

REMEDIAL LAW AND SUBSTANTIVE LAW: THE NATURE AND IMPLICATIONS OF THEIR INTERACTION *

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We are gathered here today to honor Don Quintin Paredes, one of the most illustrious legal luminaries of the Philippines, a statesman and patriot as well.

I dedicate to his memory this lecture on Remedial Law and substantive law: the nature and implications of their interaction.

Sometimes a party litigant who loses his case blames the court. He thinks the judge is ignorant or he acted with ulterior motives. However, the real reason why he lost the case may be that his lawyer did not have a thorough knowledge of remedial law and its relation to substantive law.

Substantive right is a term which includes those rights which one enjoys under the legal system prior to the disturbance of normal relations.¹ The Civil Code of the Philippines does not specifically define a substantive right. However, Article 1156 of said Code defines obligation as a juridical necessity to give, to do or not to do. A person then has the right to demand for a thing and to demand that something be done or be not done. The sources of obligations are law, contracts, quasi-contracts, acts and omissions punished by law, and quasi-delicts. (Article 1157, Civil Code of the Philippines)

Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the rights and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtains redress for their invasion.²

As applied to criminal law, substantive law is that which declares what acts are crimes and prescribes the punishment for committing them, as distinguished from the procedural law which pro-

* Inaugural Lecture, Quintin Paredes Chair Lecture on Remedial Law (1979-1980).

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¹ *Bustos v. Lucero*, 81 Phil. 640 (1948) at p. 650.

² *Ibid.*

vides or regulates the steps by which one who commits a crime is to be punished.³ Preliminary investigation is eminently and essentially remedial. It is the first step taken in the criminal proceedings.

A person may know his rights. He knows the obligations of another. How to enforce and protect these rights and compel the other party to comply with his obligations lie within the province of remedial law. Thus, the Rules of Court define action as an ordinary suit in a court of justice, by which one party prosecutes another for the enforcement or protection of a right, or the prevention or redress of a wrong.⁴ Every other remedy, including one to establish the status or right of a party or a particular fact, shall be by special proceeding.⁵ It is thus seen that remedial law complements and implements substantive law.

Evidence, which is "the mode and manner of providing the competent facts and circumstances on which a party relies to establish the fact in dispute in judicial proceedings" is identified with and forms part of the method by which, in private law, rights are enforced and redress obtained, and, in criminal law, a law transgressor is punished. Criminal procedure refers to pleading, evidence and practice.⁶

For the enforcement and protection of rights and the prevention or redress of a wrong, the establishment of a status or right of a person or a particular fact, as well as the punishment of criminals, a judicial system had been established in the Philippines. Judicial power is vested in one Supreme Court and in such inferior courts as may be established by law. The National Assembly has the power to define, prescribe and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 of Article X of the Constitution.⁷

The Constitution itself provides for the composition of the Supreme Court, the qualifications of its members and the manner by which some cases are to be heard and decided. The Constitution, however, authorizes the Supreme Court to promulgate rules to determine what other cases are to be heard *en banc*. The only condition is that such cases shall be decided with the concurrence of at least eight (8) Members. Pursuant to such authority, the Supreme Court promulgated a resolution on November 15, 1973, which reads:

³ *Ibid.*

⁴ Sec. 1, Rule 2, REV. RULES OF COURT.

⁵ Sec. 2, Rule 2, *Id.*

⁶ *State v. Capaci*, 154 S.O. (419); 179 La., 462, cited in *Bustos v. Lucero*, 81 Phil. 641 (650).

⁷ Const. (1973), art. X, sec. 1.

"(93) Pursuant to Section 2 (1) of Article X of the Constitution of the Philippines, the Court Resolved to constitute itself into two divisions of six (6) members each, as follows:

First Division

Querube C. Makalintal, C.J., chairman,
Fred Ruiz Castro,
Claudio Teehankee,
Felix V. Makasiar,
Salvador V. Esguerra, and
Cecilia Muñoz Palma, JJ., members

Second Division

Calixto O. Zaldivar, J., chairman,
Enrique M. Fernando,
Antonio P. Barredo,
Felix Q. Antonio,
Estanislao A. Fernandez, and
Ramon C. Aquino, JJ., members

The presence of five (5) Justices shall be necessary to constitute a quorum of a division and the concurrence of at least five (5) Justices shall be necessary for the pronouncement of a judgment in division.

Any member of a division who is disqualified or inhibits himself from sitting in a case shall be substituted by a member from the other division to be designated by the Chief Justice on the basis of strict rotation.

Cases to be heard and decided in division shall be divided equitably between the two divisions. As far as practicable and until the Court shall *en banc* otherwise resolve, petitions for review on certiorari under Republic Act 5440 (both civil and criminal cases) and criminal cases certified by the Court of Appeals shall be assigned to the First Division; and special civil actions (both civil and criminal cases), naturalization cases, decisions of the Auditor General, all criminal cases in which the penalty imposed is life imprisonment and those involving other lesser offenses but necessarily related thereto, as provided in section 17 of the Judiciary Act, and appeals filed before the effectivity of Republic Act 5440 shall be assigned to the Second Division.

The following cases shall be heard and decided by the Court *en banc*:

1. All cases involving the constitutionality of a treaty, executive agreement or law;
2. All criminal cases in which the penalty imposed is death, and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices, or accessories, or whether they have been tried jointly or separately;
3. Cases heard by a division where the required concurrence of five (5) Justices for pronouncement of judgment is not obtained;

4. All cases in which the constitutionality or validity of an ordinance or executive order or regulation is in question;

5. All cases affecting ambassadors, other public ministers and consuls;

6. All cases where a doctrine or principle laid down by the court in a decision rendered *en banc* or in division may be modified or reversed;

7. All cases assigned to a division, including motions for reconsideration therein, which in the opinion of at least three (3) members thereof merit the attention of the Court *en banc* and are so accepted by a majority vote of the actual membership of the Court *en banc*; and

8. All such other cases as the Court *en banc* by a majority vote of its actual membership may deem of sufficient importance to merit its attention.

The concurrence of at least ten (10) members shall be required for a declaration of unconstitutionality of a treaty, executive agreement or law or for the imposition of the death penalty. All other cases heard *en banc* shall be decided with the concurrence of at least eight (8) members.

The Court shall sit *en banc* when it exercises its power of discipline and dismissal of judges of inferior courts under Article X, section 7 of the Constitution.

This resolution shall take effect on November 26, 1973, and shall be published in two successive issues of the Official Gazette following the promulgation hereof, and once in each of the following newspapers: Daily Express, Times Journal, and Bulletin Today.

The Court's Resolution of June 1, 1973 is hereby superseded.

Approved and promulgated, November 15, 1973."

The foregoing resolution was amended on September 29, 1977 by the Supreme Court to read as follows:

"(29) Re: Distribution of all cases equally among the two Divisions of the Supreme Court. —The Court's Resolution of November 15, 1973 which provided for the classification of cases and their distribution to the two divisions of the Court (First Division and Second Division) in accordance with such classification, as follows:

'Cases to be heard and decided in division shall be divided equitably between the two divisions. As far as practicable and until the Court shall *en banc* otherwise resolve, petitions for review on certiorari under Republic Act 5440 (both civil and criminal cases) and criminal cases certified by the Court of Appeals shall be assigned to the First Division; and special civil actions (both civil and criminal cases), naturalization cases, decisions of the Auditor General, all criminal cases in which the penalty imposed is life imprisonment and those involving other lesser offenses but necessarily related thereto, as

provided in section 17 of the Judiciary Act, and appeals filed before the effectivity of Republic Act 5440 shall be assigned to the Second Division.'

is hereby Amended so that effective October 5, 1977, all new cases, regardless of classification, that are heard and decided in division shall be divided equally between the two divisions, under the following procedures as far as practicable and until the Court en banc shall otherwise resolve.

