jurisdiction

Jurisdiction is defined as the power and authority to hear, try and decide a case (*Zamora vs. Court of Appeals*, 183 SCRA 279). In order for the court to have authority to

dispose of the case on the merits, it must acquire jurisdiction over the subject matter, and the parties (*Paramount Insurance Corporation v. Japzon*, 211 SCRA 879).

Jurisdiction over the subject matter is conferred on the court by the Constitution or the law. Except for cases enumerated in Section 5 of Article VIII of the Constitution (cases over which the Supreme Court has jurisdiction), Congress has the plenary power to define, prescribe and apportion the jurisdiction of various courts (*De Leon v. Court of Appeals*, 245 SCRA 166; *Morales v. Court of Appeals*, 283 SCRA 211; Sections 2 and 5, Article VIII, 1987 Constitution). The facts alleged in the complaint and the law in force at the time of the commencement of the action determines the jurisdiction of the court (*Ching vs. Malaya*, 153 SCRA 412; *Mercado vs. Ubay*, 187 SCRA 719). The parties by their agreement cannot provide such jurisdiction where there is none (*SEAFDEC vs. NLRC*, 206 SCRA 283). But once jurisdiction attaches it cannot be ousted by the happening of subsequent events although of such a character which should have prevented jurisdiction from attaching in the first instance [the rule of adherence of jurisdiction] (*Ramos vs. Central Bank of the Philippines*, 41 SCRA 565; *Lee vs. Presiding Judge, MTC of Legaspi City, Br. I*, 145 SCRA 408). As to the effect of lack of jurisdiction over the subject matter, the general rule is that judgment is void and may be challenged any time in any proceeding (*Municipality of Antipolo vs. Zapanta*, 133 SCRA 820; *Estoesta vs. Court of Appeals*, 179 SCRA 203). However, a party may be barred from raising the question of jurisdiction on the ground of laches or estoppel (*Tijam vs. Sibonghanoy*, 23 SCRA 29; *Heirs of Fabio Masangya vs. Masangya*, 189 SCRA 234).

Jurisdiction over the parties is acquired as to the plaintiff, by the filing of the complaint, and as to the defendant, by the service of summons. The Rules require that summons be served personally on the defendant (Sec. 6, Rule 14) and if, for justifiable causes, this cannot be done within a reasonable time, substituted service may be resorted to. Substituted service is accomplished by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion residing thereat, or by leaving the copies at defendant's office or regular place of business with a competent person in charge thereof (Sec. 7, Rule 14). For a private foreign juridical entity, service may be made on any one of the following: (1) its resident agent designated in accordance with law for that purpose; (2) if there be no such agent, on the government official designated by law to that effect; and (3) in any of its officers or agents within the Philippines (Sec. 12, Rule 14). Summons by publication may be allowed by the court in any action where the defendant is designated as an unknown owner, or the like,

or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry. Service upon a non-resident defendant who is not found in or a resident defendant temporarily out of the Philippines where the action affects the personal status of the plaintiff, or concerns property situated here, may be effected outside the Philippines either by personal service or publication (Secs. 15 and 16, Rule 14). In all these cases, proof of service is required to be submitted to the court (Secs. 18 and 19, Rule 14). The defendant's voluntary appearance in the action, however, shall be equivalent to service of summons (Sec. 20, Rule 41).

2. Jurisdiction of the Courts

The jurisdiction of the *Supreme Court* is defined by the Constitution which also provided that Congress may increase its appellate jurisdiction with its advice and concurrence (Section 30, Article VI, *1987 Constitution*).

The only original cases which may be filed with the Supreme Court are petitions for certiorari, prohibition, mandamus, quo warranto, habeas corpus, disciplinary proceedings against members of the judiciary and attorneys, and cases affecting ambassadors, other public ministers and consuls (Sec. 1, Rule 56; Secs. 5 (1) and 11, Article VIII, *1987 Constitution*). The Court's original jurisdiction over actions affecting public ministers and consuls is concurrently exercised by the Regional Trial Courts (Sec. 21 (2), B.P. 129). Its exclusive original jurisdiction covers petitions for the issuance of writs of certiorari, prohibition and mandamus against the Court of Appeals, Commission on Elections, Commission on Audit and Sandiganbayan. Concurrent with the Court of Appeals, it also has original jurisdiction to issue such writs against the Civil Service Commission (Sec. 9, B.P. 129, as amended by Sec. 1, Republic Act No. 7902), Court of Tax Appeals and quasi-judicial agencies (Sec. 1, Rule 43; Sec. 1, Rule 65), regional trial courts and lower courts. And concurrent with the Court of Appeals and Regional Trial Courts, it has original jurisdiction over petitions for habeas corpus and quo warranto and petitions for issuance of writs of certiorari, prohibition and mandamus against lower courts or bodies (Sec. 9 (1), B.P. 129; *Vergara vs. Suelto*, 156 SCRA 753; Sec. 21 (1), B.P. 129).

As to its appellate jurisdiction, the Supreme Court is empowered by the Constitution to review, revise, reverse, modify, or affirm on appeal on certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in all cases: (a) in which the constitutionality or validity of any treaty, international or

executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question; (b) involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto; (c) in which the jurisdiction of any lower court is in issue; (d) all criminal cases in which the penalty imposed is reclusion perpetua or higher; and (e) in which only an error or question of law is involved (Sec. 5, Article VIII, 1987 Constitution). An appeal to the Supreme Court may be taken only by a petition for review on certiorari, except in criminal cases where the penalty imposed is death (automatic review), reclusion perpetua or life imprisonment (by notice of appeal) (Sec. 3, Rule 56; Sec. 3 (b) and (e), Rule 122). Appeal by petition for review on certiorari may be taken from judgments or final orders or resolutions of the Court of Appeals (Sec. 5 (2), Article VIII, 1987 Constitution; Sec. 1, Rule 45), the Sandiganbayan (on pure questions of law, except cases where the penalty imposed is reclusion perpetua, life imprisonment or death) (Sec. 7, P.D. 1606 as amended by Republic Act No. 8249; Nuñez vs. Sandiganbayan, 111 SCRA 433; Sec. 1., Rule 45), the Regional Trial Court (if no question of fact is involved in cases referred to in Sec. 5[a], [b] and [c] Art. VIII, 1987 Constitution) (Sec. 1, Rule 45). These petitions shall raise only questions of law which must be distinctly set forth (Sec. 5 (2) [a], [b] and [c], Article VIII, 1987 Constitution; Sec. 9 (3), B.P. 129). The Supreme Court has exclusive appellate jurisdiction over judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit (Sec. 1, Rule 64). Where in criminal cases the death penalty is imposed by the Regional Trial Court, the Sandiganbayan, or by the Court of Appeals, the case shall be elevated to the Supreme Court for automatic review (See Republic Act Nos. 7659 and 8249; Sec. 13, Rule 124). Cases decided by the Sandiganbayan over the criminal and civil cases filed by the Philippine Commission on Good Government (PCGG), as well as the incidents arising therefrom, are subject to review on certiorari exclusively by the Supreme Court (Olague vs. RTC of Manila, 170 SCRA 478 (1989); PCGG vs. Judge Aquino, Jr., 163 SCRA 363 (1988)).

