Rule 42: Writing Finis to a 20-Year Redundancy

Maria Filomena D. Singh[*]

I. INTRODUCTION

Appeal is not a natural right.[1] Neither is it a part of due process.[2] It is a mere statutory privilege and, as such, must be exercised only in the manner

* '10 LL.M., American University, Washington College of Law; '91 J.D., Ateneo de Manila University School of Law. She is an Associate Justice of the Court of Appeals of the Republic of the Philippines. She also serves as a professorial lecturer in the Ateneo de Manila University School of Law, the University of the Philippines College of Law, and the Philippine Judicial Academy. She was a former Presiding Judge of Branch 85 of the Regional Trial Court of Quezon City, and Branch 31 of the Metropolitan Trial Court of Quezon City.

Cite as 61 ATENEO L.J. 401 (2016).

provided and in strict accordance with, the law.[3] Since it is not granted by the Constitution, it can be availed of only when a statute provides for it.[4] The Supreme Court has recognized that, "[w]hen made available by law or regulation, [ ] a person cannot be deprived of the right to appeal. Otherwise, there will be a violation of the constitutional requirement of due process of law."[5]

The Rules of Court set out the procedural remedies available to litigants, and the methods for availing of each in civil and criminal actions, as well as in special proceedings.[6] From the commencement of an action until its final resolution, the lifespan of a case is laid out step by step, and the framework for its progression through the judicial hierarchy is traced. Other codes and

1. Levi Strauss & Co. v. Atty. Ricardo R. Blancaflor, G.R. No. 206779, Apr. 20, 2016, at 7, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/206779.pdf (last accessed Oct. 31, 2016) (citing Go v. BPI Finance Corporation, 700 SCRA 125, 132 (2013)); Milagrosa Jocson v. Nelson San Miguel, G.R. No. 206941, Mar. 9, 2016, at 8, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/march2016/206941.pdf (last accessed Oct. 31, 2016); & Viva Shipping Lines, Inc. v. Keppel Philippines Mining, Inc., G.R. No. 177382, Feb. 17, 2016, at 21, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/february2016/177382.pdf (last accessed Oct. 31, 2016) (citing Bello v. Fernando, 114 Phil. 101, 103 (1962)).

2. Dela Cruz v. People, G.R. No. 209387, Jan. 11, 2016, at 21, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/209387.pdf (last accessed Oct. 31, 2016) (citing People v. Judge Laguio, Jr., 547 Phil. 296, 309 (2007)); Suib v. Ebbah, 775 SCRA 616, 628 (2015) (citing Ortiz v. Court of Appeals, 299 SCRA 713 (1998)); Borre v. Court of Appeals, 158 SCRA 560, 565 (1988); Pedrosa v. Hill, 257 SCRA 373, 378 (1996) (citing *Bello*, 114 Phil. at 103); & People v. Esparas, 260 SCRA 539, 558 (1996) (J. Francisco, separate opinion).

3. Manila Mining Corporation v. Amor, 756 SCRA 15, 23 (2015) (citing Colby Construction and Management Corporation v. NLRC, 539 SCRA 159, 168 (2007)).

4. Light Rail Transit Authority v. Salvaña, 726 SCRA 141, 151 (citing Dela Cruz v. Ramiscal, 450 SCRA 449, 457 (2005)); United States v. Yu Ten, 33 Phil. 122, 127 (1916) (citing Pavon v. Philippine Islands Telephone and Telegraph Co., 9 Phil. 247, 249 (1907)); Phillips Seafood (Philippines) Corporation v. Board of Investments, 578 SCRA 70, 76 (2009); & Republic v. Court of Appeals, 372 Phil. 259 (1999).

5. *Light Rail Transit Authority*, 726 SCRA at 151.

6. 1997 RULES OF CIVIL PROCEDURE, rule 1, § 3.

rules exist providing similar procedures for the initiation, prosecution, and resolution of legal controversies.

Every litigation culminates in a resolution, whether by judgment on the merits or on a compromise agreement,[7] or through a summary dismissal for some formal or substantive ground, including a voluntary withdrawal.[8] It is this resolution which is said to put an end to the controversy between the parties, at least, before the court which rendered it. It is also the proper subject of an appeal.[9]

An appeal is, in essence, a guarantee of correctness. Due process is served by an opportunity to participate in trial and the chance to prove one's side.[10] Appeal is the insurance that the proper procedure was followed and that the outcome is fair, i.e., that it is supported by the facts and the law.[11]

In the Philippine legal system, the modes of review available to a litigant are more numerous compared with those in use in other jurisdictions. The United States model, for instance, allows only one appeal from the trial court (called a District Court) to any of the 13 appellate courts (Court of Appeals) that sit below the United States Supreme Court.[12] The decision of the Court of Appeals is usually final.[13] However, a losing party may file a petition for a writ of *certiorari* with the United States Supreme Court which has absolute

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7. *Id.* rule 17.

8. *Id.* rule 35.

9. *Id.* rule 41, § 1. This states that "[a]n appeal may be taken from from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable." *Id.*

10. Primanila Plans, Inc. v. Securities and Exchange Commission, 732 SCRA 264, 275 (2014) (citing Ledesma v. Court of Appeals, 541 SCRA 444, 451-52 (2007)) & Salas v. Matusalem, 705 SCRA 560, 575 (2013) (citing Memita v. Masongsong, 523 SCRA 244, 253 (2007).

11. PHIL. CONST. art. VIII, § 14. Rule 36, Section 1 of the Rules of Civil Procedure states that "[a] judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court." RULES OF CIVIL PROCEDURE, rule 36, § 1.