1. All new petitions and cases docketed from and after October 1, 1977 shall be classified in accordance with the Court's above classification of cases, and such cases as so classified shall be distributed equally by raffle among the two divisions (e.g. cases classified as petitions for review on certiorari under Republic Act 5440 shall be raffled equally between the two divisions; and similarly, cases classified as special civil actions shall also be raffled equally between the two divisions, etc.)

2. The chairmen of the two divisions shall meet at least three times a week in order to conduct the raffle of all cases filed and ready to be placed in the division's agenda as of the day of the raffle (e.g. they meet on Monday (1st meeting September 30, 1977, Friday) at a mutually agreed time to raffle the cases to be placed on the division's Wednesday Agenda (October 5); on Tuesday (October 4), in order to raffle the cases to be placed on the division's Friday Agenda (October 7); and on Wednesday (October 5) in order to raffle the cases to be placed on the division's Monday (October 10) Agenda).

3. The chairmen of the two divisions shall agree on each raffle day as to the order of raffling all cases, whether from the lowest number, the middle number or the highest number of the cases to be raffled for the day, but always with the basic objective of distributing all new petitions and cases equally between the two divisions.

4. In case of urgent new petitions or cases that require immediate attention, a special raffle shall be held by the chairmen of the two divisions, except where one of them may not be available, in which case the division chairman who is present and available in the Court premises may conduct the raffle by himself.

5. By way of clarification, all other cases which were previously distributed among the two divisions in accordance with the classification of cases under the Court's Resolution of November 15, 1973 shall be retained by the division and its members to whom they were assigned.

CLASSIFICATION OF CASES

FIRST DIVISION

1. Petitions for Review (Civil & Criminal)
2. (Criminal) Cases certified by C.A.

SECOND DIVISION

1. Special Civil Action
2. Naturalization Cases

3. Administrative charges against a CFI judge or Court Personnel of any Court in the Philippines. (Except No. 9 of En Banc)
3. Decisions of Auditor General
4. Criminal Cases involving life imprisonment or lesser offenses but related thereto.
5. Appeals before R.A. 5440
6. Administrative charges against a Municipal or City Judge or against a member of the Bar. (Except No. 9 of En Banc)

EN BANC

1. Cases involving Constitutionality of a treaty, law, executive agreement.
2. Criminal cases involving death penalty or lesser offenses arising out of the same occurrence or committed on the same occasion.
3. Cases involving constitutionality or validity of ordinance, order, regulation.
4. Cases affecting ambassadors, public ministers, and consuls.
5. Cases where doctrine or principle laid down by the Court *en banc* or in division may be modified or reversed.
6. Cases assigned to a division including motions for reconsideration which in the opinion of at least three (3) members merit the attention of the Court *en banc* and are accepted by majority vote of the actual membership of the Court *en banc*.
7. All other cases as the Court *en banc* by a majority of its actual membership may deem of sufficient importance to merit its attention.
8. Cases where the corresponding Division is of the opinion that the penalty to be imposed is dismissal of a judge, officer or employee of the Court, disbarment of a lawyer, or suspension for a period of more than 6 months.
9. Cases where the opinion of a Division involves a novel or important issue.
10. Cases where the required concurrence of five (5) Justices for pronouncement of a decision by a Division is not obtained."

The Constitution also provides that cases heard by a division shall be decided with the concurrence of at least five (5) Members, but if such required number is not obtained, the case shall be decided *en banc*; Provided, that 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*.⁸

⁸ Const. (1973), art. X, sec. 2, par. (3).

Under the New Constitution, the administrative supervision of all courts and the personnel thereof has been transferred to the Supreme Court.⁹ There is a move to return the administrative supervision over all courts and the personnel thereof to the Ministry of Justice because of a general feeling that the Supreme Court cannot cope with its judicial functions. Hence, the need of relieving it of said administrative supervision.

It is, however, too early to pass judgment on the performance of the Supreme Court of its administrative supervision over all courts and the personnel thereof. The Supreme Court has appointed a Court Administrator and three Deputy Court Administrators only about three months ago. In due time, the Supreme Court, through the Court Administrator and the Deputy Court Administrators, will be able to efficiently perform its function of administrative supervision over all courts and the personnel thereof.

The Members of the Supreme Court and judges of inferior courts shall hold office during good behavior until they reach the age of sixty-five years or become incapacitated to discharge the duties of their office. The Supreme Court has the power to discipline judges of inferior courts and, by a vote of at least eight Members, order their dismissal.¹⁰

There is a move in the Batasang Pambansa to submit an amendment to the Constitution to restore the age of seventy years for retirement of members of the Judiciary.*

The conclusions of the Supreme Court in any case submitted to it for decision *en banc* or in division shall be reached in consultation before the case is assigned to a Member for the writing of the opinion of the Court. Any Member dissenting from a decision shall state the reasons for his dissent. The same requirements shall be observed by all inferior courts.¹¹

Every decision of a court of record shall clearly and distinctly state the facts and the law on which it is based. The Rules of Court shall govern the promulgation of minute resolutions.¹²

In *Ang Tibay v. Court of Industrial Relations*¹³ and *Juan Serrano v. Public Service Commission*,¹⁴ the Supreme Court held that

⁹ Const. (1973), art. X, sec. 6.

¹⁰ Const. (1973), art. X, sec. 7.

* A proposed Constitutional amendment to extend the retirement age to seventy years old was submitted to the people through an election-plebescite on January 30, 1980. Partial Comelec returns show an overwhelming trend towards its approval.

¹¹ Const. (1973), art. X, sec. 9.

¹² Const. (1973), art. X, sec. 9.

¹³ 69 Phil. 635 (1940).

¹⁴ G.R. No. L-24165, Aug. 30, 1968, 24 SCRA 867 (1968).

the provision of the Constitution requiring a court of record to clearly and distinctly state the facts and the law on which the decision is based is applicable to an administrative tribunal because said administrative tribunal cannot "in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirement of due process of law." A party litigant has a right to know "the various issues involved and the reasons for the decisions rendered."

Since the enactment of Republic Act 6031 which converted municipal courts and city courts to courts of record, the decisions of said inferior courts must state clearly the facts and the law on which their decisions are based.¹⁵

The Constitution also fixes the period within which a case or matter shall be decided or resolved from the date of submission. The Constitution provides thus:

Sec. 11. (1) Upon the effectivity of this Constitution, the maximum period within which a case or matter shall be decided or resolved from the date of its submission, shall be eighteen months for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all inferior collegiate courts, and three months for all other inferior courts.

(2) With respect to the Supreme Court and other collegiate appellate courts, when the applicable maximum period shall have lapsed without the rendition of the corresponding decision or resolution because the necessary vote cannot be had, the judgment, order, or resolution appealed from shall be deemed affirmed, except in those cases where a qualified majority is required and in appeals from judgments of conviction in criminal cases; and in original special civil actions and proceedings for habeas corpus, the petition in such cases shall be deemed dismissed; and a certification to this effect signed by the Chief Magistrate of the court shall be issued and a copy thereof attached to the record of the case.