The Court of Appeals is vested with exclusive original jurisdiction over actions for annulment of judgments of Regional Trial Courts which may be based only on the grounds of extrinsic fraud and lack of jurisdiction (Sec. 9 (2), B.P. 129; Secs. 1 and 2, Rule 47). It exercises exclusive appellate jurisdiction over judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency among which are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics

Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law (Sec. 9 (3), B.P. 129 as amended by Republic Act No. 7902). Appeal from the Court of Tax Appeals, the Civil Service Commission and other quasi-judicial agencies shall be by petition for review (Sec. 5, Rule 43). Appeal by certiorari to the Supreme Court from decisions or final orders of the Ombudsman is authorized by Section 27 of Republic Act No. 6770 ("Ombudsman Act of 1989" which took effect on November 17, 1989). On the other hand, the Rules expressly excluded from the appellate jurisdiction of the Court of Appeals, judgments or final orders issued under the Labor Code of the Philippines (Sec. 2, Rule 43).

However, in the case of *Fabian vs. Hon. Aniano A. Desierto* (G.R. No. 129742, September 16, 1998, 295 SCRA 470), the Supreme Court declared as invalid Section 27 of Republic Act No. 6770, together with Section 7, Rule III of Administrative Order No. 07 (Rules of Procedure of the Office of the Ombudsman) and any other provision of law or issuance implementing the aforesaid Act and insofar as they provide for appeals in administrative disciplinary cases from the Office of the Ombudsman to the Supreme Court on the ground that the aforesaid law expanded the appellate jurisdiction of the Supreme Court under rule 45 without its advice and consent, in violation of Sec. 30, Article VI of the Constitution (Sec. 30, Art. VI provides that "No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence."). The Court stressed that its appellate jurisdiction under Rule 45 was to be exercised only over "final judgments and orders of lower courts" which term refers to the courts composing the integrated judicial system and does not include the quasi-judicial bodies or agencies. Accordingly, the Court held that appeals from the decisions or rulings of the Office of the Ombudsman in administrative disciplinary cases should be taken to the Court of Appeals under the provisions of Rule 43 (*supra*, pp. 491, 493).

Simultaneous with this ruling is the Supreme Court's reexamination of the "functional validity and systemic impracticability of the mode of judicial review it has long adopted and still follows with respect to decisions of the NLRC" in the landmark case of *St. Martin Funeral Home vs. NLRC* (G.R. No. 130866, September 16, 1998, 295 SCRA

494). Believing that there may have been an oversight in the course of the deliberations of Republic Act No. 7902 (“An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the purpose Section Nine of Batas Pambansa Blg. 129, As Amended, Known as the Judiciary Reorganization Act of 1980,” approved on February 3, 1995), the Court expressed the opinion that ever since appeals from the NLRC to the Supreme Court were eliminated, the legislative intent was that the special civil action of certiorari was and is still the proper vehicle for judicial review of decisions of the NLRC and that appeals by certiorari and the original action for certiorari are both modes of judicial review addressed to the appellate courts, with the special civil action of certiorari being within the concurrent original jurisdiction of the Supreme Court and the Court of Appeals. The Supreme Court thus ruled that all references in the amended Section 9 of B.P. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted to mean and refer to petitions for certiorari under Rule 65. Consequently, the Court decreed that “all such petitions should henceforth be initially filed in the Court of Appeals in strict observance of the doctrine on the hierarchy of courts as the appropriate forum for the relief desired” (*St. Martin Funeral Home v. NLRC*, *supra*, pp. 507-509). In view of these decisions, the Supreme Court subsequently directed that all special civil actions arising out of any decision or final resolution or order of the NLRC filed with the Court after June 1, 1999 shall no longer be referred to the Court of Appeals but shall forthwith be dismissed and, that any appeal by way of petition for review from a decision or final resolution or order of the Ombudsman in administrative cases, or special civil action relative to such decision, resolution or order filed with the Court after March 15, 1999 shall no longer be referred to the Court of Appeals but must forthwith be dismissed, respectively (A.M. No. 99-2-01-SC, February 9, 1999; A.M. No. 99-2-02-SC, February 9, 1999).

The foregoing developments underscore the fact that the Supreme Court has the power to regulate, by virtue of its rule-making powers, procedural aspects such as the court and the manner an appeal can be brought (See *First Lepanto Ceramics, Inc. v. Court of Appeals*, 231 SCRA 30 (1994)). Moreover, as reasoned by the Supreme Court in *Fabian vs. Desierto*, it has been generally held that rules or status involving a transfer of cases from one court to another, are procedural and remedial merely and that, as such, they are applicable to actions pending at the time the statute went into effect or, when its invalidity was declared. Accordingly, it said that even from the standpoint of jurisdiction *ex hypothesi*, the validity of the transfer of appeals in said cases to the Court of Appeals can be sustained (*supra*, p. 493).

The Sandiganbayan is a court with special jurisdiction because its creation as a permanent anti-graft court is constitutionally mandated and its jurisdiction is limited to certain classes of offenses (*Republic of the Philippines v. Judge Asuncion, et al.*, G.R. No. 108208, March 11, 1994, 231 SCRA 211 *Quiñon v. Sandiganbayan*, 271 SCRA 575).

The Sandiganbayan exercises exclusive original jurisdiction over the following cases: (1) Over all violations of Republic Act No. 3019 (“The Anti-Graft and Corrupt Practices Act,” approved on), as amended; Republic Act No. 1379; and Chapter II, Sec. 2, Title VIII of the Revised Penal Code [Art. 210, Direct Bribery; Art. 211, Indirect Bribery; and Art. 212, Corruption of Public Officials]; and other offenses committed by public officials and employees in relation to their office, and private individuals charged as co-principals, accomplices and accessories including those employed in government-owned or -controlled corporations, where one or more of the accused are officials occupying positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense.

They are officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), including provincial governors, vice-governors, members of the sangguniang panlalawigan, and provincial treasurers, assessors, engineers, and other provincial department heads; city mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads; officials of the diplomatic service occupying position of consul and higher; Philippine army and air force colonels, naval captains, and all officers of higher rank; PNP officers while occupying the position of provincial director and those holding the rank of senior superintendent or higher; city and provincial prosecutors, their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor; presidents, directors or trustees, or managers of government-owned or government-controlled corporations, state universities or educational institutions or foundations.

Included also are members of Congress and officials thereof classified as grade 27 and up under the Compensation and Position Classification Act of 1989; Members of the Judiciary without prejudice to the provisions of the Constitution; Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and all other national and local officials classified as grade 27 and higher under the Compensation and Position Classification Act of 1989;

Sandiganbayan also exercises exclusive original jurisdiction over all other offenses or felonies -- whether simple or complexed with other crimes -- committed by the abovementioned public officials and employees in relation to their office; and over civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A issued in 1986 (Sec. 4, P.D. 1606, as amended by Republic Act No. 8249).