12. *See* United States Courts, Court Role and Structure, *available at* http://www.uscourts.gov/about-federal-courts/court-role-and-structure (last accessed Oct. 31, 2016).

13. United States Courts, Appeals, *available at* http://www.uscourts.gov/about-federal-courts/types-cases/appeals (last accessed Oct. 31, 2016).

discretion on whether to entertain the petition or dismiss it outright.[14] The United States Supreme Court receives an average of 7,000 filings per year but takes cognizance of only about one percent of the filed petitions.[15] The 2015 Year-End Report on the Federal Judiciary of the United States documented 7,376 filings in 2013, and 7,033 filings in 2014.[16] Only 79 cases were included in the Court's calendar in 2013, disposed of in 67 signed opinions,[17] and even less in 2014 at 75, disposed of in 66 signed opinions.[18]

Locally, a litigant is given the recourse of an "ordinary appeal" or "appeal by writ of error" under Rule 40 for decisions and final orders of the First Level Courts,[19] and Rule 41 for decisions and final orders of the Second Level Courts,[20] which are initiated by the filing of a mere notice of appeal and payment of the required fees with the court of origin. There is "appeal by *certiorari*" under Rule 45 which is limited to pure questions of law, and cognizable solely by the Supreme Court.[21] Review of decisions and final orders of quasi-judicial agencies fall under Rule 43.[22] Then, there are the equitable remedies which also grant a second look at the case though for very limited grounds: (1) a petition for relief under Rule 38;[23] (2) a petition for annulment of judgment under Rule 47;[24] and (3) a petition for *certiorari* under Rule 65.[25] These last three are not substitutes for an appeal[26] and are

14. *Id.*

15. *See* Supreme Court of the United States of America, 2015 Year-End Report on the Federal Judiciary, at 13, *available at* https://www.supremecourt.gov/publicinfo/year-end/2015year-endreport.pdf (last accessed Oct. 31, 2016).

16. *Id.*

17. *Id.*

18. *Id.*

19. RULES OF CIVIL PROCEDURE, rule 40, §§ 3 & 4.

20. *Id.* rule 41, §§ 2 (a) & 4.

21. *Id.* rule 45, § 1.

22. *Id.* rule 43.

23. Madarang v. Spouses Morales, 725 SCRA 480, 481-82 (2014); Dela Cruz v. Quiazon, 572 SCRA 681, 691 (2008); & Turqueza v. Hernando, 97 SCRA 483, 490 (1980). *Turqueza v. Hernando* states that a petition for relief is characterized as "an act of grace[.]" *Turqueza*, 97 SCRA at 490.

24. De Pedro v. Romasan Development Corporation, 743 SCRA 52, 81 (2014) (citing Heirs of Maura So v. Obliosca, 542 SCRA 406, 416 (2008)).

25. Villareal v. Aliga, 713 SCRA 52, 69 (2014) (citing People v. Court of Appeals, 431 SCRA 610, 611 (2004)). It states that "*certiorari* will issue only to correct

available only when appeal is not an option through no fault of the litigant.[27] They do allow, nevertheless, a limited review of a decision or final order.[28]

In 1997, the Rules of Court was revised, specifically the Rules of Civil Procedure. Among the changes introduced is the present iteration of Rule 42, which provides for a second review of a decision or final order of a Metropolitan Trial Court, a Municipal Trial Court, or a Municipal Circuit Trial Court, that has already been reviewed via an ordinary appeal to the Regional Court.[29] This second review is done through a Petition for Review with the Court of Appeals.[30]

Almost two decades after its adoption, the question must now be posed: Has Rule 42 lived up to the intention behind its inclusion as an appellate remedy? To answer this query, two issues require a discussion: (1) has Rule 42 contributed to making litigations just, speedy, and inexpensive? and (2) does Rule 42 provide a remedy not otherwise available to a losing party?

II. HISTORY OF RULE 42

It is important to trace the history of Rule 42 to understand how it was envisioned to function.

Rule 41, Section 2 of the 1997 Rules of Civil Procedure provides for the remedies from the final orders or judgments of the Regional Trial Courts:

> Section 2. *Modes of appeal.* —

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errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court." *Id.*

26. *See* MAGDANGAL M. DE LEON, APPELLATE REMEDIES 2 (2013 ed.)

27. Quelnan v. VHF Philippines, 470 SCRA 73, 80 (2015); Alaban v. Court of Appeals, 470 SCRA 697, 705 (2005); & Dycoco v. Court of Appeals, 702 SCRA 566, 578 (2013).

28. DE LEON, *supra* note 26, at 2.

29. RULES OF CIVIL PROCEDURE, rule 42, § 1 & City of Lapu-Lapu v. Philippine Economic Zone Authority, G.R. No. 184203, Nov. 26, 2014, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/november2014/184203.pdf (last accessed Oct. 31, 2016).

30. Fortune Life Insurance Company, Inc. v. Commission on Audit (COA) Proper, 748 SCRA 286, 292 (2015) (citing the RULES OF CIVIL PROCEDURE, rule 42, § 6).

