

THE KATARUNGANG PAMBARANGAY: AN APPRAISAL OF ITS EFFECTIVITY

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INTRODUCTION

The Philippine Judiciary System has evolved from the simplest form, which was by arbitration before the barangay elders, to the present adversary system of justice. Such a transition took more than 400 years, passing through at least four stages, namely, Pre-Spanish, Spanish, American and the Present.

A. *Pre-Spanish Period*

The earliest governmental unit was the 'barangay', consisting of some 40 to 50 families and usually headed by the *datu*.

Cases or disputes among the ancient Filipinos were tried by the *datu* acting as judge, with the help of barangay elders sitting as a jury. Cases between the *datus* or natives of two barangays were settled by arbitration with a group of *datus* and elders from other barangays acting as a board of arbiters.¹

In civil cases, such as controversy about property or amount of money, a friendly settlement was first resorted to. If it failed, each party took an oath that he would abide by the decision of the judge.

In criminal cases, if a chief was killed, his kinsmen waged war against the murderer and his relatives, until they were stopped by the mediator who fixed the amount of gold to be paid by the murderer.²

B. *Spanish Period*

The pueblo was the local unit or local government with the gobernadorcillo or capitan as its chief executive. The Judiciary consisted of the Territorial Supreme Court in Manila, the two (2) Superior Criminal Courts in Cebu and Vigan, the Courts of First Instance in the Provinces, the Justice of the Peace Courts in the Municipalities and a few Special Courts.³

¹ ZAIDE, PHILIPPINE HISTORY AND CIVILIZATION 61 (1939).

² GULLAS, PHILIPPINE GOVERNMENT, PAST AND PRESENT 5-6 (1947).

³ *Id.* at 9.

The Supreme Court had a criminal and civil chambers. It had one (1) Chief Justice, two (2) Presidents of Chambers, eight (8) Associate Justices, Attorney-Generals and other officers.

The Superior Criminal Courts had a Chief Justice, two (2) Associate Justices, one (1) Attorney-General, one (1) Assistant Attorney and a Secretary.

C. American Period

Judicial power was vested in the Supreme Court, the Court of First Instance, Justice of the Peace Courts and the Municipal Courts of the City of Manila. Prior to the establishment of the Philippine Republic, the U.S. Supreme Court was the highest court of both the United States and the Philippines.

D. Present

Today, the Judiciary is an integrated system operating on four (4) levels — the Supreme Court; the Court of Appeals; the Trial Courts which include the Court of First Instance, the Circuit Criminal Court, the Court of Agrarian Relations, the Juvenile and Domestic Relations Court and the Court of Tax Appeals; and the City and Municipal Courts.

The Supreme Court is the highest of the four levels, deciding cases either as an entire body or in two (2) divisions. The second level is the Court of Appeals which reviews decisions of Trial Courts. The third level consists of the Courts of First Instance and other Specialized Courts. The Courts of First Instance take cognizance of civil, criminal and admiralty cases and function as appellate courts in cases falling within the exclusive original jurisdiction of city and municipal courts. Insofar as Specialized Courts are concerned, the Court of Tax Appeals is a specialized technical appellate court charged with the duty to review the decisions of Customs, Provincial and City Board of Assessment Appeals under Customs Law and Assessment Law. The Circuit Criminal Court, on the other hand, exercises concurrent jurisdiction with the Court of First Instance over certain specified classes of criminal cases. The Juvenile and Domestic Relations Court is a socio-legal court, deciding juvenile delinquency, family and marital disputes. Lastly, the Court of Agrarian Reform has original and exclusive jurisdiction over controversies arising from agrarian relations. The fourth level consists of the City and Municipal Courts. These bodies hear and decide minor civil and criminal cases and conduct preliminary investigation in criminal cases cognizable by the Court of First Instance.

After having gone through the structures of the Judiciary over the four (4) stages of Philippine development, the present stage, with all its

specialized courts, may give one an impression of efficiency. However, this is belied by reality. Population has risen considerably over the period, leaving even the highly compartmentalized structure, as that of the present system, with problems such as congestion of dockets.

As contained in the report submitted by Chief Justice Fred Ruiz Castro for the year 1977, the Judiciary had an accumulated total of 358,589 pending cases. This is despite a remarkable performance of disposing some 349,355 cases over the 33,434 cases disposed of in the previous year. Continuing with the report:

In the year 1977, the municipal courts disposed of 132,277 cases but received a total of 164,462 cases, the city courts adjudicated 138,573 cases but had a total filing of 140,243 cases. The Court of First Instance terminated 61,692 cases but accepted 80,432 cases, Circuit Criminal Court decided 2,193 cases, but received 2,596 cases, the Juvenile and Domestic Relations Court decided 3,406 cases but received 4,655 cases, the Court of Agrarian Reform decided 3,485 cases but their case filing totaled 5,597. Only the Court of Appeals and the Court of Tax Appeals reported a ratio of greater disposition than filing with 5,635 cases disposed of as against 4,665 filings in the Court of Appeals and 143 to 68 in Court of Tax Appeals.⁴

Confronted with such an enormous problem and in view of the possible repercussions of delay, as expressed by the Chief Justice of the United States:

Interminable and unjustifiable delays in our courts are today compromising the basic legal rights of countless thousands of Americans and imperceptibly, corroding the very foundations of constitutional government. . . . Delay causes hardship. Delays brings our courts into disrepute. Delay results in deterioration of evidence through loss of witnesses, forgetful memories and death of parties and make it less likely that justice will be done when a case is reached for trial.⁵

Chief Justice Castro presented in his report two possible solutions: one, the institution of a nation-wide small claims courts and adjudication system intended to take care of claims not exceeding ₱10,000.00 each and the other is the decongestion of court dockets through the nationwide involvement of all citizens in a simple form of barangay level settlement of minor disputes and cases without court intervention.⁶

The second solution would in effect be a throwback to the pre-Spanish times; the use of the barangay or the center of grassroot discussion to settle disputes. In addition, it would seem that the situation is more receptive to the formalization of the second solution considering that sometime in 1973, the 42,000 barangays all over the Philippines had

⁴ Castro, *Philippine Judiciary in 1977*, FOOKIEN TIMES PHILIPPINE YEARBOOK OF 1978, p. 296.

⁵ JONES, *THE COURT, THE PUBLIC AND THE LAW EXPLOSION* 31 (1965).

⁶ Castro, *supra* at 299.

already been organized in revival of the village level advisory and consultative councils.⁷

With this, a committee was formed to study the matter and in June, 1978, Presidential Decree No. 1508 establishing 'A System of Amicably Settling Disputes at the Barangay Level' was promulgated.