In criminal cases, the offense charged must be committed by any of the public officials or employees enumerated in Sec. 4, P.D. 1606, as amended, in relation to their office, which criminal offenses must be other than those violations covered by Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act); violations of Republic Act No. 1379; and violations of Chapter II, Sec. 2, Title VII of the Revised Penal Code. Otherwise, jurisdiction lies not with the Sandiganbayan but with the proper Regional Trial Court if the penalty prescribed for the offense is higher than prison correccional or imprisonment for six (6) years or a fine of P6,000.00, or otherwise, to the proper municipal trial court (*Subido v. Sandiganbayan*, G.R. No. 122641, January 20, 1997, 266 SCRA 379; Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249). As to cases involving the “funds, moneys, assets and properties illegally acquired by former President Ferdinand E. Marcos,” the Sandiganbayan shall have exclusive and original jurisdiction which extends not only to the principal causes of action, i.e. , the recovery of ill-gotten wealth, but also to all incidents arising from, incidental to, or related to, such cases, such as the dispute over the sale of the shares, the propriety of the issuance of ancillary writs or provisional remedies relative thereto, the sequestration thereof, which may not be made the subject of separate actions or proceedings in another forum (Sec. 2, Executive Order No. 14; *First Philippine Holdings Corp. v. Sandiganbayan*, G.R. No. 88345, February 1, 1996, 253 SCRA 30). The Sandiganbayan exercises original jurisdiction, concurrent with the Supreme Court, over petitions for the issuance of the writs of certiorari, prohibition, mandamus, habeas corpus, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction, including quo warranto, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14, and 14-A (1986) (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249; See *Garcia, Jr. v. Sandiganbayan*, 237 SCRA 552, 562-564).

The Sandiganbayan is vested with exclusive appellate jurisdiction over appeals from the decisions and final orders or resolutions of the Regional Trial Courts in the exercise of their original or appellate jurisdiction over those cases enumerated in P.D. 1606, as amended by Republic Act No. 8249, if committed by the by the officials or

employees occupying positions lower than salary grade 27, or not otherwise covered therein (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249).

In all civil actions, the Regional Trial Courts exercise exclusive original jurisdiction over the following cases, provided under Sec. 19, B.P.129, as amended by Republic Act No. 7691 (“An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known as the ‘Judiciary Reorganization Act of 1980,’” approved on March 25, 1994). They include: (1) Actions where the subject of litigation is incapable of pecuniary estimation; (2) Actions involving title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds P20,000.00, or, for civil actions in Metro Manila, where such value exceeds P50,000.00 except actions for forcible entry and unlawful detainer of lands or buildings; (3) Actions in admiralty and maritime jurisdiction where the demand or claim exceeds P200,000.00, or Metro Manila, where such demand or claim exceeds P400,000.00 (Under Sec. 19 (3) of B.P. 129, as amended by Sec. 1 of Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction “In all actions in admiralty and maritime jurisdiction where the demand or claim exceeds One hundred thousand pesos (P100,000.00) or in Metro Manila, where such demand or claim exceeds Two hundred thousand pesos (P200,000.00).” Sec. 5 of Republic Act No. 7691, provided that “After five years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19 (3), (4) and (8); and Sec. 33 (1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000.00). Five years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00): Provided, however, That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000.00).” Pursuant thereto, Circular No. 21-99 dated April 15, 1999 was issued directing that said adjusted jurisdictional amounts after the first five-year period will take effect on March 20, 1999); (4) In all matters of probate, both testate and intestate, where the gross value of the estate exceeds P200,000.00, or, in Metro Manila, where such gross value exceeds P400,000.00 (Under Sec. 19 (4) of B.P. 129, as amended by Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction “In all matters of probate, both testate and intestate, where the gross value of the estate exceeds One hundred thousand pesos (P100,000.00) or, in probate matters in Metro Manila, where such gross value exceeds Two hundred thousand pesos.” See preceding note on the adjusted jurisdictional amounts); (5) Actions involving the contract of marriage and marital relations; (6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions; (7) Actions and special proceedings falling within the exclusive original jurisdiction of a Juvenile and Domestic

Relations Court and of the Court of Agrarian Relations as now provided by law; and (8) All other cases where the demand, exclusive of interests, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds P200,000.00, or, in such other cases in Metro Manila, where the demand, exclusive of the aforementioned items, exceeds P400,000.00 (Under Sec. 19 (8) of B.P. 129 as amended by Sec. 1 of Republic Act No. 7691, the Regional Trial Courts shall exercise exclusive original jurisdiction "In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand Pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the abovementioned items exceeds Two hundred thousand pesos (P200,000.00)." See note 96 on the adjusted jurisdictional amounts).

As to criminal cases, the Regional Trial Courts exercise exclusive original jurisdiction in all those cases not within the exclusive jurisdiction of any court, tribunal or body, which include cases involving offenses where the imposable penalty exceeds six (6) years, irrespective of the amount of the fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof (Sec. 20 in relation to Sec. 32 of B.P. 129 as amended by Sec. 2 Republic Act No. 7691). The Supreme Court has clarified that the exclusion of the term "damages of whatever kind" in determining the jurisdictional amount under Sec. 19 (8) and Sec. 33 (1) of B.P. 129, as amended by R.A. No. 7691, applies to cases where the damages are merely incidental to or a consequence of the main cause of action. In cases where the claim for damages is the main cause of action, or one of the causes of action, the amount of such claim shall be considered in determining the jurisdiction of the court (Administrative Circular No. 09-94, June 14, 1994). As to criminal cases involving public officials or employees where none of the principal accused are occupying positions corresponding to salary grade 27 or higher, as prescribed in Republic Act No. 6758, or are PNP officers occupying the rank of superintendent or higher, or their equivalent, the Regional Trial Courts will have exclusive jurisdiction if the imposable penalties are imprisonment exceeding six (6) years, irrespective of the amount of the fine, and regardless of other imposable accessory or other penalties, including their civil liability arising from such offenses or predicated thereon, irrespective of the kind, nature, value or amount thereof (Sec. 4, P.D. 1606, as amended by Sec. 2, Republic Act No. 7975). In criminal cases where one or more of the accused is below eighteen (18) years of age, or when one or more of the victims is a

minor at the time of the commission of the offense, exclusive original jurisdiction is now conferred on the newly created Family Courts (Sec. 5 (a) , Republic Act No. 8369).

Concurrent with the Supreme Court, Regional Trial Courts exercise original jurisdiction in actions affecting ambassadors and other public ministers and consuls; and concurrent with the Supreme Court and the Court of Appeals, over petitions for certiorari, prohibition, mandamus against lower courts and bodies, as well as in for habeas corpus and quo warranto (Sec. 21, B.P. 129). Jurisdiction to try agrarian reform matters granted to Regional Trial Courts under Sec. 19 (7) was transferred to the Department of Agrarian Reform which was vested with “primary jurisdiction to determine and adjudicate agrarian reform matters and shall have exclusive original jurisdiction over all matters involving the implementation of agrarian reform, except those falling under the exclusive jurisdiction of the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR)” (Executive Order No. 229, effective August 29, 1987; Sec. 50, Republic Act No. 6657, “The Comprehensive Agrarian Reform Law” (June 15, 1988)). It is now the Department of Agrarian Reform Adjudication Board (DARAB) created by virtue of Executive Order No. 229-A which exercises those powers and functions with respect to the adjudication of agrarian reform matters. The Housing and Land Use Regulatory Board (HLURB), in the exercise of its function to regulate the real estate trade and business, was also granted exclusive jurisdiction to hear and decide cases of the following nature: (1) unsound real estate business practices; (2) claims involving refund and any other claims involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman (Sec. 1 of Presidential Decree No. 957, as amended by Presidential Decree No. 1344; Executive Order No. 648 (1981) transferring the regulatory functions of the NHA under P.D. Nos. 957, 1216, 1344 and other related laws, to the Human Settlements Regulatory Commission which was renamed Housing and Land Use Regulatory Board by Executive Order No. 90 issued on December 17, 1986; *Solid Homes Inc. v. Payawal*, 177 SCRA 721; *Sandoval v. Caneba*, 190 SCRA 77; *Union Bank of the Philippines v. HLURB*, 210 SCRA 558). Concurrent with the Insurance Commissioner, Regional Trial Courts has original jurisdiction over claims not exceeding P100,000.00 (Sec. 416, P.D. 612 (Insurance Code)), but if the subject of the action is not incapable of pecuniary estimation, jurisdiction of the Regional Trial Courts is concurrent with the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts).