> (a) *Ordinary appeal.* — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.
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> (b) *Petition for review.* — The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.
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> (c) *Appeal by certiorari.* — In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on *certiorari* in accordance with Rule 45.[31]

"Under Sections 1 and 2, Rule 42 of the 1997 Rules of Civil Procedure, a party desiring to appeal from a decision of the [Regional Trial Court] rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals [ ], submitting together with the petition a certification on non-forum shopping."[32]

"Rule 42 governs an appeal from the judgment or final order rendered by the [Regional Trial Court] in the exercise of its appellate jurisdiction. Such appeal is on a question of fact, or of law, or of mixed questions of fact and law, and is given due course only upon a *prima facie* showing that the [Regional Trial Court] committed an error of fact or law warranting the reversal or modification of the challenged judgment or final order."[33]

"[T]he appeal by petition for review under Rule 42 is a matter of discretion. ... [T]he discretionary appeal, which is taken from the decision or final order rendered by a court in the exercise of its primary appellate jurisdiction, may be disallowed by the superior court in its discretion. Verily,

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31. RULES OF CIVIL PROCEDURE, rule 41, § 2.

32. Uwe Mathaeus v. Spouses Eric and Genevieve Medequiso, G.R. No. 196651, Feb. 3, 2016, at 5, *available at* http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/february2016/196651.pdf (last accessed Oct. 31 2016) (citing RULES OF CIVIL PROCEDURE, rule 42, §§ 1 & 2).

33. *Fortune Life Insurance Company, Inc.*, 748 SCRA at 293-94 (citing the RULES OF CIVIL PROCEDURE, rule 42, § 6).

the [Court of Appeals] has the discretion whether to give due course to the petition for review or not."[34]

A. Act No.190

Appeals from decisions or final orders of the Second Level Courts (i.e., Regional Trial Courts) was first provided for under Section 143 of Act No. 190, "An Act Providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," or the Code of Civil Procedure, which took effect on 1 September 1901.[35] It stated that appeals from all

34. Heirs of Arturo Garcia I (In substitution of Heirs of Melecio Bueno) v. Municipality of Iba, Zambales, 763 SCRA 349, 356 (2015) (citing LUCAS P. BERSAMIN, APPEAL AND REVIEW IN THE PHILIPPINES 85 (2003) & REVISED RULES OF CIVIL PROCEDURE, rule 42, § 6).

35. An Act Providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands, Act No. 190, § 143 (1901). This Section provides the following —

> Section 143. Perfecting Bill of Exceptions. — Upon the rendition of final judgment disposing of the action, either party shall have the right to perfect a bill of exceptions for a review by the Supreme Court of all rulings, orders, and judgments made in the action, to which the party has duly excepted at the time of making such ruling, order, or judgment. The party desiring to prosecute the bill of exceptions shall so inform the court at the time of the rendition of final judgment, or as soon thereafter as may be practicable and before the ending of the term of court at which final judgment is rendered, and the judge shall enter a memorandum to that effect upon his minutes and order a like memorandum to be made by the clerk upon the docket of the court among the other entries relating to the action. Within ten days after the entry of the memorandum aforesaid, the excepting party shall cause to be presented to the judge a brief statement of the facts of the case sufficient to show the bearing of the rulings, order, or judgments excepted to, and a specific statement of each ruling, order, or judgment that has been excepted to, for allowance by the judge. The judge shall thereupon, after reasonable notice to both parties and within five days from the presentation of the bill of exceptions to him, restate the facts if need be, and the exceptions, so that the questions of law therein involved, and their relevancy shall all be made clear, and when the bill of exceptions has been perfected and allowed by the judge, he shall certify that it has been so allowed and the bill of exceptions shall be filed with the other papers in the action, and the same shall thereupon be transferred to the Supreme Court for determination of the questions of law involved. A bill of exceptions

rulings, orders, and judgments of the Courts of First Instance, now referred to as the Regional Trial Courts, are reviewable by the Supreme Court via a Bill of Exceptions.[36]

B. Commonwealth Act No. 3

The National Assembly on 1 February 1936, through Commonwealth Act No. 3,[37] amended certain provisions of the Revised Administrative Code covering the Judiciary by reducing the number of justices of the Supreme Court,[38] creating the Court of Appeals and defining their respective jurisdictions. The jurisdiction of the Court of Appeals was defined, as follows —

> SEC. 145-F. Jurisdiction of the Court of Appeals. — The Court of Appeals shall have *exclusive appellate jurisdiction of all cases, actions, and proceedings*, not enumerated in section one hundred and thirty-eight of this Code [Revised Administrative Code of 1917], *properly brought to it from Courts of First Instance. The decision of the Court of Appeals in such cases shall be final*; Provided, however, that the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by *certiorari* that the said case be certified to it for review and determination, as if the case had been brought before it on appeal.

> may likewise be made to consist of the judge's findings of fact in his final judgment and a statement of all the exceptions reserved by the party desiring to prosecute the bill of exceptions, which shall be allowed and filed by the judge as above in this section provided.
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> Immediately upon the allowance of a bill of exceptions by the judge, it shall be the duty of the clerk to transmit to the clerk of the Supreme Court a certified copy of the bill of exceptions, and of all documents which by the bill of exceptions are made a part of it. The cause shall be heard in the Supreme Court upon the certified copy of the bill of exceptions so transmitted.

Id.

36. *Id.*

37. An Act to Amend Certain Provisions of the Revised Administrative Code on the Judiciary, by Reducing the Number of Justices of the Supreme Court and Creating the Court of Appeals and Defining their Respective Jurisdictions, Appropriating Funds Therefor, and for Other Purposes, Commonwealth Act No. 3 (1935).

38. *Id.* § 2.