The Decree established the Katarungang Pambarangay, a system of justice which contemplates amicable settlement of disputes at the barangay level, making barangay settlement a prerequisite to bringing suit in the regular courts of justice. Its objectives as contained in the preamble of the law itself are stated thus:

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 recourse 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 constitutes 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.

Hence, Presidential Decree No. 1508 seeks to provide a system of screening the cases that reach the Judiciary, and consequently, of reducing their number. With certain exceptions, no case is allowed to enter the judicial system unless it has gone through this screening process⁸ and only the cases that cannot be settled amicably can be filed in the regular courts.

The same rule applies to the filing of cases in any other office of the government for adjudication⁹ but not where the case is brought to a government office for some other purpose, say, for conciliation and settlement.

Although the problem of congested court dockets and the consequent delay in judicial resolutions has long plagued our legal system, no satisfactory solution has as yet been found. Some of the approaches attempted to cope with judicial delay are the decriminalization of violations of certain regulatory and sumptuary laws, the continual use of seminars to raise the technical skill of court personnel, and the simplification of procedural rules and of the judicial structure itself.¹⁰ All of these, however, have the effect of merely speeding up the processing and disposition of cases already filed and pending with the courts; and do not prevent or limit the filing of

⁷ Aldaba-Lim, *Baranganic Approach*, *FOOKIEN TIMES PHILIPPINE YEARBOOK OF 1977*, p. 318.

⁸ Pres. Decree No. 1508, Sec. 6.

⁹ *Ibid.*

¹⁰ Tadiar, *The Rationale for Compulsory Conciliation*, in PE & TADIAR, *KATARUNGANG PAMBARANGAY: DYNAMICS OF COMPULSORY CONCILIATION 150 (1979)*.

more cases. It is only now with Presidential Decree No. 1508, providing for compulsory conciliation as a pre-condition to judicial recourse, that this problem is met to limit the input of cases in the courts, and not merely to speed up the output.

It is the purpose of this paper to conduct an in-depth study of the Katarungang Pambarangay — a study not limited to the law itself but extending to its actual implementation to determine the effectivity of such a system in relation to its objectives of enhancing the quality of justice dispensed by our courts.

THE LAW ON THE KATARUNGANG PAMBARANGAY

A. Machinery

The Katarungang Pambarangay operates through three conciliatory tools — the Lupon Tagapayapa, Pangkat ng Tagapagkasundo, and the Barangay Captain. These positions, although deemed as public offices, are merely honorary; no compensation, allowance, per diem, or emolument is paid. The only privilege accorded to them is that when a member, while rendering service in the Katarungang Pambarangay absents himself from his employment, he should not be made to suffer any diminution in compensation or allowance. By express provision of law, such service is deemed as official time and he is regarded as though he were not absent from his public or private employment.

Lupon Tagapayapa: This is the main conciliation body created under P.D. No. 1508 and is composed of the Barangay Captain, as chairman, and not less than ten (10) nor more than twenty (20) members to be constituted every two (2) years.¹¹ Its members shall be chosen by the Barangay Captain; the actual number being determined by the barangay population and the volume of disputes previously brought to him or which he may expect.

To qualify for appointment to the Lupon, a person must be actually residing or working in the barangay and should be suitable for the task of conciliating disputes, suitability indicated by one's integrity, impartiality, independence of mind, sense of fairness and reputation for probity in relation to his age, social standing in the community, educational attainment, tact, patience, resourcefulness, flexibility, open-mindedness and other relevant considerations. In addition, such person must not be disqualified from holding public office.¹²

Although the power to constitute the Lupon is vested exclusively in the Barangay Captain, with the question of suitability determined exclusively by him, still, any person, within the period for posting the list of possible

¹¹Pres. Decree No. 1508, Sec. 1(a).

¹²Pres. Decree No. 1508; Sec. 1(a) (1), Katarungang Pambarangay Rules, Rule IV, Sec. 1.

members of the Lupon, can submit objections or recommendations to the Barangay Captain and its only after considering these comments, if any, can the latter issue the written appointments.¹³

The Lupon, as its name implies, is the main peacemaking body of the Katarungang Pambarangay; however, in the amicable settlement of disputes, the Lupon does not act as a whole body but through three-man panels, organized for each dispute and chosen from the Lupon members. These panels are known as the Pangkat ng Tagapagkasundo which will later be discussed in full.

As a whole body, the Lupon Tagapayapa is charged with the responsibility of exercising administrative supervision over the Pangkat, seeing to it that the latter have the necessary supplies and forms, and that they perform their duties efficiently and fairly.¹⁴ The Lupon, by a majority vote of its members, can withdraw the appointment of any Lupon member, after proper notice and hearing, by reason of incapacity or unsuitability.¹⁵ It can also withdraw the appointment of any Pangkat member for wilful failure or unjustified refusal to perform his duties and in addition, such withdrawal carries with it the penalty of disqualification from public office for a period of one year.¹⁶ Withdrawal of appointment from the Lupon automatically vacates one's seat in the Pangkat, and vice versa.

Barangay Captain: When we consider the entire set-up of the Katarungang Pambarangay, it is to be noted that the responsibility of amicably settling disputes falls heavily upon the Barangay Captain more than any other person or body.

As Barangay Captain, he is charged with the responsibility of constituting the Lupon Tagapayapa for his barangay. As chairman of the said body, he sets the date, time and place of, and presides over, the regular monthly meetings; prepares the agenda for each meeting; and sees to it that the Lupon exercises administrative supervision over the various Pangkats.¹⁷ If he should abuse his appointing power, his appointment may be declared null and void through a *quo warranto* proceeding and he himself can be subjected to disciplinary and criminal action for violation of Art. 244 of the Revised Penal Code.¹⁸

Before any dispute can be brought before a Pangkat, the Barangay Captain should first mediate and it is only upon the failure of his effort

¹³ Pres. Decree No. 1508; Sec. 1(a) (3), Katarungang Pambarangay Rules, Sec. 1(a), Rule III.

¹⁴ Katarungang Pambarangay Rules, Sec. 6(a), Rule IV.

¹⁵ *Id.*, Sec. 6(b), Rule IV.

¹⁶ *Id.*, Sec. 6(c), Rule IV.

¹⁷ *Id.*, Sec. 1(a) (d), Rule III.