The Supreme Court has yet to decide whether the foregoing provision of the Constitution is mandatory or merely directory.

By authority of the provision of the 1935 Constitution which is similar to Section 1, Article X of the New Constitution, the then Congress of the Philippines enacted the Judiciary Act of 1948, Republic Act No. 296, which has been amended not only by said Congress but by the President of the Philippines in the exercise of his decree making power during martial law.

The courts referred to in said Judiciary Act are the Supreme Court, the Court of Appeals, the Courts of First Instance, the City

¹⁵ *Luzano v. Romero*, G.R. No. L-33245, Sept. 30, 1971, 41 SCRA 247 (1971).

and Municipal Courts.¹⁶ The provisions of the Judiciary Act on the composition of the Supreme Court and the qualifications of its Members have been modified by the 1973 Constitution.

Section 17 of the Judiciary Act of 1948 provides:

SEC. 17. Jurisdiction of the Supreme Court.—The Supreme Court shall have original jurisdiction over cases affecting ambassadors, other public ministers and consuls; and original and exclusive jurisdiction in petitions for the issuance of writs of *certiorari*, prohibition and *mandamus* against the Court of Appeals.

In the following cases, the Supreme Court shall exercise original and concurrent jurisdiction with Courts of First Instance:

1. In petitions for the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*; and

2. In actions brought to prevent and restrain violations of law concerning monopolies and combinations in restraint of trade.

The Supreme Court shall have exclusive jurisdiction to review, revise, reverse, modify or affirm on appeal, as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in —

(1) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices or accessories, or whether they have been tried jointly or separately;

(2) All cases involving petitions for naturalization or denaturalization; and

(3) All decisions of the Auditor General, if the appellant is a private person or entity. (Now Commission of Audit. The aggrieved party, whether a private person or government official, may appeal by *certiorari* to the Supreme Court.)

The Supreme Court shall further have exclusive jurisdiction to review, revise, reverse, modify or affirm on *certiorari* as the law or rules of court may provide, final judgments and decrees of inferior courts as herein provided, in —

(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question;

(2) All cases involving the legality of any tax, impost, assessment or toll, or any penalty imposed in relation thereto;

(3) All cases in which the jurisdiction of any inferior court is in issue;

(4) All other cases in which only errors or questions of law are involved: Provided, however, That if, in addition to constitu-

¹⁶ Sec. 2, Judiciary Act of 1948.

tional, tax or jurisdictional questions, the cases mentioned in the three next preceding paragraphs also involve questions of fact or mixed questions of fact and law, the aggrieved party shall appeal to the Court of Appeals; and the final judgment or decision of the latter may be reviewed, revised, reversed, modified or affirmed by the Supreme Court on writ of certiorari; and

(5) Final awards, judgments, decisions or orders of the Commission on Elections, Court of Tax Appeals, Court of Industrial Relations, the Public Service Commission, and the Workmen's Compensation Commission. (RA Nos. 2613 & 5440.)

The Court of Industrial Relations has been abolished and superseded by the National Labor Relations Commission. The Workmen's Compensation Commission has also been abolished and the cases which were not decided before it was abolished had been referred to the Office of the Ministry of Labor. The Employees Compensation Commission was created to initiate, rationalize and coordinate the policies of the employees compensation program.

The Public Service Commission has been superseded by boards under the Ministry of Transportation and Communications. The decisions of these Boards are appealable to the Supreme Court.

Republic Act 5440 provides for the method of direct appeal to the Supreme Court when only questions of law are involved. Until the Supreme Court provides otherwise, petitions under Republic Act 5440 shall be filed within the period fixed in the Rules of Court for appeals in criminal and civil cases or special civil actions or special proceedings depending upon the nature of the case in which the judgment or decree sought to be reviewed was rendered; the filing of said petition shall stay the execution of the judgment sought to be reviewed; and the aforesaid petitions shall be filed and served in the form required for petitions for review by *certiorari* of decisions of the Court of Appeals.

The Court of Appeals is now composed of one presiding justice and 44 associate justices divided into 15 divisions composed of 3 justices each.

The Court of Appeals has original jurisdiction to issue writs of mandamus, prohibition, injunction, certiorari, habeas corpus and all other auxiliary writs and process in aid of its appellate jurisdiction.¹⁷

In *Breslin v. Luzon Stevedoring Co.*,¹⁸ it was held that the Court of Appeals has original jurisdiction to issue writs if it appears from the allegations in the plaintiff's petition, complaint or

¹⁷ Sec. 30, Judiciary Act of 1948.

¹⁸ 84 Phil. 618 (1949).

information that the parties have a right to appeal, according to law, from the final orders or decisions of the lower court to the Court of Appeals, irrespective of whether an appeal had already been or will actually be taken or not.

The Court of Appeals has exclusive appellate jurisdiction over all cases, actions and proceedings not enumerated in Section 17 of the Judiciary Act of 1948 properly brought to it.¹⁹

Republic Act No. 5434, which has enlarged the appellate jurisdiction of the Court of Appeals, provides:

SECTION 1. Appeals from specified agencies. — Any provision of existing law or Rule of Court to the contrary notwithstanding, parties aggrieved by a final ruling, award, order, decision, or judgment of the Court of Agrarian Relations; the Secretary of Labor under Section 7 of Republic Act Numbered Six Hundred and Two, also known as the 'Minimum Wage Law'; the Department of Labor under Section 23 of Republic Act Numbered Eight Hundred Seventy-Five, also known as the 'Industrial Peace Act'; the Land Registration Commission; the Securities and Exchange Commission; the Social Security Commission; the Civil Aeronautics Board; the Patent Office and the Agricultural Inventions Board, may appeal therefrom to the Court of Appeals, within the period and in the manner herein provided, whether the appeal involves questions of fact, mixed questions of fact and law, or questions of law, or all three kinds of questions. From final judgments or decisions of the Court of Appeals, the aggrieved party may appeal by *certiorari* to the Supreme Court as provided in Rule 45 of the Rules of Court.

SEC. 2. Appeals to Court of Appeals. — Appeals to the Court of Appeals shall be filed within fifteen (15) days from notice of the ruling, award, order, decision or judgment or from the date of its last publication, if publication is required by law for its effectivity; or in case a motion for reconsideration is filed within that period of fifteen (15) days, then within ten (10) days from notice or publication, when required by law, of the resolution denying the motion for reconsideration. No more than one motion for reconsideration shall be allowed any party. If no appeal is filed within the periods here fixed, the ruling, award, order, decision or judgment shall become final and may be executed as provided by existing law.

SEC. 3. How appeals taken. — Appeals shall be taken by filing a notice of appeal with the Court of Appeals and with the court, officer, board, commission or agency that made or rendered the ruling, award, order, decision or judgment appealed from, serving a copy thereof on all other interested parties. The notice of appeal shall state, under oath, the material dates to show that it was filed within the period fixed in this Act.

SEC. 4. Docketing fee and deposits for costs. — Upon filing of the notice of appeal, the appellant shall pay to the Clerk of the Court of Appeals the docketing fee fixed in Rule 141, Section 2 (a) of the Rules of Court and deposit the sum of fifty pesos (P50.00)

¹⁹ Sec. 29, Judiciary Act of 1948.

for costs, or in case the appellant be a laborer, employee, agricultural lessee, or tenant, a motion setting forth said fact under oath, and praying that he be exempted from payment of docketing fee and the deposit for costs. Copy of the motion shall be served on all interested parties. Should the court find said motion to be well founded it shall grant the same; but if the Court denies the motion, the appellant shall pay the docketing fee and make the deposit for costs within fifteen (15) days from notice of the denial. Failure to pay the docketing fee and make the deposit for costs within the period here fixed shall be a ground to dismiss the appeal.