> SEC. 145-G. Original jurisdiction of the Court of Appeals. — The Court of Appeals shall have original jurisdiction to issue writs of *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and process in aid of its appellate jurisdiction.[39]

C. The 1940 Rules of Court

Pursuant to Section 13 of Article VIII of the 1935 Constitution,[40] the Supreme Court adopted and promulgated the 1940 Rules of Court, which took effect on 1 July 1940.[41] Rule 41 provides for the appeal from the Courts of First Instance to the Court of Appeals in ordinary actions and special proceedings.[42] The said rule *does not distinguish whether the judgment or final order from the trial court, which could be appealed to the Court of Appeals, was issued in the exercise of its original or appellate jurisdiction.*[43]

D. Republic Act No. 296: The Judiciary Act of 1948

After the liberation of the Philippines, the Court of Appeals, created under Commonwealth Act No. 3, was abolished under Executive Order No. 37 dated March 10, 1945, of President Sergio Osmeña.[44] After World War II, it was established anew under Republic Act (R.A.) No. 52,[45] which

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39. *Id.* § 3 (emphasis supplied).

40. 1935 PHIL. CONST. art. VIII, § 13 (superseded 1973). This Section provides —

> Section 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes, and are declared Rules of Courts, subject to the power of the Supreme Court to alter and modify the same. The Congress shall have the power to repeal, alter[,] or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines.

> 1935 PHIL. CONST. art. VIII, § 13 (superseded 1973).

41. 1940 RULES OF COURT (superseded 1964).

42. *Id.* rule 41.

43. *Id.*

44. In Re: Appeals from the People's Court, 82 Phil. 111, 113 (1948).

45. An Act to Repeal Executive Order Numbered Thirty-Seven, Dated the Tenth of March, Nineteen Hundred and Forty-Five, and to Revive With Certain Amendments, Sections One Hundred and Forty-Five-A to One Hundred and

took effect on 4 October 1946. By the enactment of R.A. No. 52, the Court of Appeals resumed its exclusive appellate jurisdiction as theretofore provided for by law, of all cases, actions, and proceedings not falling within the exclusive appellate jurisdiction of the Supreme Court.[46]

On 17 June 1948, R.A. No. 296,[47] otherwise known as "The Judiciary Act of 1948," was adopted. It reproduced the jurisdiction of the Court of Appeals as contained in Section 145-F of the Administrative Code, as amended by Commonwealth Act No. 3, and as further revised by R.A. No. 52 —

> SEC. 29. Jurisdiction of the Court of Appeals. — The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings not enumerated in section seventeen of this Act, properly brought to it from Courts of First Instance. The decision of the Court of Appeals in such cases shall be final: Provided, however, That the Supreme Court, in its discretion, may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by *certiorari* that the said case be certified to it for review and determination, as if the case had been brought before it on appeal.[48]

"All cases decided by the Courts of First Instance involving factual issues were appealable to the Court of Appeals as a matter of right. *Note that no distinction was made as to cases coming from inferior courts and cases originally filed in the Courts of First Instance.*"[49]

E. The 1964 Rules of Court

On 1 January 1964, the Supreme Court, again pursuant to its rule-making authority under Section 13 of Article VIII of the 1935 Constitution, promulgated the 1964 Rules of Court.[50] Rule 41 thereof provides for the appeals from the Courts of First Instance and the Social Security System to the Court of Appeals —

Forty-Five-Q of the Revised Administrative Code as Herein Amended, so as to Create The Court of Appeals, Republic Act No. 52 (1946).

46. *In Re: Appeals from the People's Court*, 82 Phil. at 113. *See also* Republic Act No. 52, § 2.

47. The Judiciary Act of 1948, Republic Act No. 296 (1948).

48. *Id.* § 29.

49. Torres v. Yu, 119 SCRA 48, 54 (1982) (emphasis supplied).

50. 1964 RULES OF COURT.

> Section 2. *Judgments or Orders Subject to Appeal.* — Only final judgments or orders shall be subject to appeal. No interlocutory or incidental judgment or order shall stay the progress of an action, nor shall it be the subject of appeal until final judgment or order is rendered for one party or the other.
>
> A judgment denying relief under Rule 38 is subject to appeal, and in the course thereof, a party may also assail the judgment on the merits, upon the ground that it is not supported by the evidence or it is contrary to law.
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> A party who has been declared in default may likewise appeal from the judgment rendered against him as contrary to the evidence or to the law, even if no petition for relief to set aside the order of default has been presented by him in accordance with Rule 38.
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> Section 3. *How Appeal Is Taken.* — Appeal may be taken by serving upon the adverse party and filing with the trial court within [ ] [30] days from notice of order or judgment, a notice of appeal, an appeal bond, and a record on appeal. The time during which a motion to set aside the judgment or order or for a new trial has been pending shall be deducted, unless such motion fails to satisfy the requirements of Rule 37.
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> But where such a motion has been filed during office hours of the last day of the period herein provided, the appeal must be perfected within the day following that in which the party appealing received notice of the denial of said motion.[51]

F. Republic Act No. 5433: Amendment to Judiciary Act of 1948 Regarding the Jurisdiction of the Court of Appeals

"To avoid protracted litigations involving cases coming from inferior courts, like ejectment cases, which could pass through four courts, including th[e] [Supreme] Court, the lawmaking body found it expedient to abolish appeals to the Court of Appeals from judgments of the Court of First Instance in cases decided by inferior courts and to allow the Court of Appeals to review the said judgments by means of a petition for review under certain conditions."[52]

"Hence, it enacted [R.A.] No. 5433, which took effect on [9 September] 1968 and which amended Section 29 [of the Judiciary Act of 1948] by providing that *decisions of Courts of First Instance rendered after trial on the merits in the exercise of their appellate jurisdiction, which affirm in full the judgment of an inferior court, may be elevated to the Court of Appeals by the aggrieved party only on petition for review* and that the Court of Appeals may

51. *Id.* rule 41, §§ 2 & 3.

