

**REVISED RULES ON SUMMARY PROCEDURE
RESOLUTION OF THE COURT *EN BANC* DATED OCTOBER 15, 1991 PROVIDING FOR THE
REVISED RULE ON SUMMARY PROCEDURE FOR METROPOLITAN TRIAL COURTS,
MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS AND MUNICIPAL
CIRCUIT TRIAL COURTS.**

Pursuant to Section 36 of the Judiciary Reorganization Act of 1980 (B.P Blg. 129) and to achieve an expeditious and inexpensive determination of the cases referred to herein, the Court Resolved to promulgate the following Revised Rule on Summary Procedure:

**I.
Applicability**

Section 1. Scope. – This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:

A. Civil Cases:

(1) All cases of forcible entry and unlawful detainer, irrespective of the amount of damages or unpaid rentals sought to be recovered. Where attorney's fees are awarded, the same shall not exceed twenty thousand pesos (P20,000.00).

(2) All other civil cases, except probate proceedings, where the total amount of the plaintiff's claim does not exceed ten thousand pesos (P10,000.00), exclusive of interest and costs.

B. Criminal Cases:

(1) Violations of traffic laws, rules and regulations;

(2) Violations of the rental law;

(3) Violations of municipal or city ordinances;

(4) All other criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months, or a fine not exceeding (P1,000.00), or both, irrespective of other imposable penalties, accessory or otherwise, or of the civil liability arising therefrom: Provided, however, that in offenses involving damage to property through criminal negligence, this Rule shall govern where the imposable fine does not exceed ten thousand pesos (P10,000.00).

This Rule shall not apply to a civil case where the plaintiffs cause of action is pleaded in the same complaint with another cause of action subject to the ordinary procedure; nor to a criminal case where the offense charged is necessarily related to another criminal case subject to the ordinary procedure.

Sec. 2. Determination of applicability. – Upon the filing of a civil or criminal action, the court shall issue an order declaring whether or not the case shall be governed by this Rule. A patently erroneous determination to avoid the application of the Rule on Summary Procedure is a ground for disciplinary action.

II.
Civil Cases

Sec. 3. Pleadings. –

A. Pleadings allowed. – The only pleadings allowed to be filed are the complaints, compulsory counterclaims and cross-claims' pleaded in the answer, and the answers thereto.

B. Verifications. – All pleadings shall be verified.

Sec. 4. Duty of court. – After the court determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on any of the grounds apparent therefrom for the dismissal of a civil action. If no ground for dismissal is found it shall forthwith issue summons which shall state that the summary procedure under this Rule shall apply.

Sec. 5. Answer. – Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. Affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter. Cross-claims and compulsory counterclaims not asserted in the answer shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

Sec. 6. Effect of failure to answer. – Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, that the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 15 of the Rules of Court, if there are two or more defendants.

Sec. 7. Preliminary conference; appearance of parties. – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counterclaim in accordance with Section 6 hereof. All cross-claims shall be dismissed.

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This Rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.

Sec. 8. Record of preliminary conference. – Within five (5) days after the termination of the preliminary conference, the court shall issue an order stating the matters taken up therein, including but not limited to:

- (a) Whether the parties have arrived at an amicable settlement, and if so, the terms thereof;
- (b) The stipulations or admissions entered into by the parties;
- (c) Whether, on the basis of the pleadings and the stipulations and admissions made by the parties, judgment may be rendered without the need of further proceedings, in which event the judgment shall be rendered within thirty (30) days from issuance of the order;
- (d) A clear specification of material facts which remain controverted; and
- (e) Such other matters intended to expedite the disposition of the case.

Sec. 9. Submission of affidavits and position papers. – Within ten (10) days from receipt of the order mentioned in the next preceding section, the parties shall submit the affidavits of their witnesses and other evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.

Sec. 10. Rendition of judgment. – Within thirty (30) days after receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the court shall render judgment.

However should the court find it necessary to clarify certain material facts, it may, during the said period, issue an order specifying the matters to be clarified, and require the parties to submit affidavits or other evidence on the said matters within ten (10) days from receipt of said order. Judgment shall be rendered within fifteen (15) days after the receipt of the last clarificatory affidavits, or the expiration of the period for filing the same.

The court shall not resort to the clarificatory procedure to gain time for the rendition of the judgment.

III. Criminal Cases

Sec. 11. How commenced. – The filing of criminal cases falling within the scope of this Rule shall be either by complaint or by information: Provided, however, that in Metropolitan Manila and in Chartered Cities, such cases shall be commenced only by information, except when the offense cannot be prosecuted de officio.

The complaint or information shall be accompanied by the affidavits of the complainant and of his witnesses in such number of copies as there are accused plus two (2) copies for the court's files. If this requirement is not complied with within five (5) days from date of filing, the case may be dismissed.