SEC. 5. Effect of appeal. — Appeal shall not stay the award, order, ruling, decision or judgment unless the officer or body rendering the same or the court, on motion, after hearing, and on such terms as it may deem just, should provide otherwise. The propriety of a stay granted by the officer or body rendering the award, order, ruling, decision or judgment may be raised only by motion in the main case.

SEC. 6. Elevation of Record. — Within five (5) days from the payment of the docket fee and deposit for costs, the Clerk of the Court of Appeals shall notify the clerk of court, commission, board, or office concerned to forward the record of the case. Within five (5) days from receipt of such notice, the latter shall comply by forwarding the whole original record of the case or a certified true copy of the whole record to the Court of Appeals. Failure to elevate the record within the period here fixed shall be dealt with as for contempt of Court.

SEC. 7. Appellate procedure; Briefs. — Until the Supreme Court shall provide otherwise by Rule of Court, appeals shall proceed as provided by Rules 46 to 55 of the Rules of Court, insofar as applicable, with the following modifications:

(a) The appellant's brief shall be served and filed within thirty (30) days from the date that he is notified that the record has been received by the Court of Appeals, within the period above fixed, and shall contain, as an appendix, the ruling, order, award, decision or judgment appealed from; the appellee's brief shall be served and filed within thirty (30) days from receipt of the appellant's brief; and the appellant's reply brief, within fifteen (15) days from receipt of the appellee's brief.

(b) The Court of Appeals may extend the periods above-fixed only for good cause and the total extension granted any party shall not, except in meritorious cases, be greater than the original period above fixed.

(c) Where the appellant has been exempted from paying the docket fee or making the deposit for costs, or when the appellee is an employee, laborer or tenant, he shall be allowed to file his briefs in typewritten or mimeographed form.

SEC. 8. Repealing clause. — Section twelve of Republic Act Numbered One thousand two hundred and sixty-seven, as amended; Section seven of Republic Act Numbered Six hundred two, as amended; Section twenty-three of Republic Act Numbered Eight hundred and seven-

ty-five; Section thirty-six of Commonwealth Act Numbered Eighty-three, as amended; Section five of Republic Act Numbered One thousand One hundred and sixty-one, as amended, Section four of Republic Act Numbered One thousand one hundred fifty-one; Sections forty-eight and forty-nine of Republic Act Numbered Seven hundred and seventy-six; Sections sixty-three, sixty-four and sixty-five of Republic Act Numbered One hundred and sixty-five, as amended; Section two of Republic Act Numbered One thousand two hundred and eighty-seven, Section thirty-three of Republic Act Numbered One hundred sixty-six and all other portions of said Acts, and all other laws, rules and regulations, or Rules of Court, or parts thereof, that are inconsistent with the provisions of this Act, are hereby amended, repealed or modified to conform herewith.

SEC. 9. Effectivity. — This Act shall take effect upon its approval.

Approved, Sept. 9, 1968.

Under Presidential Decree No. 902-A, which has reorganized the Securities and Exchange Commission with additional powers, the aggrieved party may appeal the order, decision or ruling of the Commission sitting *en banc* to the Supreme Court by petition for review in accordance with the pertinent provisions of the Rules of Court.

All cases which may be erroneously brought to the Supreme Court or the Court of Appeals shall be sent to the proper court which shall hear the same as if it has originally been brought before it.²⁰ The Supreme Court has applied this provision by analogy to appeals erroneously brought to Courts of First Instance.²¹

Courts of First Instance are courts of general original jurisdiction. They are organized and established throughout the Philippines in conformity with Chapter IV of the Judiciary Act of 1948. The Philippines is divided into sixteen judicial districts.²²

The Courts of First Instance shall have the following original jurisdiction:

Sec. 44. Original jurisdiction. — Courts of First Instance shall have original jurisdiction:

(a) In all civil actions in which the subject of the litigation is not capable of pecuniary estimation;

(b) In all civil actions which involve the title to or possession of real property, or any interest therein, or the legality of any tax, impost or assessment, except actions of forcible entry into and de-

²⁰ Sec. 31, Judiciary Act of 1948.

²¹ *Bello v. Court of Appeals*, G.R. No. L-38161, March 29, 1974, 56 SCRA 509 (174); *Nora Aguilar Matura v. Hon. Alfredo C. Laya, etc.*, G.R. Nos. L-44550-51 and L-44552-53, July 30, 1979.

²² Sec. 49, Judiciary Act of 1948.

tainer on lands or buildings, original jurisdiction of which is conferred by this Act upon city and municipal courts;

(c) In all cases in which the demand, exclusive of interest or the value of property in controversy, amounts to more than ten thousand pesos; (RA os. 2613 & 3828.)

(d) In all actions in admiralty and maritime jurisdiction, irrespective of the value of the property in controversy or the amount of the demand;

(e) In all matters of probate, both of testate and intestate estates, appointment of guardians, trustees and receivers, and in all actions for annulment of marriage, and in all such special cases and proceedings as are not otherwise provided for;

(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos;

(g) Over all crimes and offenses committed on the high seas or beyond the jurisdiction of any country, or within any of the navigable waters of the Philippines, on board a ship or watercraft of any kind registered or licensed in the Philippines in accordance with the laws thereof. The jurisdiction herein conferred may be exercised by the Court of First Instance in any province into which the ship or watercraft upon which the crime or offense was committed shall come after the commission thereof: Provided, That the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines, and

(h) Said court and their judges, or any of them, shall have the power to issue writ of injunction, mandamus, certiorari, prohibition, qua warrant and habeas corpus in their respective provinces and districts, in the manner provided in the Rules of Court.²³

Under Republic Act 6031, only the decisions of municipal courts and city courts in cases falling under their exclusive original jurisdiction are appealable to the Court of First Instance. Municipal courts and city courts have been converted to courts of records. Hence, Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested.

In *Purita Bersabal v. Hon. Serafin Salvador*,²⁴ the Supreme Court held that the Court of First Instance cannot dismiss the appeal from the City Court if the appellant does not file a memorandum or brief. The requirement to submit memoranda is optional on the part of the parties. The filing thereof may be waived.

In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the Courts of First

²³ Sec. 44, Judiciary Act of 1948.

²⁴ G.R. No. L-35910, July 27, 1978, 84 SCRA 176 (1978).

Instance, the decision of the latter shall be final: Provided, That the findings of fact contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the Courts of First Instance, the appeal shall be made directly to the Court of Appeals whose decisions shall be final: Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions it may prescribe, require by certiorari that the case be certified to it for review and determination as if the case had been brought before it on appeal.²⁵

The Supreme Court has not yet ruled on the manner of appeal from a decision of the Court of First Instance if the aggrieved party assails the findings of fact of said Court of First Instance as not supported by substantial evidence.