¹⁸ "Any public officer who shall knowingly nominate or appoint to any public office any person lacking the legal qualifications therefor, shall suffer the penalty of *arresto mayor* and a fine not exceeding P1,000."

that the parties can submit the dispute to the Pangkat. Among his mediational and arbitral functions are the following:

(1) Receive all written complaints and note all verbal complaints made by individuals personally before him against other individuals. He shall not receive complaints made by or against corporations, partnerships or other juridical entities. Immediately upon such receipt, he shall issue summons to the respondent and give complainant notice to appear before him not later than the second working day from date of summons for mediation of their conflicting interests. In case of refusal or wilful failure to comply with such summons or notice, he may apply to the city or municipal court for the punishment of the recalcitrant party or witness for indirect contempt of court, that is, by a fine not exceeding one hundred pesos (P100.00) or imprisonment of not more than one (1) month, or both;

(2) Administer oaths in connection with any matter relating to all disputes brought for settlement in the barangay;

(3) Resolve all objections to venue raised during the mediation proceedings before him and certify that he resolved the matter or that no such objection was made; and

(4) Mediate all disputes within his jurisdiction or arbitrate them upon written agreement of the parties to that effect. Upon successful conclusion of his mediational efforts, he shall reduce to writing in a language or dialect known to the parties the terms of settlement agreed upon by them, have them sign the same, and attest to its due execution. When the parties agree to arbitrate, he shall, after hearing, make the award not earlier than the sixth day but not later than the fifteenth day following the date of agreement to arbitrate. He shall sign the arbitration award which shall be in writing in a language or dialect known to the parties.¹⁹

If his mediational efforts are unsuccessful, the Barangay Captain, together with the parties concerned, will now constitute the Pangkat.²⁰

Pangkat ng Tagapagkasundo: A Pangkat is composed of three regular members drawn from among the members of the Lupon by the parties to a dispute, and they shall elect among themselves, a chairman and secretary. Aside from the three regular members, the Pangkat has one other alternate member.²¹

A Pangkat is not constituted every time a dispute reaches the Barangay Captain, but formed only when the dispute has not been successfully settled by him. For purposes of forming this body, the Barangay Captain summons the parties concerned and they shall choose from among the Lupon mem-

¹⁹ Katarungang Pambarangay Rules, Sec. 1(b), Rule III.

²⁰ *Id.*, Sec. 1(c), Rule III.

²¹ *Id.*, Sec. 1, Rule V.

bers the three regular members and one alternate member. It is essential that the parties are satisfied and have confidence in the Pangkat members, otherwise no amicable settlement can possibly be reached. To ensure this confidence, the parties are given as much leeway as possible, in forming the Pangkat, and they can move to disqualify a member even after it has been constituted, on grounds of relationship, bias, interest or other similar grounds.²²

B. *Jurisdiction*

Generally all disputes among individuals residing in the same city or municipality may be subject of proceedings for amicable settlement. This presupposes two basic elements. One is that conciliation is applicable only to natural persons or individuals²³ and two, that said individuals must live in the same city or town.²⁴ The first element is in consonance with the idea of conciliation, the opportunity given to two parties to thresh out differences and arrive at a common ground; the second, takes into account the effectiveness of conciliation, when made to operate within the context of personal atmosphere and intimate relationship obtaining in small towns and cities.

Excluded from the general rule are:

- a) where the parties involved reside in barangays of different cities or municipalities unless such barangays adjoin each other;
- b) where the dispute involves real property located in different cities or municipalities;
- c) where one party is the government, or any subdivision or instrumentality thereof;
- d) offenses where there is no private offended party;
- e) where one party is a public officer or employee and the dispute relates to the performance of his official functions;
- f) 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 and Community Development.²⁵

The first two exceptions (a and b) have reference to the requirement of a place of residence of the parties while the next two (c and d) have bearing on the other requirement of proper parties.

²² *Id.*, Sec. 4, Rule V.

²³ Pres. Decree No. 1508, Sec. 4(a).

²⁴ *Id.*, Sec. 2.

²⁵ *Id.*, Sec. 2, 3.

The above enumerated exceptions, however, are not exclusive, there are still others falling under the general classification of civil and criminal disputes.

Civil Disputes

As a general rule, all civil disputes are conciliable regardless of the nature of the subject matter and the value or amount involved. To this general rule are excepted:

- a. Actions coupled with provisional remedies;
- b. Actions which may be barred by the Statute of Limitations;
- c. Civil status of a person;
- d. Validity of a marriage or a legal separation;
- e. Any ground for legal separation;
- f. Future legitime;
- g. Election cases and *habeas corpus*.²⁶

Actions coupled with provisional remedies like preliminary attachment, preliminary injunction, replevin, support *pendente lite* are excepted from conciliation by reason of the urgency of the action. The imposition of mandatory conciliation as prerequisite over these cases will negate the very essence of the grant of provisional remedies. The other exceptions involve fundamental rights and status of the person which are generally not subject to settlement.

Criminal Cases

Insofar as criminal cases are concerned, covered are light offenses punishable by imprisonment not exceeding thirty (30) days or a fine not exceeding ₱200.00 or both, and offenses punishable by destierro, public censure or bond to keep peace. However, even if the offense committed falls under the general rule, the parties may go directly to the court in the following instances:

- a. where the accused was arrested without warrant and is under police custody or detention;
- b. where a person is illegally deprived of his rightful custody over another or is illegally deprived of his liberty, one acting on his behalf may file a petition for *habeas corpus*;
- c. in actions coupled with provisional remedies; and
- d. where action is barred by Statute of Limitations.

²⁶ *Id.*, Sec. 6.

Falling under the general rule are physical injuries requiring medical attendance not exceeding nine (9) days, slight slander, light threats and/or unjust vexation.

Venue

In the settlement of disputes, determination of venue shall be in accordance with the following rules:

1. If the disputants actually reside in the same barangay, venue shall be that barangay;
2. If disputants actually reside in different barangays within the same city or municipality, venue is the barangay where the respondent or any of the respondents actually resides at the election of the complainant; and
3. If the dispute involves real property, venue is the barangay where the real property or any part thereof is situated.

Any objection to venue shall be raised in the mediation proceedings before the Barangay Captain, and may also be elevated to the Ministry of Justice. Any objections not raised shall be deemed waived.²⁷

C. Procedure

All proceedings for settlement held before the Katarungang Pambarangay are open to the public except that the Barangay Captain or the Pangkat, as the case may be, at the request of a party or upon his or its own initiative, may exclude the public in the interest of privacy, decency or public morals.²⁸ Hearings are conducted in an informal but orderly manner without regard to technical rules of evidence since these proceedings for settlement are not adversary in character but conciliatory. Hence, parties to a dispute should be induced to iron out their differences in an atmosphere of reconciliation and friendship, and not as in a courtroom battle.