52. *Torres*, 119 SCRA at 54.

entertain that petition when it shows *prima facie* that the Court of First Instance 'has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed.'"[53]

R.A. No. 5433 is quoted below —

> Section 1. Section 29 of [R.A.] Numbered [296], also known as the 'Judiciary Act of 1948,' is hereby amended to read as follows [—]
>
> 'Section 29. Jurisdiction of the Court of Appeals. The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings, not enumerated in section seventeen of this Act, properly brought to it, except final judgments or decisions of *Courts of First Instance rendered after trial on the merits in the exercise of appellate jurisdiction, which affirm in full the judgment or decision of a municipal or city court, in which cases the aggrieved party may elevate the matter to the Court of Appeals only on petition for review*, to which the Court of Appeals shall give due course only when the petition shows *prima facie* that the court has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed. *The decision of the Court of Appeals shall be final*: Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by *certiorari* that the said case be certified to it for review and determination, as if the case had been brought before it on appeal.'
>
> Section 2. The Supreme Court, by Rules of Court, shall prescribe the procedure for *petitions for review* mentioned in the preceding section. Until it shall have done so, said petitions (1) shall be filed within the periods for appeals from civil or criminal cases, depending upon the nature of the case; (2) shall not stay the judgment sought to be reviewed unless either the Court of First Instance or the Court of Appeals shall provide otherwise for good cause shown and upon such terms as may be just, and (3) shall be filed and proceed, as far as may be practicable and not inconsistent with this Act, in the manner and form provided in Rules 43 and 44 of the Rules of Court.[54]

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53. *Torres*, 119 SCRA at 54-55 (citing An Act to Amend Section 29 of Republic Act Numbered Two Hundred Ninety-Six, Also Known as The Judiciary Act of 1948, and for Other Purposes, Republic Act No. 5433 (1969)) (emphasis supplied).

54. Republic Act No. 5433, §§ 1 & 2 (emphases supplied).

G. Republic Act No. 6031

Through R.A. No. 6031,[55] which took effect on 4 August 1969, First Level Courts became courts of record.[56] Thus, Section 77 of the Judiciary Law was amended by providing that

> [a]ll municipal and city courts shall keep records of their proceedings in the same manner as courts of first instance. All judgments determining the merits of cases shall be in writing personally and directly prepared by the municipal or city judge, stating clearly the facts and the law on which they are based, signed by him, and filed with the clerk of court.[57]

R.A. No. 6031 also abolished trial *de novo* as provided for in Section 9, Rule 40 of the Rules of Court — when the First Level Courts, then referred to as the "inferior courts," were not yet courts of record — by requiring the Courts of First Instance to decide appeals on the basis of the records transmitted from the inferior courts to the Courts of First Instance.[58]

R.A. No. 6031 further amended Section 45 by providing that "decisions of the Courts of First Instance in cases exclusively cognizable by the inferior courts shall be final."[59]

It will be remembered that this provision was first introduced in R.A. No. 5433, Section 29 of the Judiciary Law.[60]

Unlike R.A. No. 5433, R.A. No. 6031 mandated that the decisions of the Courts of First Instance on appeals from cases exclusively cognizable by the First Level Courts shall be final only "when the factual findings in the

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55. An Act to Increase the Salaries of Municipal Judges and to Require Them to Devote Full Time to Their Functions as Judges, to Convert Municipal and City Courts Into Courts of Records, to Make Final the Decisions of Courts of First Instance in Appealed Cases Falling Under the Exclusive Original Jurisdiction of Municipal and City Courts Except in Questions of Law, Amending Thereby Sections 45, 70, 75, 77 and 82 of Republic Act Numbered Two Hundred and Ninety Six, Otherwise Known as The Judiciary Act of 1948, and for Other Purposes, Republic Act No. 6031 (1969).

56. *Id.* § 3.

57. *Id.*

58. *Id.* § 1.

59. *Id.*

60. *Id.*

said decision are supported by substantial evidence and the conclusions therein are not clearly against the law and jurisprudence."[61] Thus, R.A. No. 6031 provided in Section 45 that the decision of the inferior courts in cases falling within the concurrent jurisdiction of the Court of First Instance and an inferior court shall be appealable directly to the Court of Appeals, whose decision shall be final,[62] subject to review by the Supreme Court on legal questions under Rule 45 of the Rules of Court. As amended, Section 45 of the Judiciary Act, in its entirety, reads —

> Section 45. Appellate Jurisdiction. Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.
>
> Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial [*de novo*].
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> In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, that the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by *certiorari* that the case be certified to it for review and determination, as if the case had been brought before it on appeal.[63]

Both R.A. Nos. 5433 and 6031 provided for the finality of the decision of the Courts of First Instance in cases exclusively cognizable by an inferior court.[64] Appeal by record on appeal to the Court of Appeals from the decisions of the Courts of First Instance in cases exclusively cognizable by

61. Republic Act No. 6031, § 1.

62. The Judiciary Act of 1948, § 45.

63. Republic Act. No. 6031, § 1.

64. *Id.* & Republic Act No. 5433, § 1.

First Level Courts, i.e., decided by the Court of First Instance in the exercise of its appellate jurisdiction, was no longer permitted.