The Court of Appeals, in a resolution adopted *en banc* on August 12, 1971, laid down the procedure for the appeal. Said resolution reads:

"WHEREAS, Republic Act No. 6031 does not prescribe the procedure to be followed by the Court of Appeals in the review of judgments of the Courts of First Instance, in cases falling under the original exclusive jurisdiction of the municipal and city courts, where the findings of facts of the Courts of First Instance are assailed for not being supported by substantial evidence as basis thereof and the conclusions are claimed to be clearly against the law and jurisprudence;

WHEREAS, it is the sense of this Court that a uniform practice be followed by all its divisions and members thereof in reviewing the above mentioned decisions of Courts of First Instance;

NOW THEREFORE, the Court RESOLVED, as it is hereby RESOLVED, that the following practice be observed in elevating to this Court for review decisions of Courts of First Instance in cases falling under the original exclusive jurisdiction of municipal and city courts;

SECTION 1. That the aggrieved party shall file within the period for appealing six (6) copies of a verified petition for the review of the decision of the Court of First Instance. The petition shall contain a concise statement of the matters involved and the grounds and arguments relied upon, specifically pointing out why the decision in question is not supported by substantial evidence and/or is clearly against the law and jurisprudence. The petition shall be accompanied with a certified true copy of the decision or judgment sought to be reviewed, together with copies of such material portions of the record as would support the allegations of the petition. As much as possible, the petition shall be a sort of a brief of the aggrieved party.

²⁵ Sec. 45, Judiciary Act of 1948 as amended by Republic Act 6031.

SEC. 2. Upon the filing of the petition, the petitioner shall pay to the Clerk of the Court of Appeals the docketing fee. If the Court finds that, from the allegations of the petition, the same is not *prima facie* meritorious or is intended manifestly for delay, the Court may outright dismiss the petition, otherwise, the same shall be given due course, in which case, the petitioner shall deposit the amount of eighty pesos (P80.00) for cost within three days from notice of the resolution giving due course to the petition. Upon the failure of the petitioner to deposit the amount for costs within the said period of three (3) days, the petition shall be dismissed.

SEC. 3. Immediately after the deposit for costs is made, the Court shall order the respondents to answer the petition for review within ten (10) days, unless the Court shall grant the respondents a longer period, and shall likewise order the corresponding Clerk of the Court of First Instance to elevate the whole record, including the oral (transcript of stenographic notes) and the documentary evidence, of the case to this Court within ten (10) days. The answer of the respondents, which shall also be in six copies, shall be accompanied with true copies of such material portions of the record as are referred to therein together with other supporting papers. Likewise, the answer shall take the place of the respondents' brief.

SEC. 4. After the filing of the answer, the petitioner may reply thereto within five (5) days from receipt of copy thereof, after which, the case shall be deemed submitted for decision unless either party shall, within five (5) days from the filing of the petitioner's reply, ask that the petition be heard on oral argument, which may or may not be granted at the discretion of the Court.

Adopted on August 12, 1971."

There is no controversy on the manner of appeal from a decision of the Court of First Instance on a case appealed to it from the municipal court or city court if the appellant only raises questions of law. The appeal is to the Supreme Court in accordance with Republic Act No. 5440.

The Philippines has been divided into municipal circuit courts. Two or more municipal courts with light case loads have been converted into circuit municipal courts. However, municipal courts with heavy case loads have been allowed to remain as individual courts.

Municipal judges and judges of city courts of chartered cities have the following jurisdiction:

SEC. 88. Original jurisdiction in civil cases. — In all civil actions, including those mentioned in Rules fifty-nine and sixty-two (now Rules 57 and 60) of the Rules of Court, arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the municipal judge and the judge of a city court shall have exclusive original jurisdiction where the value of the subject matter or amount of the demand does not exceed ten thousand pesos, exclusive of interests and costs. Where there are several claims or causes of

action between the same parties embodied in the same complaint, the amount of the demand shall be the totality of the demand in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; but where the claims or causes of action joined in a single complaint are separately owned by or due to different parties, each separate claim shall furnish the jurisdictional test. In forcible entry and detainer proceedings, municipal judge or judge of the city court shall have original jurisdiction, but the said municipal judge or city judge may receive evidence upon the question of title therein, whenever may be the value of the property, solely for the purpose of determining the character and extent of possession and damages for detention. In forcible entry proceedings, he may grant preliminary injunctions, in accordance with the provisions of the Rules of Court, to prevent the defendant from committing further acts of dispossession against the plaintiff. (RA Nos. 2613 and 3828.)

The jurisdiction of a municipal judge and judge of a city court shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, except in forcible entry and detainer cases; nor to those which involve the legality of any tax, impost, or assessment; nor to actions involving admiralty or maritime jurisdiction; nor to matters of probate, the appointment of trustees or receivers; nor to actions for annulment of marriages: Provided, however, That municipal judges may, with the approval of the Secretary of Justice, (now by the Supreme Court) be assigned by the respective district judge in each case to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the value of which does not exceed ten thousand pesos, such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants, if there are more than one, or from the corresponding tax declaration of real property. (RA Nos. 644, 2613, 3090 and 3828.)

Municipal judges in the capitals of provinces and sub-provinces and also city judges of chartered cities, in the absence of the District Judge from the province may exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall be held to include the hearing of all motions for the appointments of a receiver, for temporary injunctions, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, and the hearing of petitions for a writ of habeas corpus. (RA No. 2613.)²⁶

Municipal judges and judges of city courts of chartered cities have original jurisdiction to try the following criminal cases:

SEC. 87. Original jurisdiction to try criminal cases. — Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

- (a) All violations of municipal or city ordinances committed within their respective territorial jurisdictions;

²⁶ Sec. 88, Judiciary Act of 1948.

(b) All criminal cases arising under the laws relating to:

- (1) Gambling and management or operation of lotteries;
- (2) Assaults where the intent to kill is not charged or evident upon the trial;
- (3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;
- (4) Sale of intoxicating liquors;
- (5) Falsely impersonating an officer;
- (6) Malicious mischief;
- (7) Trespass on Government or private property;
- (8) Threatening to take human life;
- (9) Illegal possession of firearms, explosives and ammunition;
- (10) Illegal use of aliases; and
- (11) Concealment of deadly weapons.

(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

Said municipal judges and judges of city courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

No warrant of arrest shall be issued by any municipal judge in any criminal case filed with him unless he first examines the witness or witnesses personally, and the examination shall be under oath and reduced to writing in the form of searching questions and answers.

Municipal judges in the capitals of provinces and sub-provinces and judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed *prision correccional* or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

All cases, filed under the next preceding paragraph with municipal judges of capitals and city court judges shall be tried and decided on the merits by the respective municipal judges or city judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be. (RA Nos. 2613 and 3828.)²⁷

²⁷ Sec. 87, Judiciary Act of 1948.

Republic Act 5967, which has increased the jurisdiction of the city courts, provides:

"SECTION 1. No person shall be appointed City Judge unless he possesses the qualifications of a judge of the Court of First Instance: Provided, however, That this requirement of law shall not apply to incumbent judges.

SEC. 2. The City Court of chartered cities aside from its original and concurrent jurisdiction as provided in Section eighty-seven of Republic Act Numbered Two hundred ninety-six, as amended, shall likewise have concurrent jurisdiction over offenses involving damage to property through reckless imprudence regardless of amount involved or the penalty to be imposed.

SEC. 3. Besides the civil cases over which the City Courts have jurisdiction under Section eighty-eight of Republic Act Numbered Two hundred ninety-six, as amended, it shall likewise have concurrent jurisdiction with the Court of First Instance over the following:

- (a) Petition for change of name of naturalized citizens after the judgment of naturalization has become final and executory;
- (b) Cancellation or correction of entries in the City Civil Registry where the corrections refer to typographical errors only; and
- (c) In ejection cases where the question of ownership is brought in issue in the pleadings. The issue of ownership shall therein be resolved in conjunction with the issue of possession.