The Regional Trial Courts exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective territorial jurisdictions (Sec. 22, B.P. 129).

Family Courts are vested with exclusive original jurisdiction to hear and decide the following cases: a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense: Provided That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the “Child and youth Welfare Code”; (b) Petitions for guardianship, custody of children, habeas corpus in relation to the latter; (c) Petitions for adoption of children and the revocation thereof; (d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains; (e) Petitions for support and/or acknowledgment; (f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the “Family Code of the Philippines”; (g) Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56 (Series of 1986), and other related laws; (h) Petitions for the constitution of the family home; (i) Cases against minors cognizable under the Dangerous Drugs Act, as amended; (j) Violations of Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” as amended by Republic Act No. 7658; and (k) Cases of domestic violence against: (1) Women - which are acts of gender based violence that result, or are likely to result in physical, sexual or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman’s personhood, integrity and freedom of movement; and (2) Children - which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development (Sec. 5, Republic Act No. 8369).

In cases of domestic violence, if an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties. If any question on any of matters enumerated above should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court (Sec. 5 (k), Republic Act No. 8369).

The Family Courts are empowered to grant provisional remedies as follows: (1) in cases of violence among immediate family members living in the same domicile or household, it may issue a restraining order against the accused or defendant upon a verified application by the complainant or the victim for relief from abuse; (2) the court may order the temporary custody of children in all civil actions for their custody; and also order support pendente lite, including deduction from the salary and use of the conjugal home and other properties in all civil actions for support (Sec. 7, Republic Act No. 8369).

The exclusive original jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts, in civil cases pertains to the following: (1) Civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed P200,000.00, or, in Metro Manila where such does not exceed P400,000.00 (Under Sec. 33 of B.P. 129, as amended by Republic Act No. 7691, the jurisdictional amounts were P100,000.00 and in Metro Manila, P200,000.00. Pursuant to Sec. 5 of Republic Act No. 7691, Circular No. 21-99 dated April 15, 1999 was issued directing that the adjusted jurisdictional amounts after the first five-year period provided therein will take effect on March 20, 1999. (See note 96)), exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs the amount of which must be specifically alleged; Provided, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: Provided further, 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; (2) Cases of forcible entry and unlawful detainer: Provided, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of ownership; and

(3) Civil actions which involve title to, or possession of, real property or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (P20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (P50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in case of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots (Sec. 33 of B.P. 129, as amended by Republic Act No. 7691; Circular No. 21-99, April 15, 1999).

Pursuant to Section 138 of Batas Pambansa Blg. 881, otherwise known as the "Omnibus Election Code," petitions for inclusion and exclusion of voters shall be brought before the municipal trial court. Likewise, an action to nullify or enforce amicable settlement or award before the Barangay is cognizable by the proper municipal court (Sec. 11, P.D. 1508; Secs. 416, 417, Republic Act No. 7160 (Local Government of 1991)).

In criminal cases, these courts exercise exclusive original jurisdiction in the following: (1) All violations of city or municipal ordinances committed within their respective territorial jurisdiction (Sec. 32 (1), B.P. 129, as amended by Sec. 2, Republic Act No. 7691); (2) All offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other impossible accessory or other penalties, including civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof (Sec. 32 (2), B.P. 129 as amended by Sec. 2, Republic Act No. 7691); (3) All offenses, including violations of Republic Act No. 3019, Republic Act No. 1379, and Arts. 210 to 212, of the Revised Penal Code, committed by public officers and employees in relation to their office, including those employed in government-owned or controlled corporations, and by private individuals charged as co-principals, accomplices, or accessories, where the penalty is not more than six (6) years of imprisonment regardless of fine or accessory or other penalties, provided that the position of the accused official or employee is lower than Salary Grade '27' under the Compensation and Position Classification Act of 1989 (RA 6758) (Sec. 4, P.D. 1606, as amended by Sec. 4, Republic Act No. 8249); and (4) In cases where the only penalty provided by law is a fine not exceeding Four thousand pesos (P4,000.00) (Administrative Circular No. 09-94, June 14, 1994).

The procedure in the Municipal Trial Courts shall be the same as in the Regional Trial Courts, except (a) where a particular provision expressly or impliedly applies only to either of said courts, or (b) in civil cases governed by the Rule on Summary Procedure (Sec. 1, Rule 5). The Supreme Court was authorized to adopt special rules or procedures applicable to special cases in order to achieve an expeditious and inexpensive determination thereof without regard to technical rules. Such simplified procedures may provide that affidavits and counter-affidavits may be admitted in lieu of oral testimony and that the periods for filing pleadings shall be non-extendible (Sec. 36, B.P. 129).

The following cases are governed by the Rule on Summary Procedure:

In Civil Cases, they include: (1) Forcible entry and unlawful detainer, except where the question of ownership is involved, or where the damages or unpaid rentals sought to be recovered by the plaintiff exceed twenty thousand pesos (P20,000.00) at the time of the filing of the complaint; and (2) All other civil cases, except probate proceedings, where the total amount of the plaintiff's claim does not exceed ten thousand pesos (P10,000.00), exclusive of interest and costs.

In Criminal Cases, they include: (1) Violations of traffic laws, rules and regulations; (2) Violations of the rental law; (3) Violations of municipal or city ordinances; (4) All other criminal cases where the penalty prescribed by law for the offense charged does not exceed six months imprisonment, or a fine of one thousand pesos (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom, including offenses involving damage to property through criminal negligence where the imposable fine does not exceed ten thousand pesos (P10,000.00) (Sec. 1, Rule on Summary Procedure in Special Cases, as amended).

Although they are courts of limited jurisdiction, *Shari'a Courts* are part of the Philippine judicial system (Art. 137, P.D. 1083). There are two kinds of Shari'a Courts created under Presidential Decree No. 1083, otherwise known as the "Code of Muslim Personal Laws of the Philippines," namely, the Shari'a District Courts, whose judges must also possess qualifications of a judge of the Regional Trial Court and enjoy the same privileges and receive the same compensation, and the Shari'a Circuit Courts who receive the same compensation and enjoy the same privileges as that of a judge of the Municipal Circuit Courts (Arts. 140, 141, 142, 153, 154, P.D. 1083).

Shari'a Circuit Courts have original exclusive jurisdiction over the following: (1) All cases involving offenses defined and punished under the Code; (2) All civil actions and proceedings between parties who are Muslims or who have been married in accordance with Art. 13 of the Code involving disputes relating to: marriage, divorce recognized under the Code, betrothal or breach of contract to marry, customary dower (mahr), disposition and distribution of property upon divorce, maintenance and support, and consolatory gifts, (mut'a), and restitution of marital rights; and (3) All cases involving disputes relative to communal properties (Art. 155, P.D. 1083).

Shari'a District Courts, on the other hand, have exclusive original jurisdiction in the following cases: (1) All cases involving custody, guardianship, legitimacy, paternity and filiation arising under the Code; (2) All cases involving disposition, distribution and settlement of the estate of deceased Muslims, probate of wills, issuance of letters of administration or appointment of administrators or executors regardless of the nature or the aggregate value of the property; (3) Petitions for the declaration of absence and death and for the cancellation or correction of entries in the Muslim Registries mentioned in Title VI of Book Two of the Code; (4) All actions arising from customary contract in which the parties are Muslims, if they have not specified which law shall govern their relations; and (5) All petitions for mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and processes in aid of its appellate jurisdiction (Art. 143 (1), P.D. 1083).