Patently, "[b]oth [R.A.] Nos. 5433 and 6031, the former in Section 29, dealing with the appellate jurisdiction of the Court of Appeals, and the latter in Section 45, dealing with the appellate jurisdiction of the Court of First Instance, intend that litigation should, if possible, be terminated in the Court of First Instance."[65]

Nevertheless, the framers of the rules foresaw that there would be instances when the Courts of First Instance will render erroneous judgments, whether on the facts or on the law.[66] To address this probability and ensure appropriate redress, R.A. No. 5433 provided that the decision of the Court of First Instance is subject to review by the Court of Appeals *by means of a petition for review "when it is apparent that the Court of First Instance committed errors of fact or of fact and law"*[67] which will provide grounds for reversal or modification of the decision, notwithstanding the fact that the Court of First Instance affirmed the inferior court's decision.[68]

R.A. No. 6031 also allowed for the review of the decision of the Court of First Instance in the same cases but without spelling out the proper court which may conduct such review and the mode of review.[69] It did explicitly state that the grounds for review shall be "that the factual findings in the decision of the Court of First Instance in the said class of cases are not supported by substantial evidence and that its conclusions are contrary to law and jurisprudence."[70]

The Supreme Court has viewed this inconsistency between the grounds and the procedure provided for in the two laws in the following manner —

> [R.A.] No. 6031, as the later law, should prevail and should be deemed to have superseded [R.A.] No. 5433 on the matter of the review by the Court of Appeals of decisions of the Court of First Instance in cases exclusively cognizable by inferior courts.
>
> But [R.A.] No. 5433 should not be considered totally abrogated by the later law because [R.A.] No. 5433, in indicating that the mode of review is

65. *Torres*, 119 SCRA at 58.

66. *Id.*

67. *Id.* (emphasis supplied).

68. *Id.*

69. *Id.*

70. *Id.*

> by petition for review[,] and that the Court of Appeals is the tribunal to undertake the review, supplies the deficiencies of [R.A.] No. 6031 on these matters.[71]

As to the question of which court to go to, the Supreme Court said —

> The question of whether it is this Court or the Court of Appeals that should review the decision of the Court of First Instance in cases exclusively cognizable by inferior courts has been debated for a long time in this Court. The pros and cons have been thoroughly threshed out. One school of thought believes that the petition should always be filed in this Court. Of course, that solution would aggravate the congestion of cases in this Court.
>
> It is said that hard cases make bad law. The converse is true. A bad law (meaning a law that is ambiguous and deficient) makes cases hard. [R.A.] No. 6031 is such a law. The lawmaking body did not indubitably clarify whether it was intended to repeal [R.A.] No. 5433[,] and where the petition for review should be filed.
>
> We hold that if the only issue is whether the conclusions of the Court of First Instance are in consonance with law and jurisprudence, then that issue is a purely legal question. It should be ventilated in this Court by means of a petition for review on *certiorari*, as expressly provided in the last proviso of [S]ection 45, as amended by [R.A.] No. 6031.
>
> The petition for review in that case should be in the form prescribed in Rule 45 of the Rules of Court for an appeal from the Court of Appeals, a form adopted by [R.A.] No. 5440 which took effect on [9 September] 1968.
>
> But if the issue is whether *'the findings of fact contained' in the decision of the Court of First Instance 'are supported substantial [evidence,']* which is not purely a legal issue, or if that issue is raised together with the legal issue of whether the conclusions of the Court of First Instance are in conformity with pertinent law and jurisprudence, then the petition review should be filed in the Court of Appeals.
>
> Those issues require an examination and evaluation of the evidence. As that function is the prerogative of the Court of Appeals, the review in that case should be by means of a petition for review.[72]

H. Court of Appeals En Banc Resolution dated 12 August 1971

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71. *Torres*, 119 SCRA at 58-59.

72. *Id.* at 59-60 (emphasis supplied).

The Court of Appeals *En Banc* Resolution dated 12 August 1971[73] provided the procedure for the filing and prosecution of a petition for review from a decision of the Court of First Instance, in cases exclusively cognizable by the First Level Courts, which is not supported by substantial evidence and contrary to law and jurisprudence —

> WHEREAS, [R.A.] No. 6031 does not prescribe the procedure to be followed by the Court of Appeals in the review of judgments of the Courts of First Instance, in cases falling under the original exclusive jurisdiction of the municipal and city courts, where the findings of facts of the Courts of First Instance are assailed for not being supported by substantial evidence as basis thereof and the conclusions are claimed to be clearly against the law and jurisprudence;
>
> WHEREAS, it is the sense of this Court that a uniform practice be followed by all its divisions and members thereof in reviewing the abovementioned decisions of Courts of First Instance;
>
> NOW THEREFORE, the Court RESOLVED, as it is hereby RESOLVED, that the following practice be observed in elevating to this Court for review decisions of Courts of First Instance in cases falling under the original exclusive jurisdiction of municipal and city courts:
>
> Section 1. That the aggrieved party shall file within the period for appealing six [ ] copies of a verified petition for the review of the decision of the Court of First Instance. The petition shall contain a concise statement of the matters involved and the grounds and arguments relied upon, specifically pointing out why the decision in question is not supported by substantial evidence and/or is clearly against the law and jurisprudence. The petition shall be accompanied with a certified true copy of the decision or judgment sought to be reviewed, together with copies of such material portions of the record as would support the allegations of the petition. As much as possible the petition shall be a sort of a brief of the aggrieved party.
>
> Section 2. Upon the filing of the petition, the petitioner shall pay to the Clerk of the Court of Appeals the docketing fee. If the Court finds that, from the allegations of the petition, the same is not *prima facie* meritorious or is intended manifestly for delay, the Court may outright dismiss the petition, otherwise, the same shall be given due course, in which case, the petitioner shall deposit the amount of eighty pesos (₱80.00) for costs within three days from notice of the resolution giving due course to the petition. Upon the failure of the petitioner to deposit the amount for costs within the said period of three [ ] days, the petition shall be dismissed.