SEC. 4. Subject to the provision of the next succeeding section, the City Court in chartered cities shall be courts of record and the City Judge thereof shall have the same incidental powers and prerogatives as are possessed by Judges of the Court of First Instance, and the power and authority to punish for contempt of Court committed before superior court or judges thereof in accordance with the provisions of Rule Seventy-one of the Revised Rules of Court and its judgment or order made in a case of contempt punished after written charge and hearing may be reviewed in the manner prescribed under the provisions of Section ten of said rule. Notwithstanding any provision of law to the contrary, processes and warrants of arrest issued by the City Judge in cases within its original or concurrent jurisdiction shall be served anywhere without the necessity of certification by the Judge of the Court of First Instance.

SEC. 5. Except in offenses punishable by arresto mayor or imprisonment not exceeding six months or fine not exceeding two hundred pesos or both, or violation of municipal ordinance or in civil actions falling under the original exclusive jurisdiction of the City Court which are appealable to the Court of First Instance, proceedings in the City Court shall be recorded and judgment of decision rendered shall be directly appealable to the Court of Appeals or Supreme Court, as the case may be, in accordance with the Rules of Court applicable to appeal from judgment of the Court of First Instance.

SEC. 6. The City Clerk shall collect the same legal fees that are collected by the Court of First Instance for docketing cases enumerated under Section three hereof and shall deposit the same in the office of the City Treasurer who shall set it aside as a trust fund to be spent exclusively for the acquisition and purchase of law books and subscription to law journals for the City Court.

SEC. 7. Unless the City Charter or any special law provides higher salary, the city judge in chartered cities shall receive a basic salary which shall not be lower than the sums as provided hereinbelow:

(a) For the City of Manila, twenty-two thousand pesos per annum;

(b) For the cities of Baguio, Quezon, Pasay, Cebu, Caloocan and other first class cities, nineteen thousand pesos per annum;

(c) For second and third class cities, eighteen thousand pesos per annum;

(c) For second and third class cities, eighteen thousand pesos per annum;

(d) For other cities, sixteen thousand pesos per annum: Provided, however, That the difference between the present salary for the city judges and that herein fixed shall be paid out of the funds in the city treasury, but the payment of said salary difference shall be subject to the implementation of the respective city government: Provided, further, That part of the salary of the city judges which is now paid by the National Government as provided for under Republic Act Numbered Three thousand eight hundred twenty shall continue to be paid out of the funds in the National Treasury, except the salaries of the City Judges of Manila, Baguio, Quezon, Pasay, Cebu and other first class cities which shall be paid by the respective city government: Provided, also, That city judges of first class cities whose salaries, at the time of the approval of the Act, are partly paid by the city government and partly paid by the National Government as provided in Republic Act Numbered Three thousand eight hundred twenty shall continue to be paid under said Act but the difference in salary fixed therein and that herein fixed shall be paid by the respective city government.

Henceforth, unless the city charter or any special law provides higher salary, and subject to the implementation of the respective city government, the salary of the city judges of chartered cities may be raised by the City Council, if and when the salary of the district judge of the Court of First Instance is likewise raised, as follows:

For the City of Manila, the city judge shall receive one thousand pesos less than the salary fixed for the district judge;

For the cities of Baguio, Quezon, Pasay and other first class cities, the city judge shall receive one thousand pesos less than that fixed for the district judge, and for second and third class cities, the city judge shall receive one thousand five hundred pesos less than that fixed for the district judge, and for other cities, the city judge shall receive two thousand pesos less than that fixed for the district judge: Provided, however, That the salary of a city judge shall be at least one hundred pesos per month less than that of the city mayor.

SEC. 8. All Acts or part of Acts inconsistent herewith are hereby repealed.

SEC. 9. This Act shall take effect upon its approval.
Enacted without Executive approval, June 21, 1969.

Aside from the Judiciary Act of 1948, special laws have been enacted creating other courts such as the Courts of Agrarian Relations, Juvenile and Domestic Relations Court, the Circuit Criminal Courts and the Sandigan Bayan.

Presidential Decree No. 1083, known as "Code of Muslim Personal Laws of the Philippines" has created as part of the judicial system courts of limited jurisdiction designated respectively as Shari'a District Courts and Shari'a Circuit Courts. These courts and the personnel thereof are subject to the administrative supervision of the Supreme Court. The Shari'a courts are not yet functioning.

A system for amicable settlement of disputes of the Barangay level has been established. Presidential Decree No. 1508 reads:

**ESTABLISHING A SYSTEM OF AMICABLY SETTLING
DISPUTES AT THE BARANGAY LEVEL**

Whereas, the perpetuation and official recognition of the time-honored tradition of amicably settling disputes among family and barangay members at the barangay level without judicial resources would promote the speedy administration of justice and implement the constitutional mandate to preserve and develop Filipino culture and to strengthen the family as a basic social institution;

Whereas, the indiscriminate filing of cases in the courts of justice contributes heavily and unjustifiably to the congestion of court dockets, thus causing a deterioration in the quality of justice;

Whereas, in order to help relieve the courts of such docket congestion and thereby enhance the quality of justice dispensed by the courts, it is deemed desirable to formally organize and institutionalize a system of amicably settling disputes at the barangay level;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree the following:

SECTION 1. Lupong Tagapayapa —

a) Creation. — There is hereby created in each barangay a body to be known as Lupong Tagapayapa (hereinafter referred to as Lupon) composed of the Barangay Captain as chairman and not less than ten (10) nor more than twenty (20) members, to be constituted every two years in the following manner:

(1) Any suitable person actually residing or working in the barangay, not otherwise expressly disqualified by law, and taking into account considerations of integrity, impartiality, independence of mind, sense of fairness, and reputation for pro-

bity, including educational attainment; may be appointed member;

(2) A notice to constitute the Lupon, which shall include the names of proposed members who have expressed their willingness to serve, shall be prepared by the Barangay Captain within thirty (30) days after this Decree shall have become effective, and thereafter within the first ten (10) days of January of every other year. Such notice shall be posted in three (3) conspicuous places in the barangay continuously for a period of not less than three (3) weeks;

(3) The Barangay Captain, taking into consideration any opposition to the proposed appointment or any recommendation/s for appointment as may have been made within the period of posting, shall within ten (10) days thereafter, appoint as members those whom he determines to be suitable therefor;

(4) Appointments shall be in writing signed by the Barangay Captain and attested by the Barangay Secretary;

(5) The list of appointed members shall be posted in three (3) conspicuous places in the barangay for the entire duration of their term of office;

(6) When used herein:

Barangay refers not only to barrios which were declared barangays by virtue of Presidential Decree No. 557 but also to barangays otherwise known as citizens assemblies pursuant to Presidential Decree No. 86.