Sec. 12. Duty of court. –

(a) If commenced by complaint. – On the basis of the complaint and the affidavits and other evidence accompanying the same, the court may dismiss the case outright for being patently without basis or merit and order the release of the accused if in custody.

(b) If commenced by information. — When the case is commenced by information, or is not dismissed pursuant to the next preceding paragraph, the court shall issue an order which, together with copies of the affidavits and other evidence submitted by the prosecution, shall require the accused to submit his counter-affidavit and the affidavits of his witnesses as well as any evidence in his behalf, serving copies thereof on the complainant or prosecutor not later than ten (10) days from receipt of said order. The prosecution may file reply affidavits within ten (10) days after receipt of the counter-affidavits of the defense.

Sec. 13. Arraignment and trial. — Should the court, upon a consideration of the complaint or information and the affidavits submitted by both parties, find no cause or ground to hold the accused for trial, it shall order the dismissal of the case; otherwise, the court shall set the case for arraignment and trial.

If the accused is in custody for the crime charged, he shall be immediately arraigned and if he enters a plea of guilty, he shall forthwith be sentenced.

Sec. 14. Preliminary conference. — Before conducting the trial, the court shall call the parties to a preliminary conference during which a stipulation of facts may be entered into, or the propriety of allowing the accused to enter a plea of guilty to a lesser offense may be considered, or such other matters may be taken up to clarify the issues and to ensure a speedy disposition of the case. However, no admission by the accused shall be used against him unless reduced to writing and signed by the accused and his counsel. A refusal or failure to stipulate shall not prejudice the accused.

Sec. 15. Procedure of trial. — At the trial, the affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed the same. Witnesses who testified may be subjected to cross-examination, redirect or re-cross examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

Except in rebuttal or surrebuttal, no witness shall be allowed to testify unless his affidavit was previously submitted to the court in accordance with Section 12 hereof.

However, should a party desire to present additional affidavits or counter-affidavits as part of his direct evidence, he shall so manifest during the preliminary conference, stating the purpose thereof. If allowed by the court, the additional affidavits of the prosecution or the counter-affidavits of the defense shall be submitted to the court and served on the adverse party not later than three (3) days after the termination of the preliminary conference. If the additional affidavits are presented by the prosecution, the accused may file his counter-affidavits and serve the same on the prosecution within three (3) days from such service.

Sec. 16. Arrest of accused. — The court shall not order the arrest of the accused except for failure to appear whenever required. Release of the person arrested shall either be on bail or on recognizance by a responsible citizen acceptable to the court.

Sec. 17. Judgment. — Where a trial has been conducted, the court shall promulgate the judgment not later than thirty (30) days after the termination of trial.

IV. COMMON PROVISIONS

Sec. 18. Referral to Lupon. – Cases requiring referral to the Lupon for conciliation under the provisions of Presidential Decree No. 1508 where there is no showing of compliance with such requirement, shall be dismissed without prejudice and may be revived only after such requirement shall have been complied with. This provision shall not apply to criminal cases where the accused was arrested without a warrant.

Sec. 19. Prohibited pleadings and motions. – The following pleadings, motions or petitions shall not be allowed in the cases covered by this Rule:

- (a) Motion to dismiss the complaint or to quash the complaint or information except on the ground of lack of jurisdiction over the subject matter, or failure to comply with the preceding section;**
- (b) Motion for a bill of particulars;**
- (c) Motion for new trial, or for reconsideration of a judgment, or for opening of trial;**
- (d) Petition for relief from judgment;**
- (e) Motion for extension of time to file pleadings, affidavits or any other paper;**
- (f) Memoranda;**
- (g) Petition for certiorari, mandamus, or prohibition against any interlocutory order issued by the court;**
- (h) Motion to declare the defendant in default;**
- (i) Dilatory motions for postponement;**
- (j) Reply;**
- (k) Third party complaints;**
- (l) Interventions.**

Sec. 20. Affidavits. – The affidavits required to be submitted under this Rule shall state only facts of direct personal knowledge of the affiants which are admissible in evidence, and shall show their competence to testify to the matters stated therein.

A violation of this requirement may subject the party or the counsel who submits the same to disciplinary action, and shall be cause to expunge the inadmissible affidavit or portion thereof from the record.

Sec. 21. Appeal. – The judgment or final order shall be appealable to the appropriate regional trial court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the regional trial court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.

Sec. 22. Applicability of the regular rules. – The regular procedure prescribed in the Rules of Court shall apply to the special cases herein provided for in a suppletory capacity insofar as they are not inconsistent herewith.

Sec. 23. Effectivity. – This revised Rule on Summary Procedure shall be effective on November 15, 1991.