

SC CIRCULAR NO. 22-92, April 01, 1992

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OFFICE OF THE COURT ADMINISTRATOR

TO:

THE INTEGRATED BAR OF THE PHILIPPINES, ALL OTHER BAR ASSOCIATIONS, THE OFFICE OF THE SOLICITOR GENERAL AND THE DEPARTMENT OF JUSTICE

SUBJECT:

AMENDING AND MODIFYING SECTION 10 OF RULE 41 AND SECTION 8 OF RULE 46 OF THE RULES OF COURT PRESCRIBING THE PROCEDURE GOVERNING THE PROCESSING OF APPEALS IN THE COURT OF APPEALS AND IN THE REGIONAL TRIAL COURTS, AND SECTION 13 OF RULE 46 OF THE RULES OF COURT PROVIDING FOR THE TIME OF THE FILING MEMORANDA IN APPEALS IN SPECIAL CASES

The Court has noted that the processing of appeals has been delayed because of the non-completion of the original records. Even after perfection of the appeal, the records remain with the court of origin because of the non-completion of the original records. Even after perfection of the appeal, the records remain with the the court of original because the records are incomplete. The Rules of Court Revision Committee has drafted proposals to facilitate processing, and there is a need for immediate implementation.

The following special rules on appeal are promulgated for that purpose, amending and modifying Section 10 of Rule 41 and Section 8 of Rule 46 of the Rules of Court.

Sec. 1 Duty of clerk of court of the lower court upon perfection of appeal. -- Within thirty (30) days after perfection of the appeal, it shall be the duty of the clerk of court of the lower court;

- (a) To verify the correctness of the original record or the record on appeal and to make a certification of its correctness;
- (b) To verify the completeness of the records that will be transmitted to the appellate court;
- (c) If found to be incomplete, to take such measures as may be required to complete the records, availing of the authority that he or the court may exercise for this purpose; and
- (d) To transmit the records to the appellate court.

If the efforts to complete the records fail, he shall indicate in his letter of transmittal the exhibits or transcripts not included in the records being transmitted to the appellate court, the reasons for their non-transmittal, and the steps taken or that could be taken to have them available.

The clerk of the lower court shall furnish the parties with his letter of transmittal of the records to the appellate

court.

Sec. 2. Docketing of case. -- Upon receiving the original record or the record on appeal and the accompanying documents and exhibits transmitted by the lower court, as well as the proof of payment of the docketing fee, the clerk of Court of Appeals shall docket the case and notify the parties thereof.

Sec.3 Completion of record. -- Where the record of the docketed case is incomplete, the clerk shall so inform the Court of Appeals and recommend to it measures necessary to complete the record. It shall be the duty of the court to take appropriate action towards the completion of the record within the shortest possible time.

Sec. 4. Dispensing with complete record.-- Where the completion of the record could not be accomplished within a sufficient period allotted for said purpose due to insuperable or extremely difficult causes, the court, on its own motion or on motion of any of the parties, may declare that the record and its accompanying transcripts and exhibits so far available are sufficient to decide the issue raised in the appeal, and issue an order explaining the reasons for such declaration.

The Court also noted that the filling of brings in appeals in special cases, namely, certiorari, prohibition, mandamus, quo warranto and habeas corpus, has oftentimes delayed the expeditious disposition of cases,

The following special rule on appeal in special cases in thus promulgated, amending Section 13 of Rule 46 of the Rules of Court:

Time of filing memoranda in special cases.-- In cases of certiorari, prohibition, mandamus, quo warranto and habeas corpus, the parties shall file, in lieu of briefs, their respective memoranda within a non-extendible period of thirty (30) days from receipt of the notice issued by the clerk that all the evidence, oral and documentary, is already attached to the record.

The failure of the petitioner to comply with this Rule may be a ground for dismissal of the appeal.

For strict compliance.

This resolution shall take effect on June 1, 1992 and shall be prospective in application. Let this resolution be published once a week for three consecutive weeks in two (2) newspaper of general circulation.

April 1, 1992

(SGD.) AMEURFINA MELENCIO HERRERA

Acting Chief Justice

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