73. *Id.* at 60-61 (citing Court of Appeals Resolution, 67 O.G. 6715 (1971) (unreported)).

> Section 3. Immediately after the deposit for costs is made, the Court shall order the respondents to answer the petition for review within [ ] 10 days, unless the Court shall grant the respondents a longer period, and shall likewise order the corresponding Clerk of the Court of First Instance to elevate the whole record, including the oral (transcript of stenographic notes) and documentary evidence, of the case to this Court within ten [ ] days. The answer of the respondents, which shall also be in six copies, shall be accompanied with true copies of such material portions of the record as are referred to therein together with other supporting papers. Likewise the answer shall take the place of the respondents' brief.
>
> Section 4. After the filing of the answer, the petitioner may reply thereto within five [ ] days from receipt of copy thereof, after which, the case shall be deemed submitted for decision unless either party shall, within five [ ] days from the filing of petitioner's reply, ask that the petition be heard on oral argument, which may or may not be granted at the discretion of the Court.[74]

"The Court of Appeals, pursuant to its rule-making power under Rule 54 of the Rules of Court, promulgated an [*E*]*n* [*B*]*anc* Resolution on [12 August] 1971 governing the practice to be observed in elevating to the Court of Appeals for review decisions of [Courts of First Instance] (now [Regional Trial Courts]) in cases falling under the original exclusive jurisdiction of municipal and city courts."[75]

Note that there is no longer any mention of the condition under R.A. No. 5433 that the decision of the Court of First Instance subject of the review must have affirmed in full the decision of the First Level Court.[76]

I. Batas Pambansa Blg. 129: The Judiciary Reorganization Act of 1980

On 14 August 1980, Batas Pambansa (B.P.) Blg. 129[77] was promulgated reorganizing the judiciary and, in effect, institutionalizing the petition for review as we know it today.

Section 22 states —

> Section 22. Appellate Jurisdiction. — Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts,

74. *Id.* (emphasis supplied).

75. Galang v. Court of Appeals, 199 SCRA 683, 688 (1991).

76. Sardane v. Court of Appeals, 167 SCRA 524, 534 (1988).

77. An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes, Batas Pambansa Blg. 129 (1981).

> Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Intermediate Appellate Court [ ] which may give it due course only when the petition shows *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed.[78]

B.P. Blg. 129 thus concretized the procedure for the review of decisions of Second Level Courts, then Courts of First Instance, now Regional Trial Courts, in *the exercise of appellate jurisdiction* (i.e., in review of decisions of First Level Courts) by way of a petition for review, *regardless of whether the decision sought to be reviewed, affirmed, or reversed, the decision of the First Level Court ("inferior courts.")*[79]

J. The Interim Rules Implementing Batasang Pambansa Blg. 129 (SC En Banc Resolution, 11 January 1983)

Section 22 of the Interim Rules Implementing B.P. Blg. 129 provides —

> 22. Appellate procedure in the Intermediate Appellate Court. —
>
> (a) Ordinary appeals from the regional trial courts. — The procedures provided for in Rules 46 and 124 of the Rules of Court shall apply insofar as the said Rules are not inconsistent with this Resolutions and B.P. Blg. 129.
>
> (b) Review of appealed cases from regional trial courts. — In actions or proceedings originally filed in the metropolitan trial courts, municipal trial courts[,] and municipal circuit trial courts appealed to the regional trial courts, the final judgment or orders of the latter may be appealed by petition for review to the Intermediate Appellate Court which may give due course only when the petition shows *prima facie* that the lower courts has committed an error of fact or law that will warrant a reversal or modification of the decision or formal order sought to be reviewed.
>
> The petition for review shall be governed by the Resolution of the Court of Appeals dated [12 August] 1971, as modified in the manner indicated in the preceding paragraph hereof.

78. Batas Pambansa Blg. 129, § 22.

79. *Id.*

(c) *Appeals from Quasi-Judicial Bodies.* — The appeals to the Intermediate Appellate Court from quasi-judicial bodies shall continue to be governed by the provisions of [R.A.] No. 5435 insofar as the same is not inconsistent with the provisions of B.P. Blg. 129.[80]

K. Supreme Court Circular No. 2-90

Supreme Court Circular No. 2-90,[81] effective 9 March 1990, states —

> Subject: Guidelines to be Observed in Appeals to the Court of Appeals and to the Supreme Court
>
> 1. No common mode of appeal to Court of Appeals and Supreme Court. — The provisions of Rules 41 and 42 of the Rules of Court, prescribing a common mode of appeal to the Court of Appeals and to the Supreme Court, and a common procedure for considering and resolving an appeal, are no longer in force. They have been largely superseded and rendered *functus officio* by certain statutes which wrought substantial changes in the appellate procedures in this jurisdiction, notably: [R.A.] Nos. 5433 and 5440 (both effective on [9 September] 1968) and 6031 (effective [4 August] 1969), and [B.P.] 129 (effective [14 August] 1981).
>
> ...
>
> 3. *Appeals to the Court of Appeals.* — On the other hand, appeals by [*certiorari*] will not lie with the Court of Appeals. Appeals to that Court from Regional Trial Courts may be taken:
>
> (1) by writ of error (ordinary appeal) — where the appealed judgment was rendered in a civil or criminal action by the regional trial court in the exercise of its original jurisdiction; or
>
> (2) by petition for review — where the judgment was rendered by the regional trial court in the exercise of its appellate jurisdiction.
>
> The mode of appeal in either instance is entirely distinct from an appeal by [*certiorari*] to the Supreme Court.[82]

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80. Supreme Court, Resolution of the Court *En Banc*, dated January 11, 1983 Providing for the Interim or Transitional Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1980, Supervisory Circular No. 14, ¶ 22 (Oct. 22, 1985).