Concurrently with existing civil courts, the Shari'a District Courts have original jurisdiction over (1) petitions by Muslims for the constitution of a family home, change of name and commitment of an insane person to an asylum; (2) all other personal and real actions not mentioned in paragraph 1 (d) of Art. 143 wherein the parties involved are Muslims except those for forcible entry and unlawful detainer, which shall fall under the exclusive original jurisdiction of the Municipal Circuit Court; and (3) all special civil actions for interpleader or declaratory relief wherein the parties are Muslim or the property involved belongs exclusively to Muslims (Art. 143 (2), P.D. 1083). The Shari'a District Courts shall also have appellate jurisdiction over all cases tried in the Shari'a Circuit Courts within their territorial jurisdiction and shall decide every appealed case on the basis of the evidence and records transmitted as well as such memoranda, briefs or oral arguments as the parties may submit (Art. 144, P.D. 1083).

The Shari'a Appellate Court exercises exclusive original jurisdiction over petitions for certiorari, prohibition, mandamus, habeas corpus, and other auxiliary writs and processes in aid of its appellate jurisdiction, but this shall not be exclusive of the power of the Supreme Court under the Constitution to review orders of lower courts through the special writs (Secs. 1 and 5, Art. IX, Republic Act No. 6734). Moreover, this court has exclusive appellate jurisdiction over all cases tried in the Shari'a District Courts. While the law provides that its decisions shall be final and executory, this shall not affect the original and appellate jurisdiction of the Supreme Court under the Constitution (Sec. 6, Art. IX, Republic Act No. 6734).

3. The Rule on Venue

Under the old Rules, there were separate provisions for venue in the municipal trial courts and in the regional trial courts. With the amendments introduced by *Republic Act No. 7691* and in line with the uniform procedure intended to be followed by both regional trial courts and inferior courts pursuant to Sec. 9 of the Interim Rules and Guidelines (January 11, 1983), the Supreme Court promulgated Circular No. 13-95 amending said Rule 4. This new rule on venue is now incorporated in the 1997 Rules of Civil Procedure.

For real actions, these shall be commenced and tried in the proper court which has jurisdiction over the area where the real property involved, or a portion thereof, is situated. Forcible entry and unlawful detainer actions shall be commenced and tried in the municipal trial court of the municipality or city wherein the real property involved, or a portion thereof, is situated (Sec.1, Rule 4).

As to personal actions, these may be tried in the court of the place 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 (Sec. 2, Rule 4). The venue of actions against non-resident defendants where the action affects the personal status of the plaintiff, or any property of any of said defendants located in the Philippines, lies with the court of the place where the plaintiff resides, or where the property or any portion thereof is situated or found (Sec. 3, Rule 4).

The parties may, however, change the venue of an action by a valid agreement in writing on the exclusive venue of the action before filing the same in court. The rule

on venue is not applicable in those cases where a specific rule or law provides otherwise (Sec. 4, Rule 4).

4. Additional Requisite for Civil Complaints, Other Initiatory Pleading and Petitions, To Prevent “Forum-Shopping”

The Supreme Court frowned upon the undesirable practice of litigants and their counsel who file multiple petitions and complaints involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency, with the result that said tribunals or agency have to resolve the same issues. In order to prevent such “forum-shopping”, the Supreme Court has required every petition or complaint filed with it or the Court of Appeals to contain a certification under oath by the party that he has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, and that to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency. If there is any other action pending, he must state the status of the same. If he should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, he should notify the court, tribunal or agency within five (5) days from such notice. Failure to comply with these additional requisites shall be a cause for the summary dismissal of the multiple petition or complaint. Any willful and deliberate forum-shopping by any party and his lawyer with the filing of multiple petitions or complaints to ensure favorable action shall constitute direct contempt of court. Likewise, the submission of a false certification as required shall constitute contempt of court, without prejudice to the filing of criminal action against the guilty party while the lawyer may also be subjected to disciplinary proceedings (Circular No. 28-91, September 4, 1991). The requirement of a certification against forum-shopping has been incorporated under Sec. 2, Rule 42.

To better enforce the policy against forum-shopping, the requisite certification under oath by the plaintiff, petitioner, applicant or principal party, now also applies to civil complaints, petitions and other initiatory pleadings filed in all courts and agencies, other than the Supreme Court and the Court of Appeals (Administrative Circular No. 04-94, April 1, 1994). This requirement is found in Sec. 5, Rule 7.

5. Execution Upon Judgments or Final Orders

Section 2 of Rule 36 states that “the date of finality of the judgment or final order shall be deemed to be the date of its entry.” The date of entry shall be the starting point of the six months period for filing a petition for relief (Sec. 3, Rule 38), as well as the five years period for filing a motion for execution and the ten years period of prescription of judgments (Sec. 6, Rule 39).

The prevailing party may move for execution of a judgment or order that disposes of the action or proceeding upon the expiration of the period of appeal if no appeal has been duly perfected, in which case execution shall issue as a matter of right. If the appeal taken from said judgment had been resolved, the prevailing party may now move for execution in the court of origin, without waiting for the return of the records of the case to the court of origin, on the basis of certified true copies of the judgment or judgments sought to be enforced. However, in the event the court of origin refuses to issue the writ of execution, the appellate court may, on motion in same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution.

The above amended Section 1 of Rule 39 was based on Circular No. 24-94 promulgated on June 1, 1994.

Pending appeal, the prevailing party may, with notice to the adverse party, move for execution of the judgment or final order in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion. The trial court may, in its discretion, order execution of the judgment or final order even before the expiration of the period to appeal (Sec. 2 (a), Rule 39).

Whether by notice of appeal or by record of appeal, the court loses jurisdiction over the case or the subject matter thereof upon the perfection of the appeals filed in due time and the expiration of the time of appeal of the other parties (Sec. 9, Rule 41). In either case, prior to the transmittal of the original records or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal and allow withdrawal of the appeal (Sec. 9, fifth paragraph, Rule 41). Where the motion for execution is filed on time, it may be granted even after the court has lost jurisdiction but before the transmission of the records to the appellate court (Sec. 9, Rule 41; *Universal Far East Corporation vs. Court of Appeals*, 131 SCRA 642). After the trial court has lost

jurisdiction and the records have been transmitted to the appellate court, the motion for execution pending appeal may be filed with the appellate court (Sec. 2 (a), Rule 39; *Philippine British Assurance Co. vs. IAC*, 150 SCRA 520). Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing (Sec. 2 (a), Rule 39).

Within five years from the date of its entry, a final and executory judgment or order may be executed on motion by the prevailing party. Thereafter, a judgment may be enforced by action within the ten years period of prescription of judgments. The revived judgment may also be enforced by motion within five years from the date of its entry and thereafter by action but within ten years from the date of its finality (Sec. 6, Rule 39; *Philippine National Bank vs. Bondoc*, 14 SCRA 770).