For this same reason, assistance of counsel or representative for the parties is not allowed.²⁹ If a party cannot personally appear in the proceedings for some valid reason, it should be postponed. If his absence is unjustified, the complainant cannot seek judicial recourse for the same cause of action, and in the case of respondent, his absence would bar him from filing any counterclaim arising out of the same cause of action or necessarily connected therewith.³⁰ This prohibition is based on the assumption that the retention of counsel or a representative reduces the chances of compromise. However, an exception is made in behalf of minors and incompetents who are allowed to be assisted by a next of kin, who must

²⁷ Pres. Decree No. 1508, Sec. 3.

²⁸ *Id.*, Sec. 8; Katarungang Pambarangay Rules, Sec. 8(c), Rule VI.

²⁹ *Id.*, Sec. 9; Katarungang Pambarangay Rules, Sec. 6, Rule VI.

³⁰ *Id.*, Sec. 4; Katarungang Pambarangay Rules, Sec. 7, Rule VI.

not be a lawyer,³¹ so as to avoid an imbalance wherein one party is allowed counsel while the other is not.

Admissions made in the course of settlement proceedings is admissible for every purpose in other proceedings.³² The law chooses to bind a person to his admission because, where a party is not obligated to make admissions but he chooses to do so to aid his cause, he should endeavor to be as truthful and accurate as possible so that amicable settlement can be reached. Neither is the constitutional privilege against self-incrimination violated, because "admissions" as used in P.D. No. 1508 contemplate only free and voluntary admissions which naturally bind the party, and secondly, the rights under Article IV, section 20 of our Constitution is available only where the person is "under investigation for the commission of an offense", which is not the situation in settlement proceedings. Even with respect to criminal cases before the Barangay Captain or Pangkat, the respondent is not taken into custody or otherwise deprived of his freedom in any substantial matter.

Settlements and arbitration awards obtained in these proceedings have the force and effect of a final judgment of a court upon expiration of ten days from date thereof unless a petition for nullification is filed before the proper court. However, neither the Barangay Captain nor the Pangkat can allow stipulation between the parties, or arbitration awards ordering criminal penalties such as imprisonment or fine. The barangay system of conciliation extends only to civil aspects of the offense and not to the criminal aspect, since it is the State, and not the private parties, that has an interest involved, and hence only the State can compromise this aspect.

Strictly speaking, there are two modes of settlement proceedings in the Katarungang Pambarangay and these are through amicable settlement and arbitration.

Amicable Settlement: Any qualified individual may complain orally or in writing to the proper Barangay Captain.³³ The Barangay Captain then summons the respondents within the next working day with notice to the complainant for them and their witnesses to appear for mediation.³⁴ It must be noted that parties must appear in person without the assistance of counsel, and in case of minors and incompetents, they may be assisted by their next of kin who are not lawyers. If the Barangay Captain fails to settle the dispute within 15 days, the matter shall be referred to a Pangkat for further conciliation. The Pangkat hears both parties and their witnesses and may issue summons for the personal appearance of parties

³¹ Pres. Decree No. 1508, Sec. 9; Katarungang Pambarangay Rules, (16), (17), (18), Rule II.

³² Pres. Decree No. 1508, Sec. 10; Katarungang Pambarangay Rules, Sec. 8(d), Rule VI.

³³ Pres. Decree No. 1508, Sec. 4(a).

³⁴ *Id.*, Sec. 4(b).

and witnesses before it. In case of settlement, it shall have the force and effect of a final judgment of a court upon the expiration of ten 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.³⁵ The settlement may be enforced within one year and after such period, may be enforced by court action.³⁶ If there is no repudiation or petition for nullification after five days from the award or ten days from the settlement, the Secretary of the Lupon shall transmit the settlement or award to the local city or municipal court, furnishing copies thereof to each of the parties and the Barangay Captain.³⁷ However, any party to the disputes may, within ten days from the date of the settlement, repudiate the same by filing with the Barangay Captain a statement to that effect, 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 in court.³⁸

Arbitration: At any stage of the proceedings, where the parties are unable, by themselves, to reconcile their conflicting claims, and desire that their rights and obligations be determined fairly, they can avail of arbitration by agreeing in writing to refer their dispute for hearing and adjudication to the Barangay Captain or Pangkat, whose award or decision shall be binding upon them with the force and effect of a final judgment by a court.³⁹ Within five days from date of agreement to arbitrate, the parties may repudiate such agreement on grounds of fraud, violence or intimidation.⁴⁰ Failure to repudiate within the prescribed period shall be deemed a waiver of the right to challenge the said agreement on these grounds.

The Barangay Captain as well as the Pangkat may issue summons for the personal appearance of the parties and witnesses at the arbitration proceedings,⁴¹ and refusal or wilful failure to comply with such summons may be punished by the city or municipal court for indirect contempt upon application by the Lupon Chairman, Pangkat Chairman or one of the parties, or may act as a bar from seeking judicial recourse on the same cause of action.

The arbitration award shall be made after the lapse of the period for repudiation of the agreement to arbitrate and within ten days thereafter;⁴² in other words, not earlier than the sixth day but not later than the fifteenth day following the date of said agreement.⁴³ The award should be based

³⁵ *Id.*, Sec. 11.

³⁶ *Id.*, Sec. 12.

³⁷ *Id.*, Sec. 14.

³⁸ *Id.*, Sec. 13.

³⁹ Pres. Decree No. 1508, Secs. 7 and 11; Katarungang Pambarangay Rules, (9), Rule II.

⁴⁰ Pres. Decree No. 1508; Sec. 7 in relation to Sec. 13, Katarungang Pambarangay Rules, Sec. 12, Rule VI.

⁴¹ Pres. Decree No. 1508, Sec. 4(b) and (c).

⁴² *Id.*, Sec. 7.

⁴³ Katarungang Pambarangay Rule, Sec. 10(c), Rule VI.

on findings of fact and need not involve issues of law. In arbitration, parties do not invoke legal provisions in support of their claims but rely instead on the sense of fair play of the arbitrators based on the facts determined.

The award shall be in writing in a language known to both parties. The Lupon Secretary shall then transmit the award to the local city or municipal court within five days from date of such award, so that the same may be enforced by execution within one year from date or thereafter by action.⁴⁴ There is no appeal but any dissatisfied party can file a petition in court for the nullification of such award.

