

SC CIRCULAR NO. 39-98, August 19, 1998

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OFFICE OF THE COURT OF ADMINISTRATOR

TO :

THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARIAH DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS AND SHARIAH CIRCUIT COURTS.

SUBJECT: BAR MATTER NO. 803 - RE: CORRECTION OF CLERICAL ERRORS IN AND ADOPTION OF AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE.

For the information and guidance of all concerned, quoted hereunder is the resolution of the Court En Bane dated July 21, 1998 in Re: Correction of clerical errors in and adoption of amendments to the 1997 Rules of Civil Procedure, to wit:

"Bar Matter No. 803.- Re: Correction of clerical errors in and adoption of amendments to the 1997 Rules of Civil Procedure which were approved on April 8, 1997, effective July 1, 1997. — The Court Resolved to CORRECT the following provisions in the 1997 Rules of Civil Procedure: (a) Section 3 of Rule 30; and (b) Section 5 of Rule 71, to read as follows:

RULE 30

SEC. 3. Requisites of motion to postpone tried for absence of evidence. — A motion to postpone a trial on the ground of absence of evidence can be granted only upon affidavit showing the materiality or relevancy of such evidence, and that due diligence has been used to procure it. But if the adverse party admits the facts to be given in evidence, even if he objects or reserves the right to object to their admissibility, the trial shall not be postponed. (4a, R22)

RULE 71

SEC. 5. Where charge to be filed.— Where the charge for indirect contempt has been committed against a Regional Trial Court or a court of equivalent or higher rank, or against an officer appointed by it, the charge may be filed with such court. Where such contempt has been committed against a lower court, the charge may be filed with the Regional Trial Court of the place in which the lower court is sitting; but the proceedings may also be instituted in such lower " court subject to appeal to the Regional Trial Court of such, place in the same manner as provided in section 11 of this Rule. (4a)

The Court further Resolved to AMEND the following provisions in the 1997 Rules of Civil Procedure: (a) Section

3 of Rule 46; and (b) Section 4 of Rule 65, to read as follows:

RULE 46

SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition, (n)

RULE 65

SEC. 4. Where and when petition to be filed. — The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed in the Supreme Court or, if it relates to the acts or commissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, and unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.

If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (4a)

The foregoing amendments to Section 3 of Rule 46 and Section 4 of Rule 65, after due publication in two (2) newspapers of general circulation, shall take effect on September 1, 1998."

The amendments appeared on the July 26, 1998 issue of the Philippine Daily Inquirer, Philippine Star, Manila Standard and Manila Bulletin

August __19__, 1998.

(SGD.) ALFREDO L. BENIPAYO

Court Administrator

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