6. Appeals

The right to appeal is not a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirement of the rules. Failing to do so, the right of appeal is lost (*Villanueva v. Court of Appeals*, 205 SCRA 537 (1992)). Nevertheless, an appeal is an essential part of our judicial system. Courts should proceed with caution so as not to deprive a party of the right to appeal (*National Waterworks and Sewerage Authority v. Municipality of Libmanan*, 97 SCRA 139 (1980)). The right to appeal should not be lightly disregarded by a stringent application of rules of procedure especially where the appeal is on its face meritorious and the interest of substantial justice would be served by permitting the appeal (*United Feature Syndicate, Inc. v. Munsingwear Creation Manufacturing Company*, 179 SCRA 260 (1989), citing *Siguenza v. Court of Appeals*, 137 SCRA 570 (1985)).

The Rules provide for the remedy of appeal only from a judgment or final order “that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable” (Sec. 1, Rule 41). Thus, the following are not subject to appeal but the aggrieved party may file an appropriate special civil action under Rule 65: (1) An order denying a motion for new trial, the proper remedy being an appeal from the judgment or order that disposes of the case, and if such order of denial is issued without or in excess of jurisdiction or with grave abuse of discretion, the extraordinary remedy of certiorari is proper, without prejudice to the appeal (Sec. 9,

Rule 37); (2) An order denying a petition for relief or any similar motion seeking relief from judgment based on the ground of fraud, accident, mistake or excusable negligence (Sec. 1, Rule 38); (3) An interlocutory order; (4) An order disallowing or dismissing an appeal; (5) An order denying a motion to set aside a judgment by confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent; (6) An order of execution; (7) A judgment or final order in separate claims, counterclaims, cross claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and (8) An order dismissing an action without prejudice (Sec. 1, Rule 41).

An appeal from a judgment or final order of a Municipal Trial Court may be taken to the Regional Trial Court exercising jurisdiction over the area to which the former pertains, within 15 days after notice to the appellant of said judgment or order, and within 30 days thereafter in cases where a record on appeal is required (Secs. 1 and 2, Rule 40). In cases decided by the Regional Trial Court in the exercise of its original jurisdiction, appeal may be taken to the Court of Appeals by notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. If the case was decided by the Regional Trial Court in the exercise of its appellate jurisdiction, appeal to the Court of Appeals shall be by petition for review in accordance with Rule 42. But where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with Rule 45 (Sec. 2, Rule 41).

In petitions for review, if the Court of Appeals finds prima facie that the lower court or agency has committed an error of fact or law that will warrant a reversal or modification of the appealed decision, it may give due course to the petition (Sec. 6, Rule 42; Sec. 22, B.P. 129, adopted in Sec. 22 (b) of the Interim Rules; Sec. 10, Rule 43).

As to the judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of any quasi-judicial agency in the exercise of its quasi-judicial functions, appeal shall be taken to the Court of Appeals within 15 days from notice of said judgment, final order, award or resolution, or of the denial of the motion for new trial or reconsideration, by filing a verified petition for review with the Court of Appeals (Secs. 1, 3, 4 and 5, Rule 43). Review of judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit may be brought by the aggrieved party to the Supreme Court on certiorari under Rule 65, except as hereinafter provided (Secs. 1 and 2, Rule 64).

Appeal from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may be taken to the Supreme Court by filing a verified petition for review on certiorari, raising only questions of law which must be distinctly set forth, within 15 days from notice of said judgment, final order or resolution, or of the denial of motion for new trial or reconsideration (Secs. 1 and 2, Rule 45). Certiorari is not a substitute for a lost appeal. It is settled that where appeal would have been the adequate remedy but was lost through inexcusable negligence, certiorari is not in order and cannot take the place of appeal (*Limpot v. Court of Appeals*, 170 SCRA 367 (1989)). When the remedy of appeal is available, the extraordinary remedy of certiorari cannot be resorted to because the availability of appeal proscribes recourse to the special civil action of certiorari (*Municipality of Biñan v. Laguna*, 219 SCRA 69 (1993)). The remedies of appeal and certiorari are mutually exclusive and not alternative or successive (*Federation of Free Workers v. Inciong*, 208 SCRA 157 (1992)).

An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds: (1) failure of the record on appeal to show on its face that the appeal was taken within the period fixed by the Rules; (2) failure to file the notice of appeal or the record on appeal within the period prescribed by the Rules; (3) failure of the appellant to pay the docket and other lawful fees as provided in Section 4 of Rule 41; (4) unauthorized alterations, omissions or additions in the approved record on appeal as provided in Sec. 4 of Rule 44; (5) failure of the appellant to serve and file the required number of copies of his brief or memorandum within the time provided by the Rules; (6) absence of specific assignment of errors in the appellant's brief, or of page references to the record as required in Sec. 13, paragraphs (a), (c), (d) and (f) of Rule 44; (7) failure of the appellant to take the necessary steps for the correction or completion of the record within the time limited by the in its order; (8) failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause; and (9) the fact that the order or judgment appealed from is not appealable (Sec. 1, Rule 50).

An appeal to the Court of Appeals taken from the Regional Trial Court raising only questions of law shall be dismissed, as issues purely of law not being reviewable by the Court of Appeals. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright (Sec. 2, Rule 50, which is based on Circular No. 2-90 (March 9, 1990) and the Resolution of the Court En Banc in UDR-9748, Anacleto Murillo v. Rodolfo Consul, March 1, 1990, 183 SCRA xi).

C. Rules on Criminal Procedure

Rules 110 to 127 govern criminal procedure, as amended per Resolutions adopted on June 17, 1988 and July 7, 1989, and further amended by Administrative Circular No. 12-94, August 16, 1994.

The Supreme Court recently came out with the Revised Rules of Criminal Procedure, which took effect on December 1, 2000. This is the fourth amendment of the rules on criminal procedure since its incorporation in the Rules of Court in 1940. The first was in 1964, the second in 1985, and the third amendment in 1988.

1. The Revised Rules of Criminal Procedure (As Amended, December 1, 2000)

On October 3, 2000, the Supreme Court En Banc approved the Proposed Rules of Criminal Procedure which was submitted to it by the Committee on the Revision of Rules of Court on June 9, 2000. Said Committee believes that the proposed rules are (1) more understandable because they have been simplified; (2) while simplified, yet they are comprehensive for they incorporated the latest ruling case law and relevant administrative issuances of the Court; and (3) while comprehensive, they will not hamper the delivery of speedy criminal justice without diminishing the rights of an accused.

The Revised Rules of Criminal Procedure took effect on December 1, 2000 following its publication in the Official Gazette and two newspapers of general circulation not later than October 31, 2000.

2. Salient Features of the Revised Rules of Criminal Procedure

The new rules on criminal procedure contain substantial amendments to the 1988 Rules of Criminal Procedure. Following are the significant provisions of the Revised Rules of Criminal Procedure:

a. Institution of Criminal Actions

For offenses where a preliminary investigation is required, criminal actions shall be instituted by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation. For all other offenses, they shall be instituted by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaint shall be filed with the office of the prosecutor unless otherwise provided in their charters. Such institution of criminal action shall interrupt the running of the period of prescription of the offense charged unless otherwise provided in special laws. (*Secs. 1 and 2, Rule 110*)

A complaint is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charged with the enforcement of the law violated. An information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court. (*Secs. 3 and 4, Rule 110*) The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (*Sec. 8, Rule 110*)

A complaint or information may amended in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused. However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party. If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense, provided the accused shall not be placed in double jeopardy. The court may require the witnesses to give bail for their appearance at the trial. (*Sec. 14, Rule 110*)

b. Prosecution of Civil Action

When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action. Such reservation shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation. No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action. The criminal action for violation of Batas Pambansa Blg. 22 (Bouncing Checks Law) shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed. (*Sec. 1, Rule 111*)