IMPLEMENTATION OF THE KATARUNGANG PAMBARANGAY

A. Empirical Study

As written, P.D. No. 1508 must have generated sufficient rationale to warrant its promulgation. No materials are, however, available to show how it fares in actual application. In order to get some data on its implementation, a partial survey, involving fifteen (15) barangays in Metropolitan Manila yielded the following results:

	<i>Settled</i>	<i>Certified for filing in Court</i>	<i>Police Blotter</i>	<i>Dropped or Dismissed</i>	<i>Pending</i>
1. Slight Physical Injuries	58	5	2	2	1
2. Threats	23				
3. Simple Quarrels	19				
4. Ejectment	17	4		2	4
5. Rent Collection	12	4		2	3
6. Debts	10				
7. Slander	7	3	1	2	2
8. Theft	7	1	2		2
9. Damage to Property	6		1		
10. Gossip	6				
11. Mischief/Unjust Vexation	4	1			
12. Trespassing	3	1			1
13. Malversation/Estafa	2	1		1	
14. Illegal Vending	2				1
15. Elopement	2				
16. Harassment	1				
17. Act of Lasciviousness	1				
18. Right of Way	1				

⁴⁴ Pres. Decree No. 1508, Secs. 11 and 12; Katarungang Pambarangay Rules, Secs. 13 and 15, Rule VI.

All in all, there were two hundred eighteen (218) complaints filed, out of which one hundred seventy-nine (179) were settled; twenty-two (22) were certified for filing in court; six (6) for police blotter; seven (7) were dropped; fourteen (14) are pending. The complaints covered a six-month period. Based on the number of complaints filed, settled and certified, a marked decongestion of court docket can be seen. Assuming the survey is reflective of barangays in Metro Manila, fifty per cent (50%) of complaints filed are settled. This result cannot be considered favorable by itself. Several factors will still have to be considered among them: actual procedure observed in the barangay; and the qualifications of the Barangay Captain and members of the Lupon. It must be noted that in the survey conducted, some Barangay Captains did not keep the names of the disputants, and some did not actually keep records of finished cases. Being concerned only with settling disputes, records of settled cases are not deemed important, what is important is that a dispute has been settled. Data were gathered in some cases relying on the memory of the Barangay Captain. This may be fairly accurate now since the Katarungang Pambarangay has been implemented for around eight (8) months in the barangays concerned, but what happens after two years or more?

B. *Assessment*

The assessments made are based on the law and the findings in the survey conducted, which covered only a random choice of barangays, mostly in the lower levels of society.

It seems that the attitude, values, and over-all personality of the Barangay Captain is an important factor in the implementation of P.D. No. 1508. There are many ways by which he can implement, even modify, the procedure.

The Barangay Captain decides whether or not the Katarungang Pambarangay is available to the complainant by determining cognizability of the complaint. If he can read, or has time or inclination to read, and wants to stick to the letter of the law,⁴⁵ then he knows which cases are cognizable. In this connection, emphasis is made on the exception of "offenses punishable by imprisonment exceeding 30 days or a fine exceeding ₱200.00."⁴⁶

Offenses not included in the exception are: a) alarms, scandal;⁴⁷ b) use of false certification;⁴⁸ c) concealing one's true name and other personal circumstances;⁴⁹ d) physical injuries committed in a tumultuous

⁴⁵ Pres. Decree No. 1508, Secs. 2 and 6; Primer, Katarungang Pambarangay, p. 4. Hereinafter referred to as the Primer.

⁴⁶ Pres. Decree No. 1508, Sec. 2(3).

⁴⁷ REV. PENAL CODE, Art. 155.

⁴⁸ *Id.*, Art. 175.

⁴⁹ *Id.*, Art. 178.

affray;⁵⁰ e) slight physical injuries and maltreatment;⁵¹ f) other forms of trespass;⁵² g) theft, swindling or malicious mischief committed or caused mutually by certain relatives, where there is no criminal but only civil liability;⁵³ h) imprudence and negligence;⁵⁴ i) intriguing against honor;⁵⁵ j) slight slander;⁵⁶ k) arson of property of small value;⁵⁷ l) some forms of theft;⁵⁸ m) other deceit;⁵⁹ n) altering boundaries or landmarks;⁶⁰ and o) other light coercion or unjust vexation.⁶¹

Sometimes, offenses complained of are reclassified into any of the offenses cognizable. In one barangay, a stab wound inflicted on the neck of a person involving the existence of intent to kill was classified as slight physical injuries because the medical certificate showed that the wound had a healing period of nine (9) days.

If the Barangay Captain takes cognizance of the complaint, he summons the respondent.⁶² The barangay captain has the authority to issue summons but just who has the duty to serve it is not known. One Barangay Captain orders the barangay tanods to serve the summons.⁶³ Failure to heed summons may be punished by the city or municipal court.⁶⁴ Since one of the goals for the implementation of mediation is to decongest court dockets, could not another mode of penalty or another recourse be given?

If and when summons is given the respondent and his witnesses, they are compelled to appear on the date and time set therefore. Their non-appearance would have to be justified.

On the question of justifiability of non-appearance of parties, determination thereof by the Barangay Captain is final. Non-appearance of complainant warrants dismissal of the action. Moreover, no complaint, petition, action or proceeding involving any matter within the authority of the Lupon shall be filed or instituted in court for adjudication unless there has been a confrontation of the parties.⁶⁵ What happens if the respondent changes residence, leaves the barangay for a barangay of a different zone? Will the complainant be allowed to institute court action when there apparently was no confrontation? Professor Cecilio L. Pe⁶⁶ explains:

⁵⁰ *Id.*, Art. 252.

⁵¹ *Id.*, Art. 266.

⁵² *Id.*, Art. 281.

⁵³ *Id.*, Art. 316.

⁵⁴ *Id.*, Art. 365.

⁵⁵ *Id.*, Art. 364.

⁵⁶ *Id.*, Art. 358.

⁵⁷ *Id.*, Art. 323.

⁵⁸ *Id.*, Arts. 308 & 309.

⁵⁹ *Id.*, Art. 318.

⁶⁰ *Id.*, Art. 313.

⁶¹ *Id.*, Art. 287.

⁶² Pres. Decree No. 1508, Sec. 4(b).

⁶³ Barangay Isla San Juan, Caloocan.

⁶⁴ Pres. Decree No. 1508, Sec. 4(d).

⁶⁵ *Id.*, Sec. 6.

