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2. Declaratory Relief and Similar Remedies

1. Requisites

- (1) There must be a justiciable controversy;³⁹⁶
- (2) The controversy must be between persons whose interest is adverse;
- (3) The parties must have legal interest in the controversy;
- (4) The controversy must be ripe for judicial determination;³⁹⁷ and
- (5) The petition must be filed before there is a breach or violation.³⁹⁸

2. Procedural Peculiarities

2.1 The petition must be filed before there is a breach of contract or violation of the statute or ordinance.³⁹⁹

2.2 Third-party complainant is not allowed.⁴⁰⁰

2.3 Except in actions for quieting of title, the court action on an action for declaratory relief is discretionary. Thus, the court motu proprio or upon motion may refuse to exercise the power to declare rights and to construe instruments in any case where a decision would not terminate the uncertainty or controversy which gave rise to the action or in any case where the declaration or construction is not necessary under the circumstances.⁴⁰¹

2.4 When a statute, executive order or any government regulation or ordinance is alleged to be unconstitutional, the Solicitor-General should be notified by the party assailing the same.⁴⁰² If the validity of a local government ordinance is in question, the prosecutor or attorney of the local government should be notified.⁴⁰³

3. Declaratory Relief Improper in the Following Cases

- (1) to obtain judicial declaration of citizenship;⁴⁰⁴
- (2) to seek relief on moot questions or to resolve hypothetical, abstract or theoretical questions, or to decide claims which are uncertain;⁴⁰⁵
- (3) to resolve political issues or questions;⁴⁰⁶
- (4) to test the correctness or validity of a court decision;⁴⁰⁷
- (5) to determine hereditary rights;⁴⁰⁸
- (6) when the petition is based upon the happening of a contingent event;
- (7) when the petitioner is not the real party in interest;⁴⁰⁹ and

(8) when administrative remedies have not yet been exhausted.⁴¹⁰

396 *Obiles v. Republic*, 92 Phil. 864 [1953].

397 *Board of Optometry v. Colet, G. R.* No. 122241, July 30, 1996, 260 SCRA 88.

398 Rules of Court, Rule 63, Sec. 1.

399 *Ibid.*

400 *Commissioner of Customs v. Cloribel*, No. L-21036, June 30, 1977, 77 SCRA 459.

401 Rules of Court, Rule 63, Sec. 5.

402 *Ibid.*, Sec. 3.

403 *Ibid.*, Sec. 4.

404 *Dy Poco v. Commissioner of Immigration*, No. L-22313, March 31, 1966, 16 SCRA 615; *Singson v. Republic*, No. L-21855, January 30, 1968, 22 SCRA 353.

405 *Lim v. Republic*, No. L-29535, February 27, 1971, 37 SCRA 783.

406 *Dela Llana v. Commission on Elections*, No. L-47245, December 9, 1977, 80 SCRA 525.

407 *Tanda v. Aldaya*, 52 O.G. No. 11, 5175 (September 15, 1956).

408 *Edades v. Edades*, 52 O.G. No. 11, 5149 (September 15, 1956).

409 *Santos v. Aquino*, 94 Phil. 65 [1953].

410 *Ollada v. Central Bank*, No. L-11357, May 31, 1962, 5 SCRA 297.

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