The death of the accused after arraignment and during the pendency of the criminal action shall extinguish the civil liability arising from the delict. However, the independent civil action provided in Articles 32 (impairment or obstruction of exercise of constitutional rights and freedoms), 33 (defamation, fraud and physical injuries), 34 (refusal of police force member to render aid or protection to any person in case of danger to life or property) and 2176 (*quasi-delict*) of the Civil Code of the Philippines, or which thereafter is instituted to enforce liability arising from other sources of obligation may be continued against the estate or legal representative of the accused after proper substitution or against said estate, as the case may be. The heirs of the accused may 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. If the accused dies before arraignment, the case shall be dismissed without prejudice to any civil action the offended party may file against the estate of the deceased. (*Sec. 4, Rule 111*)

A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests. The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the

issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed. (*Secs. 6 and 7, Rule 111*)

c. Preliminary Investigation

Preliminary investigation is an inquiry or proceeding to determine whether there is sufficient ground to engender a well-founded belief that a crime has been committed and the respondent is probably guilty thereof, and should be held for trial. A preliminary investigation is required to be conducted before the filing of a complaint or information for an offense where the penalty prescribed by law is at least four (4) years, two (2) months and one (1) day without regard to the fine. (*Sec. 1, Rule 112*) However, when a person is lawfully arrested without a warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing Rules. In the absence of unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person. Before the complaint or information is filed, the person arrested may ask for a preliminary investigation but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, in the presence of his counsel. Notwithstanding the waiver, he may apply for bail and the investigation must be terminated within fifteen (15) days from its inception. After the filing of the complaint or information in court without a preliminary investigation, the accused may, within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense. (*Sec. 7, Rule 112*)

d. Arrest

An arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense. (*Sec. 1, Rule 113*)

The head of the office to whom the warrant of arrest was delivered for execution shall cause the warrant to be executed within ten (10) days from its receipt. Within ten (10) days after the expiration of the period, the officer to whom it was assigned shall make a report to the judge who issued the warrant. In case of his failure to execute the warrant, he shall state the reasons therefor. (*Sec. 4, Rule 113*)

A peace officer or a private person may, without a warrant, arrest a person: (a) When in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; (b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and (c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) above, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail and shall be proceeded against in accordance with Section 7 of Rule 112. *(Sec. 5, Rule 113)*

When making an arrest by virtue of a warrant, the officer shall inform the person to be arrested of the cause of the arrest and the fact that a warrant has been issued for his arrest, except when he flees or forcibly resists before the officer has opportunity to so inform him, or when the giving of such information will imperil his arrest. The officer need not have the warrant in his possession at the time of the arrest but after the arrest, if the person arrested so requires, the warrant shall be shown to him as soon as practicable. *(Sec. 7, Rule 113)*

When making an arrest without a warrant, the officer shall inform the person to be arrested of his authority and the cause of the arrest, unless the latter is either engaged in the commission of an offense, is pursued immediately after its commission, has escaped, flees, or forcibly resists before the officer has opportunity to so inform him, or when the giving of such information will imperil the arrest, *(Sec. 7, Rule 113)*

e. Bail

Bail is the security given for the release of a person in custody of the law, furnished by him or a bondsman, to guarantee his appearance before any court as required under the conditions hereafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognizance. *(Sec. 1, Rule 114)*

All persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognizance as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before

conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment. (Sec. 4, Rule 114)

Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed with and resolved by the appellate court. (Sec. 5, Rule 114)

No person charged with a capital offense, or an offense punishable by *reclusion perpetua*, or life imprisonment, shall be admitted to bail when evidence of guilt is strong, regardless of the stage of the criminal prosecution. (Sec. 7, Rule 114) A capital offense is an offense which, under the law existing at the time of its commission and of the application for admission to bail, may be punished with death. (Sec. 6, Rule 114)

Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge, or municipal circuit trial judge in the province, city, or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge, or municipal circuit trial judge therein.

Where the grant of bail is a matter of discretion, or the accused seeks to be released on recognizance, the application may only be filed in the court where the case is pending, whether on preliminary investigation, trial, or appeal.

Any person in custody who is not yet charged in court may apply for bail with any court in the province, city, or municipality where he is held. (Sec. 17, Rule 114)

An application for or admission to bail shall not bar the accused from challenging the validity of his arrest or legality of the warrant issued therefor, or from assailing the regularity or questioning the absence of a preliminary investigation of the charge against him, provided that he raises them before entering his plea. The court shall resolve the matter as early as practicable but not later than the start of the trial of the case. (Sec. 26, Rule 114)

f. Arraignment and Plea

The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but failure to do so shall not affect the validity of the proceedings. When the accused refuses to plead or makes a conditional plea, a plea of not guilty shall be entered for him. When the accused pleads guilty but presents exculpatory evidence, his plea shall be deemed withdrawn and a plea of not guilty shall be entered for him. Unless a shorter period is provided by special law or Supreme Court circular, the arraignment shall be held within thirty (30) days from the date the court acquires jurisdiction over the person of the accused. The time of the pendency of a motion to quash or for a bill of particulars or other causes justifying suspension of the arraignment shall be excluded in computing the period. (*Sec. 1, Rule 116*) The accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired. (*Sec. 9, Rule 116*)

At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary. (*Sec. 2, Rule 116*)

Upon motion by the proper party, the arraignment shall be suspended in the following cases: (a) The accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto. In such case, the court shall order his mental examination and, if necessary, his confinement for such purpose; (b) There exists a prejudicial question; and (c) A petition for review of the resolution of the prosecutor is pending at either the Department of Justice, or the Office of the President; *provided*, that the period of suspension shall not exceed sixty (60) days counted from the filing of the petition with the reviewing office. (*Sec. 11, Rule 116*)

g. Double Jeopardy and Provisional Dismissal

When an accused has been convicted or acquitted, or the case against him is dismissed or otherwise terminated without his express consent by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in

form and substance to sustain a conviction and after the accused had pleaded to the charge, the conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information.

However, the conviction of the accused shall not be a bar to another prosecution for an offense which necessarily includes the offense charged in the former complaint or information under any of the following instances when: (a) the grave offense developed due to supervening facts arising from the same act or omission constituting the former charge; (b) the facts constituting the graver charge became known or were discovered only after a plea was entered in the former complaint or information; or (c) the plea of guilty to the lesser offense was made without the consent of the prosecutor and of the offended party except as provided in Sec. 1 [f] of Rule 116 (where the court allows the accused to enter a plea of guilty to a lesser offense which is necessarily included in the offense charged with the conformity of the trial prosecutor alone since the private offended party failed to appear despite due notice).

In any of the foregoing cases, where the accused satisfies or serves in whole or in part the judgment, he shall be credited with the same in the event of conviction for the graver offense. (*Sec. 7, Rule 117*)

A case shall not be provisionally dismissed except with the express consent of the accused and with notice to the offended party.

The provisional dismissal of offenses punishable by imprisonment not exceeding six (6) years or a fine of any amount, or both, shall become permanent one (1) year after issuance of the order without the case having been revived. With respect to offenses punishable by imprisonment of more than six (6) years, their provisional dismissal shall become permanent two (2) years after issuance of the order without the case having been revived. (*Sec. 8, Rule 117*)

h. Pre-Trial

Pre-trial is mandatory in all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, to be held after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person accused, unless a shorter period is provided for in special laws or circulars of the

Supreme Court. The objectives of the pre-trial conference are as follows: (a) plea bargaining; (b) stipulation of facts; (c) marking for identification of evidence of the parties; (d) waiver of objections to admissibility of evidence; (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. *(Sec. 1, Rule 118)*

All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters above-mentioned shall be approved by the court. *(Sec. 2, Rule 118)*

i. Trial

The provisions of Republic Act No. 8493 (“Speedy Trial Act of 1998”) as interpreted in Supreme Court Circular No. 38-98 dated August 11, 1998, were fully incorporated in the Revised Rules of Criminal Procedure.