⁶⁶ PE & TADIAR, *op. cit.*, *supra*, note 10 at 105.

Upon a similar failure or refusal of the respondent to appear, he shall be barred from filing before the *Barangay* Captain, *Pangkat*, court, or any other government office, any counterclaim arising out of the complainant's cause of action or necessarily connected therewith. If such counterclaim has been filed before the *Barangay* Captain or the *Pangkat*, the same shall be dismissed and such dismissal shall likewise be a sufficient basis for the issuance of a certification for filing complainant's action in court or with the proper government office or agency for adjudication.

When parties appear with their witnesses, assistance of counsel is prohibited. One reason for this prohibition is the attitude that lawyers tend to expand and complicate simple problems. However, lawyers, trained in the intricacies and technicalities of the law, would be in a better position to hand out legal justifications. Even if the term "counsel" does not only mean lawyers, still this prohibition runs counter to the constitutional right of a person to counsel.⁶⁷ Beside, what happens if one of the parties is a lawyer? Could the other party not invoke equal protection of laws⁶⁸ and demand the assistance of counsel?

After the parties have presented their arguments and witnesses, and the *Barangay* captain fails to amicably settle the dispute, the *Pangkat ng Tagapagkasundo* is constituted from among the members of the *Lupong Tagapayapa*. Members of the *Lupon* are appointed by the *Barangay* Captain based on their integrity, impartiality, independence of mind, sense of fairness, reputation for probity, including educational attainment and not otherwise expressly disqualified by law. A person is expressly disqualified by law from holding public office when disqualification from public office is imposed (1) as a principal penalty for certain crimes, for instance, knowingly rendering unjust judgment and direct bribery; and (2) as an accessory penalty, i.e., when it is deemed included in the imposition of the principal penalty such as death when not executed by reason of commutation or pardon, *reclusion perpetua*, *reclusion temporal*, *prision mayor*, or *prision correccional*.⁶⁹ The *Barangay* Captain may be liable for appointing to any public office any person lacking the legal qualifications thereof.⁷⁰

Furthermore, public officers are generally required to have citizenship qualifications⁷¹ and a voluntary change of citizenship may disqualify a person to continue holding a public office.⁷² Other qualifications may include age and education.⁷³ Disqualifications may include conviction of the crime of malversation of public funds⁷⁴ and removal from public office on impeachment.⁷⁵

⁶⁷ CONST., Art. IV, sec. 19.

⁶⁸ CONST., Art. IV, sec. 1.

⁶⁹ Primer, p. 50.

⁷⁰ REV. PENAL CODE, Art. 244.

⁷¹ REV. ADM. CODE, Art. 675.

⁷² Yee v. The Director of Public Schools, 117 Phil. 836 (1963).

⁷³ MARTIN, ADMINISTRATIVE LAW, LAW OF THE PUBLIC OFFICERS AND ELECTION LAW 114-116 (1977).

⁷⁴ REV. PENAL CODE, Arts. 217, 31 and 33.

⁷⁵ MARTIN, *supra*, note 73 at 21.

The general guidelines provided by law are however, subject to the perception, view and even social standing of the Barangay Captain. Where the Barangay Captain places importance on education, members would have high educational attainment.⁷⁶ A Barangay Captain who believes in the use of force, either suggestive or apparent would give primary consideration on physical or political influence; so that members would include policemen,⁷⁷ 'terrors'⁷⁸ or 'sigue-sigue gang members. One with a mild disposition would choose members of the same temperament.⁷⁹

To avoid a subjective selection of Lupon members, an alternative would be election. The question that would then come up would be—who will elect? The barangay council could be a starting point.⁸⁰ On the other hand, election is not provided for in order "to keep off politics from the barangay system of amicable settling of disputes"⁸¹

This subjectivity is continued in the procedure before the Barangay Captain or Pangkat, depending on the attitude of the respective conciliator. The conciliator/s may resort to lecturing the parties on the value of peace⁸² or give parties time to cool off.⁸³

After conciliation proceedings, a settlement may be arrived at which shall have the force and effect of a final judgment of a court,⁸⁴ so that transmittal of the settlement to the proper local city or municipal court⁸⁵ will enable the court to execute the judgment within one year.⁸⁶ If the amount involved is beyond the jurisdiction of the local city or municipal court, it can be inferred that the settlement would have the force and effect of a final judgment of the proper court of first instance. After the lapse of the above-mentioned one-year period, the settlement can be treated as a written contract⁸⁷ between the parties and may be enforced within ten (10) years.⁸⁸

If amicable settlement cannot be had, parties may opt for arbitration. But arbitration is hardly, if ever, resorted to.⁸⁹ If the parties do not want to amicably settle the case, neither would concede to an award which would favor the adverse party. The remedy of the conciliator is to certify the case for court action.⁹⁰ Otherwise, there would only be non-fulfillment

⁷⁶ Barangay Santa Elena, Marikina, Metro Manila.

⁷⁷ Barangay Isla San Juan, Caloocan.

⁷⁸ *Ibid.*

⁷⁹ Barangay Isla San Juan, Caloocan.

⁸⁰ By analogy, as residents' representatives elect mediation committee members in China; General Rules, Art. 5.

⁸¹ PE & TADIAR, *op. cit.*, *supra*, note 10 at 35.

⁸² Barangay Binangonan, Caloocan.

⁸³ Barangay Binangonan, Caloocan.

⁸⁴ Pres. Decree No. 1508, Sec. 11.

⁸⁵ *Id.*, Sec. 14.

⁸⁶ *Id.*, Sec. 12.

⁸⁷ PE & TADIAR, *op. cit.*, *supra*, 10 at 126-127.

⁸⁸ CIVIL CODE, Art. 1144.

⁸⁹ No reported arbitrations made in the survey conducted.

⁹⁰ Twenty-two cases certified out of cases filed.

of the agreement reached or a repetition of the same case, which may be due to pride in not wanting to recognize one's own faults.⁹¹

Partisan conciliation may be suggested when one of the disputants is the Barangay Captain or a Lupon member. Where the Barangay Captain is a disputant, the case should be brought to the most senior councilman of the barangay.⁹² Fear that the councilman would rule in favor of the Barangay Captain is not farfetched as councilmen are under the Barangay Captain. Perhaps, the better procedure would be to submit the complaint to the courts or the proper administrative body.

