

SC CIRCULAR NO. 1-91, February 27, 1991

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TO:

COURT OF APPEALS, COURT OF TAX APPEALS, THE SOLICITOR GENERAL, THE GOVERNMENT CORPORATE COUNSEL, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT: Prescribing the Rules Governing appeals to the Court of Appeals from a Final Order or Decision of the Court of Tax Appeals and Quasi-Judicial Agencies.

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SCOPE.- These rules shall apply to appeals from -final orders or decision of the Court of Tax Appeals. They shall also apply to appeals from final orders or decisions of any quasi-judicial agency from which an appeal is now allowed by statute to the Court of Appeals or the Supreme Court. Among these agencies are the Securities and Exchange Commission, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Secretary of Agrarian Reform and Special Agrarian Courts under RA 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission and Philippine Atomic Energy Commission.

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CASES NOT COVERED.- These rules shall not apply to decisions and interlocutory orders of the National Labor Relations Commission or the Secretary of Labor and Employment under the Labor Code of the Philippines, the Central Board of Assessment Appeals, and other quasi-judicial agencies from which no appeal to the courts is prescribed or allowed by statute.

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WHO MAY APPEAL AND WHERE TO APPEAL.- The appeal of a party affected by a final order, decision, or judgment of the Court of Tax Appeals or of a quasi-judicial agency shall be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact or of law or mixed questions of fact and law. 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.

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PERIOD OF APPEAL.- The appeal shall be taken 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. One (1) motion for reconsideration of said ruling, award, order, decision, or judgment may be allowed, if the

motion is denied, the movant may appeal during the remaining period for appeal reckoned from notice of the resolution of denial.

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HOW APPEAL TAKEN.- Appeal shall be taken by filing a verified petition for review in six (6) legible copies, with the Court of Appeals, a copy of which shall be served on the adverse party and on the court or agency a quo. Proof of service of the petition on the adverse party and on the court or agency a quo shall be attached to the petition.

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CONTENTS OF PETITION.- The petition -for review shall contain a concise statement of the facts and issues involved and the grounds relied upon -for the review, and shall be accompanied by a duplicate original or a certified true copy of the ruling, award, order, decision or judgment appealed from, together with certified true copies of such material portions of the record as referred to therein and other supporting papers. The petition shall state the specific material dates showing that it was filed within the period fixed therein.

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DOCKETING AND OTHER FEES; EXEMPTION THEREFROM.- Upon filing the petition for review, the petitioner shall pay to the clerk of the Court of Appeals the docketing and other prescribed fees. In case the appellant is a laborer, or employee, agricultural lessee or tenant, he may file a verified motion setting forth said fact and praying that he be exempted from payment of docketing and other legal fees and the deposit for costs. If the court denies the motion, the appellant shall pay the docketing and other legal fees within fifteen (15) days from notice of the denial otherwise the appeal shall be dismissed.

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WHEN PETITION GIVEN DUE COURSE.- The Court of appeals shall give due course to the petition only when it shows prima facie that the court, commission, board, office or agency concerned has committed errors of fact or law that would warrant reversal or modification of the order, ruling or decision sought to be reviewed. The findings of fact of the court commission, board, office or agency concerned when supported by substantial evidence shall be final.

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DEPOSIT FOR COSTS.- If the petition is given due course, the petitioner shall deposit with the Court of Appeals the sum of four hundred pesos (P400.00) for costs within three (3) days from notice by the clerk of court, unless a different period is fixed by the court. Upon failure of petitioner to make the deposit within the said period, the petition shall be dismissed.

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ANSWER OF RESPONDENT.- Within ten (10) days from notice that the petition has been given due course, the respondent may file an answer to the petition. The answer shall be filed in six (6) legible copies and accompanied by certified true copies of such material portions of the record referred to therein tethered with other supporting papers. The answer shall (a) point out inefficiencies or inaccuracies in petitioner's statement of facts and issues; and (b) state the reasons why the petition should be denied or dismissed. Copy thereof shall be served on the petitioner. If no answer is filed, the Court of Appeals shall render judgment on the basis of the petition.

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TRANSMITTAL OF RECORD.- Within fifteen (15) days from notice that the petition has been given due course, the court commission, board, office or agency concerned shall transmit to the Court of Appeals the original or a certified copy of the entire record of the proceeding under review. The record to be transmitted may be abridged by agreement of all parties to the proceeding. The Court of Appeals may require or permit subsequent correction or addition to the record.

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EFFECT OF APPEAL.- The appeal shall not stay the order, ruling or decision sought to be reviewed unless the Court of Appeals shall direct otherwise upon such terms as it may deem just. (Rules 43, 44)

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SUBMISSION FOR DECISION.- The case shall be deemed submitted for decision upon the filing of the answer or expiration of the period to do so, unless the Court of Appeals sets the case for oral argument, or requires the parties to submit memoranda.

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Rules 43 and 44 of the Rules repealed and superseded by this Circular of Court are hereby

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15. This Circular shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

FOR STRICT COMPLIANCE.

February 27, 1991.

(SGD.) MARCELO B. FERNAN

Chief Justice

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