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Civil Procedure A satisfied Microsoft Office User Normal A satisfied Microsoft Office User 3 3
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TABLE 1**DIFFERENCES AMONG PROVISIONAL REMEDIES****DEFINITION****GROUND****PURPOSE****COURT WHICH CAN GRANT****1. Preliminary Attachment (Rule 57)**

A provisional remedy issued upon order of the court where an action is pending to be levied upon the property or properties of the adverse party therein, the same to be held thereafter by the sheriff as security for the satisfaction of whatever judgment might be secured in said action by the attaching party against the adverse party

- a. In an action for the recovery of a specified amount or damages, other than moral and exemplary, on a cause of action arising from law, contract, quasi-contract, delict or quasi-delict against a party who is about to depart from the Philippines with intent to defraud his creditors;
- b. In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;
- c. In an action to recover the possession of property unjustly or fraudulently taken, detained or converted, when the property, or any part thereof, has been concealed, removed or disposed of to prevent its being found or taken by the applicant or an authorized person;
- d. In an action against a party who has been guilty of fraud in contracting the debt or incurring the obligation upon which the action is brought, or in the performance thereof;
- e. In an action against a party who has removed or disposed of his property, or is about to do so, with intent to defraud his creditors;
- f. In an action against a party who does not reside and is not found in the Philippines, or on whom summons may be served by publication (Section 1)

As security for the satisfaction of any judgment that may be recovered by the claimant

Supreme Court, Court of Appeals, Regional Trial Court, Family Court, Metropolitan, Municipal and Municipal Circuit Trial Courts

2. Preliminary Injunction (Rule 58)

An order granted at any stage of an action or proceeding prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction (Section 1)

- a. That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
- b. That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
- c. That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual (Section 3)

To preserve the status quo or to resolve the last uncontested status quo

Supreme Court, Court of Appeals, Regional Trial Court, Family Court, Metropolitan, Municipal and Municipal Circuit Trial Courts

3. Temporary Restraining Order (TRO)

An order which may issue upon the filing of an application for preliminary injunction forbidding the defendant to do the threatened act until a hearing on the application can be had

- a. Matter is of extreme urgency; and
- b. The applicant will suffer grave injustice and irreparable injury before the matter can be heard on notice

To prevent grave injustice and irreparable injury to the applicant before the application for a writ of preliminary injunction can be acted upon

Supreme Court, Court of Appeals, Regional Trial Court, Family Court, Metropolitan, Municipal and Municipal Circuit Trial Courts

4. Receivership

Provisional remedy by which the court appoints a receiver as its representative and in behalf of all the parties to an action for the purpose of preserving and conserving the property in litigation and to prevent possible wastage or dissipation or otherwise to carry the judgment into effect

- a. When it appears from the verified application, and such other proof as the court may require, that the party applying for the appointment of a receiver has an interest in the property or fund which is the subject of the action or proceeding, and that such property or fund is in danger of being lost, removed, or materially injured unless a receiver be appointed to administer and preserve it;
- b. When it appears in an action by the mortgagee for the foreclosure of a mortgage that the property is in danger of being wasted or dissipated or materially injured, and that its value is probably insufficient to discharge the

mortgage debt, or that the parties have so stipulated in the contract of mortgage;

c. After judgment, to preserve the property during the pendency of an appeal, or to dispose of it according to the judgment, or to aid execution when the execution has been returned unsatisfied or the judgment obligor refuses to apply his property in satisfaction of the judgment, or otherwise to carry the judgment into effect;

d. Whenever in other cases, it appears that the appointment of a receiver is the most convenient and feasible means of preserving, administering or disposing of the property in litigation.

During the pendency of an appeal, the appellate court may allow an application for the appointment of a receiver to be filed in and decided by the court of origin and the receiver appointed to be subject to the control of said court.

To preserve the property during the pendency of the litigation or to dispose of it according to the judgment when it is finally rendered or otherwise to carry the judgment into effect

Supreme Court, Court of Appeals, Regional Trial Court, Family Court, Metropolitan, Municipal and Municipal Circuit Trial Courts

5. Replevin

Court orders the seizure of chattels or goods claimed by a party as his which are allegedly wrongfully taken or detained by another person and to be delivered to the former to be retained by him during the pendency of the action

a. Applicant is the owner of the property claimed, particularly describing it, or is entitled to the possession thereof;

b. The property is wrongfully detained by the adverse party, alleging the cause of detention thereof according to the best of his knowledge, information and belief;

c. The property has not been distrained or taken of a tax assessment or a fine pursuant to law, or seized under a writ of execution or preliminary attachment, or otherwise placed under custodia legis, or if so seized, that it is exempt from such seizure or custody;

d. The actual market value of the property.

To prevent the subject property from being disposed of during the pendency of the case

Regional Trial Court, Family Court, Metropolitan, Municipal, and Municipal Circuit Trial Courts

6. Support Pendente Lite

Order issued by a court in which an action for support has been filed fixing an amount of support to be given by the adverse party to the applicant during the pendency of the case

When equity and justice may require having due regard to the probable outcome of the case and such other circumstances as may suggest the reasonability of granting support pendente lite

To answer the material needs of the applicant during the pendency of the case

Family Court

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