Barangay Captain refers to the Barangay Captains of barrios which were declared barangay by virtue of Presidential Decree No. 557 and to the Chairmen of barangays otherwise known as citizens assemblies pursuant to Presidential Decree No. 86.

b) Oath and Term of Office. — Upon appointment, each member shall take an oath of office before the Barangay Captain. He shall hold office until December 31 of the calendar year subsequent to the year of his appointment unless sooner terminated by resignation, transfer of residence or place of work, or withdrawal of appointment by the Barangay Captain with the concurrence of the majority of all the members of the Lupon.

c) Vacancy, Lupon. — Should a vacancy occur in the Lupon for any cause the Barangay Captain shall as soon as possible appoint a suitable replacement. The person appointed shall hold office only for the unexpired portion of the term of the member whom he replaces.

d) Functions. — The Lupon shall exercise administrative supervision over the conciliation panels hereinafter provided for. It shall meet regularly once a month (1) to provide a forum for the exchange of ideas among its members and the public on matters relevant to the amicable settlement of disputes; and (2) to enable the various panels to share with one another their observation and experiences in effecting speedy resolution of disputes.

e) Secretary of the Lupon. — The Barangay Secretary shall concurrently be the Secretary of the Lupon. He shall note the results of the mediation proceedings before the Barangay Captain and shall submit a report thereon to the proper city or municipal court. He shall also receive and keep the records of proceedings submitted to him by the various conciliation panels. He shall issue the certification referred to in Section 6 hereof.

f) Conciliation Panels. — There shall be constituted for each dispute brought before the Lupon a conciliation panel to be known as Pangkat ng Tagapagkasundo (hereinafter referred to as Pangkat) consisting of three (3) members who shall be chosen by agreement of the parties to the dispute from the list of membership of the Lupon.

Should the parties fail to agree, they shall, in the presence of the Barangay Captain or Secretary, make the selection in the following manner; one party, determined by lot, shall strike out from the list one name, the other party shall in turn strike out another; the parties shall thereafter continue alternately to strike out names until there shall remain on the list only four (4); three (3) of whom shall be the members of the Pangkat, and the fourth, to be determined by lot, shall be the alternate.

In the event any of the four (4) remaining names is, for cause to be passed upon solely by the Barangay Captain, still objected to by any party, the procedure provided for in paragraph (g) hereunder shall be followed.

Should there be more than one complainant or respondent, each side to the dispute shall choose its representative to such striking-out process.

The three (3) members shall elect from among themselves the chairman and the secretary of the Pangkat.

The secretary of the Pangkat shall keep minutes of its proceedings attested by the chairman and submit a copy thereof to the Lupon Secretary and to the proper city or municipal court. He shall issue and cause to be served notices to the parties and give certified true copies of any public record in his custody that is not by law otherwise declared confidential.

g) Vacancy, Pangkat. — Any vacancy in the Pangkat shall be filled by the Barangay Captain from among the other members of the Lupon, to be determined by lot.

h) Succession to or substitution for Barangay Captain. — In the event the Barangay Captain ceases to hold office or is unable to perform his duties herein provided, the order of succession/substitution to his position as provided by law shall be followed.

i) Character of Office. — The members of the Lupon shall be deemed public officers and persons in authority within the meaning of the Revised Penal Code.

j) Character of Service. — The members of the Lupon or Pangkat shall serve without any compensation or allowance whatsoever. Such service by any Lupon or Pangkat member, whether he be in public or private employment, shall be deemed to be on official time

and no such member shall suffer any diminution in compensation or allowances by reason thereof.

k) Legal advice. — The Barangay Captain or any member of the Lupon or the Pangkat may, whenever he deems it necessary in the exercise of his functions under this Decree, seek the advice of the legal adviser of the provincial/city/municipal government.

SEC. 2. Subject matters for amicable settlement. — The Lupon of each baarangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except:

(1) Where one party is the government, or any subdivision or instrumentality thereof;

(2) Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;

(3) Offenses punishable by imprisonment exceeding 30 days, or a fine exceeding P200.00;

(4) Offenses where there is no private offended party;

(5) Such other classes of disputes which the Prime Minister may in the interest of justice determine upon recommendation of the Minister of Justice and the Minister of Local Government.

SEC. 3. Venue. — Disputes between or among persons actually residing in the same barangay shall be brought for amicable settlement before the Lupon of said barangay. Those involving actual residents of different barangays within the same city or municipality shall be brought in the barangay where the respondent or any of the respondents actually resides, at the election of the complainant. However, all disputes which involve real property or any interest therein shall be brought in the barangay where the real property or any part thereof is situated.

The Lupon shall have no authority over disputes:

(1) involving parties who actually reside in barangays of different cities or municipalities, except where such barangays adjoin each other; and

(2) involving real property located in different municipalities.

Objections to venue shall be raised in the mediation proceedings before the Barangay Captain as provided for in Section 4(b) hereunder; otherwise, the same shall be deemed waived. Any legal question which may confront the Barangay Captain in resolving objections to venue herein referred to may be submitted to the Minister of Justice whose ruling thereon shall be binding.

SEC. 4. Procedure for amicable settlement. —

a) Who may initiate proceedings. — Any individual who has a cause of action against another individual involving any matter within the authority of the Lupon as provided in Section 2 may complain orally or in writing, to the Barangay Captain of the barangay referred to in Section 3 hereof.

b) Mediation by Barangay Captain. — Upon receipt of the complaint, the Barangay Captain shall within the next working day summon the respondent/s, with notice to the complainant/s for them and their witnesses to appear before him for a mediation of their conflicting interests. If he fails in his effort within fifteen (15) days from the first meeting of the parties before him, he shall forthwith set a date for the constitution of the Pangkat in accordance with the provisions of Section 1 of this Decree.

c) Hearing before the Pangkat. — The Pangkat shall convene no later than three (3) days from its constitution, on the day and hour set by the Barangay Captain, to hear both parties and their witnesses, simplify issues, and explore all possibilities for amicable settlement. For this purpose, the Pangkat may issue summons for the personal appearance of parties and witnesses before it.

In the event that a party moves to disqualify any member of the Pangkat by reason of relationship, bias, interest or any other similar ground/s discovered after constitution of the Pangkat, the matter shall be resolved by the affirmative vote of the majority of the Pangkat whose decision shall be final. Should disqualification be decided upon, the procedure provided for in paragraph (g) of Section 1 shall be followed.

d) Sanctions. — Refusal or willful failure of any party or witness to appear in compliance with the summons issued pursuant to the preceding two (2) paragraphs may be punished by the city or municipal court as for indirect contempt of court upon application filed therewith by the Lupon Chairman, the Pangkat Chairman, or by any of the parties. Further, such refusal or willful failure to appear shall be reflected in the records of the Lupon Secretary or in the minutes of the Pangkat Secretary and shall bar the complainant from seeking judicial recourse for the same cause of action, and the respondent, from filing any counterclaim arising out of or necessarily connected therewith.

Willful failure or refusal without justifiable cause on the part of any Pangkat member to act as such, as determined by the vote of a majority of all the other members of the Lupon, whose decision thereon shall be final, shall result in his disqualification from public office in the city or municipality for a period of one year.

e) Time limit. — The Pangkat shall arrive at a settlement/resolution of the dispute within fifteen (15) days from the day it convenes in accordance with paragraph (c) hereof. This period shall, at the discretion of the Pangkat, be extendible for another period which shall not exceed fifteen (15) days except in clearly meritorious cases.

SEC. 5. Form of settlement. — All amicable settlements shall be in writing, in a language or dialect known to the parties, signed by them and attested by the Barangay Captain or the Chairman of the Pangkat, as the case may be. When the parties to the dispute do not use the same language/dialect, the settlement shall be written in the languages; dialects known to them.

SEC. 6. Conciliation, pre-condition to filing of complaint. — No complaint, petition, action or proceeding involving any matter with-

in the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached as certified by the Lupon Secretary or the Pangkat Secretary, attested by the Lupon or Pangkat Chairman, or unless the settlement has been repudiated. However, the parties may go directly to court in the following cases:

- (1) Where the accused is under detention;
- (2) Where a person has otherwise been deprived of personal liberty calling for habeas corpus proceedings;
- (3) Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support pendente lite, and
- (4) Where the action may otherwise be barred by the Statute of Limitations.