Trial shall commence within thirty (30) days from receipt of the pre-trial order. Time limits were set with respect to the period from arraignment to trial, and trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause. Such time limitations, however, shall not apply where special laws or circulars of the Supreme Court provide for a shorter period of trial. *(Secs. 1 and 2, Rule 119)*

Sanctions in the form of fines and denial of the right to practice before the court trying the case for a period not exceeding thirty (30) days, are imposed in any case in which private counsel for the accused, the public attorney, or the prosecutor: (a) Knowingly allows the case to be set for trial without disclosing that a necessary witness would be unavailable for trial; (b) Files a motion solely for delay which he knows is totally frivolous and without merit; (c) Makes a statement for the purpose of obtaining continuance which he knows to be false and which is material to the granting of a continuance; or (d) Willfully fails to proceed to trial without justification consistent with the provisions hereof. *(Sec. 8, Rule 119)*

If the accused is not brought to trial within the time limit required by Sec. 1(g), Rule 116 and Sec. 1, as extended by Sec. 6 of Rule 119, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving the motion but the prosecution shall have

the burden of going forward with the evidence to establish the exclusion of time under Sec. 3 of this Rule. The dismissal shall be subject to the rules on double jeopardy. Failure of the accused to move for dismissal prior to trial shall constitute a waiver of the right to dismiss under this Rule. (Sec. 9, Rule 119) No provision of law on speedy trial and no rule implementing the same shall be interpreted as a bar to any charge of denial of right to speedy trial guaranteed by Sec. 14 (2), Art. III, of the 1987 Constitution. (Sec. 10, Rule 119)

After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court. If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution. The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment. (Sec. 23, Rule 119)

At any time before finality of the judgment of conviction, the judge may, *motu proprio*, with hearing in either case, reopen the proceedings to avoid a miscarriage of justice. The proceedings shall be terminated within thirty (30) days from the order granting it. (Sec. 24, Rule 119)

j. Judgment

The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.

The proper clerk of court shall give notice to the accused personally through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused was tried *in absentia* because he jumped bail or escaped from prison, the notice to him shall be served at his last known address. In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice,

the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or through his counsel.

If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these Rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice. (*Sec. 6, Rule 120*)

A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied, or when the accused has waived in writing his right to appeal, or has applied for probation. (*Sec. 7, Rule 120*)

k. New Trial or Reconsideration

At any time before a judgment of conviction becomes final, the court may, on motion of the accused or at its own instance but with the consent of the accused, grant a new trial or reconsideration on any of the following grounds: (a) That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial; (b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment. (*Secs. 1 and 2, Rule 121*)

The court shall grant reconsideration on the ground of errors of law or fact in the judgment, which requires further proceedings. (*Sec. 3, Rule 121*)

l. Appeal

Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy. (*Sec. 1, Rule 122*) An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion

for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run. *(Sec. 6, Rule 122)*

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15) day following the promulgation of the judgment or notice of denial of a motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter. *(Sec. 10, Rule 122)*

An appeal taken by one or more of several accused shall not affect those who did not appeal, except insofar as the judgment of the appellate court is favorable and applicable to the latter. The appeal of the offended party from the civil aspect shall not affect the criminal aspect of the judgment or order appealed from. Upon perfection of the appeal, the execution of the judgment or final order appealed from shall be stayed as to the appealing party. *(Sec. 11, Rule 122)*

m. Search and Seizure

A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court. *(Sec. 1, Rule 126)*

A search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines. *(Sec. 4, Rule 126)* The judge must, before issuing the warrant, personally examine in the form of searching questions and answers, in writing and under oath, the complainant and the witnesses he may produce on facts personally known to them and attach to the record their sworn statements, together with the affidavits submitted. *(Sec. 5, Rule 126)* If the judge is satisfied of the existence of facts upon which the application is based or that there is probable cause to believe that they exist, he shall issue the warrant, which must be substantially in the form prescribed by these Rules. *(Sec. 6, Rule 126)*

No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality. *(Sec. 8, Rule 126)* The warrant must direct that it be served in the day time, unless the affidavit asserts that the property is on the person or in the place ordered to be searched, in which case a direction may be inserted that it be served at any time of the day or night. *(Sec. 9, Rule 126)* A search warrant shall be valid for ten (10) days from its date; thereafter, it shall be void. *(Sec. 10, Rule 126)*

A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant. *(Sec. 13, Rule 126)*

A motion to quash a search warrant and/or to suppress evidence obtained thereby may be filed in and acted upon only by the court where the action has been instituted. If no criminal action has been instituted, the motion may be filed in and resolved by the court that issued the search warrant. However, if such court failed to resolve the motion and a criminal case is subsequently filed in another court, the motion shall be resolved by the latter court. *(Sec. 14, Rule 126)*

D. Draft Rules of Family Courts

The Supreme Court's Committee on Revision of the Rules of Court has constituted a Committee that will draft the Rules of the Family Courts. The drafting of the Rules of Family Courts is "expected to effect important and decisive changes in the disposition and handling of cases concerning child abuse, petitions for custody and adoption, summary judicial proceedings that fall under the Family Code, criminal cases involving children, and domestic violence against women and children, among others" *(1999 Annual Report of the Supreme Court of the Philippines, p. 117)*.

E. The Philippine Judiciary: Problems and Issues

Judicial processes in the country have consistently been described as slow and such delay in the administration of justice is a reality accepted by most of our citizens. The clogging of court dockets is the pervasive malady afflicting the judicial system and disposing of the existing backlog of cases in all courts is indeed a formidable task for

the Supreme Court which exercises administrative supervision over all courts and their personnel.

This administrative supervision is exercised over 2,130 lower courts nationwide consisting of 950 Regional Trial Courts (RTCs), 80 Metropolitan Trial Courts (MeTCs), 141 Municipal Trial Courts in Cities (MTCCs), 425 Municipal Trial Courts (MTCs), 476 Municipal Circuit Trial Courts (MCTCs), 5 Shari'a District Courts, and 51 Shari'a Circuit Courts, and their personnel consisting of 1,421 judges and some 25,443 employees (Tradition and Transition: The First Year of the Davide Watch (2000). p. 63; See Annex "E" of 1999 Annual Report of the Supreme Court of the Philippines, pp. 201-204). On the other hand, as of December 31, 1999, the Court of Appeals has 51 Justices and a total of 1,124 employees the Sandiganbayan has 15 Justices; and the Court of Tax Appeals has 48 regular permanent officials and employees, including 3 judges, 8 casual personnel and 1 contractual employee (1999 Annual Report of the Supreme Court, pp. 211, 215-216, 229).

The present leadership of the Supreme Court have set definite goals and taken concrete measures to address the identified problems in the judicial system. These objectives, policies and programs were outlined in the "Davide Watch," which is aimed at effecting the needed reforms to improve significantly the delivery of justice in the country.

The following statistics show the number of pending and new cases per year in each court and the number of cases disposed of for that year.