With respect to the Pangkat member who refuses to act or tries to delay proceedings, the Lupon, by a majority vote of all members, may withdraw the appointment of the Pangkat member and such withdrawal shall carry with it disqualification from public office in the city or municipality for one (1) year.⁹³ The question that comes up now is, when should conciliation be made? It should be done during hours which are considered hours spent at the office or at work. Since conciliation proceedings can be done during office hours, only a few members are willing to sacrifice such, so that the member who has time, can afford the time or is willing to give the time, may be called to conciliate more frequently than members whose time at the office is more precious. The Pangkat members would then be not necessarily those who are better equipped to handle the conciliation but, would most of the time be, those who have the time.

One remaining common problem of barangays in meting out 'Katarungang Pambarangay' is finance. The Barangay Captain and members of the Lupon while performing conciliation proceedings, are without compensation.⁹⁴ Copies of numerous forms are provided in the Katarungang Pambarangay Rules and Regulations⁹⁵ but actual forms were only available at the inception of the decree. The main bulk of the problem is supplies. The sum of Twenty-five Million Pesos (P25,000,000.00) has been appropriated to carry out the purpose of this decree,⁹⁶ however, either the amount is not enough or the money is being used for purposes of the decree other than distribution and production of forms and supplies for the barangays.

C. Comparative Study of Similar Systems

Since the Katarungang Pambarangay is still new, materials on the matter refer to its rationale or its theoretical application. No comprehensive survey or study has yet been made on its practical effects as applied in Philippine society. Some foreign countries have had out-of-court mediation

⁹¹ Barangay Maysilo, Malabon.

⁹² Primer, p. 62.

⁹³ Katarungang Pambarangay Rules Sec. 6(b), Rule IV.

⁹⁴ Pres. Decree No. 1508, Sec. 1 (j).

⁹⁵ Primer, pp. 27-46, 75-94.

⁹⁶ Pres. Decree No. 1508, Sec. 18.

	<i>Philippines</i>	<i>U.S.</i>	<i>Sweden</i>	<i>Sri Lanka</i>	<i>China</i>
1. territory	barangay	county judicial district		same as court	public security station or street admin, village
2. offenses	ord. criminal & civil of slight nature	small amount; not real estate	civil which can be compromised/damages for crime	all civil matters	not involving security of state; same as Phil.
3. qualifications of members	integrity; not otherwise disqualified by law	lawyers	no circumstance for impartiality	familiar with intricacies of subject matter to be arbitrated	linked with masses
4. how chosen	appointed by barangay captain	appointed	chosen by disputants	by parties and in their default, the court itself	elected by resident representatives
5. nature	prerequisite to court action	compulsory		compulsory or voluntary	voluntary
6. appeals	Minister of Justice	court	arbitrators	court	court
7. sanctions	other bodies			court enforcer	other bodies
8. time	office hours			officer hours	production leisure hours

for quite some time. In comparing our system with theirs it is hoped that aspects which tend to deter the effectiveness of our system will have suggestive remedies.

The differences and similarities among the countries will be seen summarily in the table on page 482.

Of the four countries compared, it is that of China which seems to be the most similar to our Katarungang Pambarangay, in terms of the rationale involved for the law. However, as far as structural set-up is concerned, Sri Lanka's system of arbitration is practically the same as ours, so perhaps their jurisprudence on this subject matter could be a great help to us until the Philippine version of civil arbitration can develop its own jurisprudence. Following is an example of how China's version of the People's Court works.

The early Chinese trained in the Confucian tradition, always went back to the law of nature in settling disputes despite legal ruling or precedents.⁹⁷ The creators of the imperial legal system expressed their wish "that Law which was essentially punishment, would ultimately dissolve itself when a healthy atmosphere of the rule of law could prevail."⁹⁸ In medieval China, the District Magistrate, assisted by a Law Secretary who carries with him a Criminal Code, handles all matters occurring in the district from inundations to street brawls. Important cases are appealable to a higher court. Procedure in the district magistrate's office consist of holding the defendant in custody until hearing. A notice of the date of hearing is served to the plaintiff with a warning that failure to appear with his witnesses will warrant dismissal and another notice is publicly exhibited near his residence.

The district magistrates are chosen through any of the following: 1) palace examination; 2) court examination; 3) special examination; 4) selection in case of 3 failures in the examinations; 5) years of duty in copying successful examinees' papers; 6) officers of education; 7) sons of officials who died in service. It is apparent that legal competence is not a prerequisite. As time went on, a formal judicial system was established.⁹⁹

When the Communists took over, they established out-of-court mediation committees, "consciously building upon the traditional Chinese preference for coping with disputes and anti-social conduct by means of persuasion and informal pressures."¹⁰⁰

Provisional General Rules of the People's Republic of China for the Organization of People's Mediation Committees was promulgated on March

⁹⁷ I BHATIA & TANCHUNG, *LEGAL AND POLITICAL SYSTEM IN CHINA* 28 (1974).

⁹⁸ *Ibid.* at 47.

⁹⁹ BHATIA & TANCHUNG, *op. cit.*, *supra*, note 97.

¹⁰⁰ COHEN, *THE CRIMINAL PROCESS IN THE PEOPLE'S REPUBLIC OF CHINA 1949-1963, AN INTRODUCTION* 123 (1968).

22, 1954 by the Government Administration Council, which contains in part: that ordinary civil disputes and minor cases shall be mediated with propaganda-education conducted; that members are to be elected by the representatives of the residents; that mediation is not a prerequisite to bringing suit in court; and that mediation should be conducted during periods of production leisure.

Rationale for the Rules was made in the editorial "Do People's Mediation Work Well, Strengthen the Unity of the People, Impel Production and Construction."¹⁰¹

... If these disputes cannot be promptly and correctly resolved, it will affect the unity of the masses, interfere with their production and work, and at times may even be the cause of armed fighting, murder, and other bad results, which obviously is disadvantageous to developing production. For this reason, the people's government and the people's court are responsible for finding a satisfactory resolution for these disputes among the people, and absolutely must not consider them trifles unworthy of action. But, *it is impossible for the basic level people's government and court in the district or administrative village to resolve all disputes among the people.* It is necessary to adopt an effective organizational form and work method to resolve them. The people's mediation committee created by the masses is an excellent organizational form which is convenient not only for resolving disputes among the people but *also for carrying out the mass line in judicial work.* It is a mass organization for the people's self-education." (Italics ours).