SEC. 7. Arbitration. — The parties may, at any stage of the proceedings, agree in writing that they shall abide by the arbitration award of the Barangay Captain or the Pangkat. Such agreement to arbitrate may within five (5) days from date thereof, be repudiated for the same grounds and in accordance with the procedure prescribed in Section 13 hereof. The arbitration award shall be made after the lapse of the period for repudiation and within ten (10) days thereafter.

The arbitration award shall be in writing in a language or dialect known to the parties. When the parties to the dispute do not use the same language/dialect, the award shall be written in the languages/dialects known to them.

SEC. 8. Proceedings public; exception. — All proceedings for settlement shall be public and informal, Provided, that the Barangay Captain or the Pangkat, as the case may be, may *motu proprio* or upon request of a party exclude the public from the proceedings in the interest of privacy, decency or public morals.

SEC. 9. Appearance of parties in person. — In all proceedings provided for herein, the parties must appear in person without the assistance of counsel/representative, with the exception of minors and incompetents who may be assisted by their next of kin who are not lawyers.

SEC. 10. Admissions. — Admissions made in the course of any of the proceedings for settlement may be admissible for any purpose in any other proceeding.

SEC. 11. Effect of amicable settlement and arbitration award. — The amicable settlement and arbitration award shall have the force and effect of a final judgment of a court upon the expiration of ten (10) days from the date thereof unless repudiation of the settlement has been made or a petition for nullification of the award has been filed before the proper city or municipal court.

SEC. 12. Execution. — The amicable settlement or arbitration award may be enforced by execution within one (1) year from the

date of the settlement. After the lapse of such time, the settlement may be enforced by action in the appropriate city/municipal court.

SEC. 13. Repudiation. — Any party to the dispute may, within ten (10) days from the date of the settlement, repudiate the same by filing with the Barangay Captain a statement to that effect sworn to before him, where the consent is vitiated by fraud, violence or intimidation. Such repudiation shall be sufficient basis for the issuance of the certification for filing a complaint, provided for in section 6 hereof.

SEC. 14. Transmittal of settlement and arbitration award to court. — The Secretary of the Lupon shall transmit the settlement or the arbitration award to the local city or municipal court within five (5) days from the date of the award or from the lapse of the ten-day period for repudiating the settlement and shall furnish copies thereof to each of the parties to the settlement and the Barangay Captain.

SEC. 15. Power to administer oaths. — The Barangay Captain and members of the Pangkat are hereby authorized to administer oaths in connection with any matter relating to all proceedings provided for in this Decree.

SEC. 16. Administration; rules and regulations. — (a) The Minister of Local Government and Community Development shall see to the efficient implementation and administration of this Decree. For this purpose, he shall be empowered to promulgate rules and regulations, upon consultation with the Minister of Justice. In the process, the Minister of Local Government and Community Development may seek cooperation and coordination from other departments, agencies or instrumentalities of the National Government; and such departments, agencies or instrumentalities are hereby directed to render assistance whenever so requested.

(b) Without prejudice to the provisions of Section 1 (k) hereof, legal questions arising in the administration and implementation of this law shall be submitted to the Minister of Justice for resolution.

SEC. 17. Separability clause. — If, for any reason, any provision of this Decree shall be held to be unconstitutional or invalid, no other provision hereof shall be affected thereby.

SEC. 18. Appropriations. — To carry out the purpose of this Decree, there is hereby appropriated the sum of Twenty-five Million Pesos (P25,000,000.00) from the General Funds for the current year. Thereafter, the appropriation of such funds as may be necessary for the purpose shall be provided for in the General Annual Appropriation Acts.

SEC. 19. Effectivity. — This Decree shall take effect six (6) months after its promulgation.

DONE in the City of Manila, this 11th day of June, in the year of Our Lord, nineteen hundred and seventy-eight.

There is a move to establish a small claims court.

The jury system has not been adopted in the Philippines.

I have explained in detail the judicial system in the Philippines because that is an essential part of Remedial Law. A lawyer must know where to file an action for the protection and enforcement of a right or the prevention or redress of a wrong and a proceeding to establish a fact or the right or status of a person. It is indeed embarrassing for a lawyer to commit the error of filing an action in the wrong court and the action is dismissed for lack of jurisdiction.

During Martial Law, military tribunals were created. It is not, however, necessary to discuss these tribunals because they are being phased out. Only very few cases remain under the jurisdiction of military tribunals.

The Constitution vests the Supreme Court with the power to "Promulgate rules concerning pleading, practice and procedure in all courts, the admission to the practice of law, and the integration of the Bar which, however, may be repealed, altered or supplemented by the National Assembly. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform in all courts and of the same grade and shall not diminish, increase or modify substantive rights."

As a corollary to said power, it has been held that the Supreme Court has inherent power to "suspend its own rules or to except a particular case from its operation, whenever the purposes of justice requires."²⁸

The Supreme Court has ruled that despite the requirement of Section 1, Rule 111, Revised Rules of Court, the offended party may institute a separate civil action as provided in Article 33, Civil Code of the Philippines, although he has not expressly reserved his right in the criminal action to file a civil case separately.²⁹

The Supreme Court promulgated the original Rules of Court in 1935 and the present Revised Rules of Court which took effect on January 1, 1964 under the rule making authority granted to said Court by the Constitution.

The rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy and inexpensive determination of every action and proceeding.³⁰ Substantive justice should not be sacrificed at the altar of sophisticated technicalities.

²⁸ Philippine Blooming Mills Employments Organization, et al., v. Philippine Blooming Mills Co. Inc., G.R. No. 31195, June 5, 1973, 51 SCRA 189 (1973).
²⁹ Abellana v. Marave, G.R. No. 27760, May 19, 1974, 57 SCRA 106 (1974).
³⁰ Sec. 2, Rule 1, REV. RULES OF COURT.

The Revised Rules of Court are divided into Part I which covers ordinary actions, provisional remedies and special civil actions; Part II, which refers to special proceedings including settlement of state of deceased persons, escheat, guardianship and custody of children, trustees, adoption, rescission and revocation of adoption, hospitalization of insane persons, habeas corpus, change of name, voluntary dissolution of corporations, judicial approval of voluntary recognition of minor natural children, constitution of family home, declaration of absence, and cancellation or correction of entries in the civil registry; Part III, on criminal procedure; and Part IV which covers the rules on evidence, perpetuation of testimony, the powers and duties of courts and judicial officers, court record and general duties of clerks and stenographers, disqualifications of judicial officers, attorneys and admission to the Bar, disbarment or suspension of attorneys and charges against Judges of First Instance.

Due to limitation of time, I cannot explain in detail the provisions of the Revised Rules of Court. Suffice it to say that a thorough knowledge of Remedial Law is necessary to enable a lawyer to present the case of his client before the proper court and to prove his allegations by competent evidence. It is unpardonable for a lawyer to lose a winning case because of his ignorance of Remedial Law. It is tragic if an innocent person prosecuted for the commission of an offense is convicted because his lawyer was not able to present his evidence adequately. By the same token, it is unfortunate if a guilty accused is acquitted because the prosecutor or fiscal is not able to present competent evidence to establish his guilt.

A lawyer should also know very well the different modes of appeal and where to appeal.

Finally, it may be said that substantive law and remedial law complement each other. Hence, the importance of remedial law not only to the bench and the bar but to the public in general.