The Act for Mediating Civil and Criminal Cases in the Border Regions, promulgated by the Communist Regime in Yen-an in 1943 provided in its Article 2:

Mediation shall be undertaken in all civil disputes. Mediation may be undertaken in all criminal cases, with the exception of the following crimes: (1) A crime against the internal security of the state; (2) A crime against the security of the state committed in conjunction with a foreign power; (3) Treason; (4) Murder; (5) Banditry; (6) Kidnapping for ransom; (7) Violating government laws and decrees; (8) Undermining social order; (9) Corruption misconduct in office; (10) Interfering with public affairs; (11) Interfering with election; (12) Escaping from custody; (13) Concealing offenders or destroying evidence; (14) Undermining the currency or valuable security; (15) Forging official documents or seals; (16) Creating public danger; (17) Perjury; (18) Interfering with water utilization; (19) Sabotaging transportation and communication facilities; (20) Falsifying weights or measures; (21) Interfering with agricultural or industrial policy; (22) Opium crimes; (23) Other crimes of a habitual nature."¹⁰²

¹⁰¹*Ibid.* at 126, citing Editorial, "Do People's Mediation Work Well, Strengthen the Unity of the People, Impel Production and Construction," *Jen-min jih-pao (People's Daily)*, March 23, 1954, p. 1.

¹⁰²*Ibid.*, at 130.

Disputes were handled according to their nature and form, hence,

Family meetings resolve family disputes. Since family disputes are problems within the same family a meeting of the family members living within the same household may be held...

...other effective measures for resolving disputes...such as persuasion by intimate friends persuasion by relatives and friends, mobilization (of others) to persuade (the parties) individually, negotiations between the two parties, and collective mediation.¹⁰³

It is to be noted that mediation is available only when there are two parties, so that when the victim is the people at large, there is no mediation.¹⁰⁴

Although there is no express prohibition in mediation against lawyers, it is to be noted that in China, it is only now that lawyers are being heard.¹⁰⁵

CONCLUSION

All aspects considered, it seems that the theoretical justification for the Katarungang Pambarangay is not too far-fetched from reality. The system is proving to be an effective method of decongesting court dockets and as a consequence, can improve our system of justice.

Although there are, as yet, no statistics available as to the number of cases currently pending before the courts, still, based on the data gathered, 50% of all cases submitted to the Katarungang Pambarangay sampled were conciliated. It can be argued that this favorable trend is expected, attributable merely to the fact that conciliation is a statutory pre-condition before a dispute can be brought before the court. However, the reactions gathered by this study seem otherwise.

A primary advantage of the system is that it provides a single and speedy means of obtaining relief with the least expense. The cost entailed by judicial proceedings have long operated as discriminatory against the low-income group, which form a greater part of our population. Now, with the Katarungang Pambarangay, they have easier access to justice. That the low-income barangays tend to avail of the system more than the high-income ones is supported by the data gathered — these Katarungang Pambarangay in the squatter areas handle more active cases than the latter.

Another advantage is the convenience involved. Now, small and simple claims falling within the jurisdiction of the Katarungang Pambarangay can

¹⁰³ *Ibid.*, at 142, citing Chiang Shih-min, et al., "Correctly Handling Disputes Among the People," *Cheng-fa yen-chiu* (Political-legal research). 4:29, 30 (1959).

¹⁰⁴ *Ibid.*, at 153.

¹⁰⁵ Ramon Avanceña Lecture: The Legal System of China, by Dean Jerome Alan Cohen, U.P. Law Center, June 27, 1980.

be easily and amicably settled, at the earliest stage, without need of going through a long, bitter court battle.

Furthermore, taken in the context of our society, the system of the Katarungang Pambarangay is more suited to the traditional Filipino values. The person-oriented powers of conciliation and mediation is more acceptable rather than the detached means of dispensing justice through adjudication. It is more often the rule, rather than the exception, that at least one of the Pangkat members is intimately known to each of the parties. Thus, settlement can easily be accomplished because the parties are not wary or distrustful of the mediators, and corollarily, because of these same values of kinship, "*pakikisama*", "*hiya*" and "*utang na loob*", the decision of the Barangay Captain is more acceptable to the parties.

Thus, the geographical convenience of the system, the simplicity and inexpensiveness of proceedings, and the "personal touch" involved, all contribute to the effectiveness and feasibility of the Katarungang Pambarangay, and make available to a greater majority of the people an informal mode of dispute resolution. However, this does not mean that the system is without disadvantages.

Although theoretically the parties are on equal footing, relying only on the sense of fairness of the Pangkat or Barangay Captain, this is not always true in reality. From the interviews, it was perceived that where one of the parties is more educated or socially influential, or in one case, a lawyer, an imbalance is created in this favor. His knowledge of the law on technical matters, although it should not be the case, tend to influence the mediators. Perhaps in such a situation, the other party should be allowed advice of counsel.

A more common occurrence is the pervading power and influence of the Barangay Captain. The parties tend to rely only on his judgment and hence, if the Barangay Captain is unable to achieve a settlement between the parties, what usually happens is that the parties no longer want to bring their dispute to the Pangkat, rendering the Lupon almost without use. Perhaps the Lupon can be strengthened by transferring to them some of the functions exercised by the Barangay Captain. Why can't the dispute be brought before them without need of going through the Barangay Captain first? In addition, to further help decongest the courts, perhaps, the Katarungang Pambarangay can have the power to enforce their own awards, together with the corresponding, but limited, sanctions, instead of relying on the city or municipal courts.

However, the greatest drawback of the system is its lack of definite and standard guidelines, relating to the qualifications of the mediators and to the manner of conciliation. The present law is so subjective that every Katarungang Pambarangay seems to have a different understanding of its

powers and jurisdictions. Circumvention of the law and denial of justice is the usual result.

For example, it was found that although the Katarungang Pambarangay has no power to impose imprisonment, as a penalty, still, most of them do so, albeit indirectly, by sending the offender to the nearest police precinct to be blottered and more often than not, he ends up jailed. Also, the Katarungang Pambarangay surveyed do not certify the disputes to the proper court, even if the proceedings have taken too long and conciliation seems impossible. Hence, there may be cases ripe and proper for adjudication but which remain at the barangay level, without resolution and finality, unnecessarily denying the parties' access to the courts.

Until the law can be amended and more uniform standards set up, closer supervision of the Katarungang Pambarangay is needed to avoid arbitrariness and abuse of the system. A suggested solution would be to require a lawyer within each Lupon who shall have the additional function of advising the Barangay Captain and the other Lupon members as to the proper interpretation of the law.

It can thus be seen that the advantages outweighing the disadvantages, the Katarungang Pambarangay, as an informal forum for the settlement of disputes, is a desirable development in the administration of justice, since it not only secures the decongestion of the courts but makes use of a legal system which is indigenously and traditionally Filipino.