81. Supreme Court, Re: Guidelines to be Observed in Appeals to the Court of Appeals and to the Supreme Court, Circular No. 2-90 [SC Circ. No. 2-90] (Mar. 9, 1990).

82. *Id.* ¶¶ 1 & 3.

This was a mere reminder and reiteration that there was no longer a common mode of appeal to the Supreme Court and the Court of Appeals and that for a review of decisions of the Second Level Courts in the exercise of appellate jurisdiction over decisions of First Level Courts, in cases exclusively cognizable by the latter, a petition for review is the dedicated mode to the Court of Appeals only.

L. Republic Act No. 7902

R.A. No. 7902,[83] enacted on 23 February 1995, expanded the jurisdiction of the Court of Appeals —

> Section 1. Section 9 of [B.P.] Blg. 129, as amended, known as the Judiciary Reorganization Act of 1980, is hereby further amended to read as follows:
>
> 'Sec. 9. Jurisdiction. — The Court of Appeals shall exercise:
>
> 1. Original jurisdiction to issue writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, and *quo warranto*, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction;
>
> 2. Exclusive original jurisdiction over actions for annulment of judgment of Regional Trial Courts; and
>
> 3. Exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders[,] or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards[,] or commissions, including the Securities and Exchange Commission, the Social Security Commission, the Employees Compensation Commission[,] and the Civil Service Commission, except those falling within the appellate jurisdiction of the Supreme Court in accordance with the Constitution, the Labor Code of the Philippines under Presidential Decree No. 442, as amended, the provisions of this Act, and of subparagraph (1) of the third paragraph and subparagraph (4) of the fourth paragraph of Section 17 of the Judiciary Act of 1948.
>
> 'The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence[,] and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous

83. An Act Expanding the Jurisdiction of the Court of Appeals, Amending for the Purpose Section Nine Of Batas Pambansa Blg. 129, as Amended, Known as The Judiciary Reorganization Act of 1980, Republic Act No. 7902 (1995).

> and must be completed within three [ ] months, unless extended by the Chief Justice.'
>
> Section 2. All provisions of laws and rules inconsistent with the provisions of this Act are hereby repealed or amended accordingly.[84]

This merely formalized the grant of authority to the Court of Appeals to review *all* decisions of Second Level Courts, whether in the exercise of the latter's original or appellate jurisdiction.

M. The 1997 Rules of Civil Procedure

The 1997 Rules of Civil Procedure,[85] which was adopted by the Court, *En Banc*, in Baguio City on 8 April 1997 in Bar Matter No. 803, took effect on 1 July 1997. This was promulgated pursuant to the provisions of Section 5 (5) of Article VIII of the 1987 Constitution.[86] Rule 42, which introduced as a new rule, provides —

> Section 1. How Appeal Taken; Time for Filing. — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within [ ] [15] days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of [ ] [15] days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed [ ] [15] days.[87]

84. *Id.* §§ 1 & 2 (emphasis supplied).

85. *See* RULES OF CIVIL PROCEDURE.

86. PHIL. CONST. art. VIII, § 5 (5).

87. RULES OF CIVIL PROCEDURE, rule 42, § 1.

1. Rule 42 has not contributed to the just, speedy, and inexpensive disposition of actions, and it is a remedy otherwise already available to a losing party.

a. The just disposition of cases

The core objective of the Rules of Court is stated as securing a just, speedy, and inexpensive disposition of every action and proceeding.[88] "Rules of Procedure are tools designed to promote efficiency and orderliness[,] as well as to facilitate attainment of justice, such that strict adherence thereto is required."[89]

"Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that procedural rules are to be ignored or disdained at will to suit the convenience of a party. Procedural law has its own rationale in the orderly administration of justice, namely, to ensure the effective enforcement of substantive rights by providing for a system that obviates arbitrariness, caprice, despotism, or whimsicality in the settlement of disputes."[90]

"Verily, the business of the courts is not just merely to dispose of cases seen as clutters in their dockets. Courts are in place to adjudicate controversies with the end in view of rendering a definitive settlement, and this can only be done by going into the very core and to the full extent of the controversy in order to afford complete relief to all the parties involved."[91]

A "just" disposition of an action thus means a disposition that is fair, that is, it puts a "definitive" end to a controversy after affording every party his proverbial day in court.

88. *Id.* rule 1, § 6 & Citystate Savings Bank, Inc. v. Aguinaldo, 755 SCRA 64 (2015) (citing Spouses Valenzuela v. Court of Appeals, 363 SCRA 779, 788 (2001)).

89. Abrenica v. Law Firm of Abrenica, 502 SCRA 614, 625 (2006) (citing Manila Hotel Corporation v. Court of Appeals, 384 SCRA 520, 524 (2002)).

90. *Id.* at 622 (citing Sebastian v. Morales, 397 SCRA 549, 558 (2003)).

91. *Citystate Savings Bank, Inc.*, 755 SCRA at 71.

2. Is Rule 42 necessary to guarantee "a just disposition" of every action that originates from the First Level Courts?

Under Rule 40, "[a]n appeal from a judgment or final order of a Municipal Trial Court may be taken to the Regional Trial Court exercising jurisdiction over the area to which the former pertains."[92] The appeal may be brought on questions of fact, or mixed questions of fact and law.[93] In resolving appeals from First Level Courts, the appellate court — the Regional Trial Court in this case — "shall decide the case on the basis of the entire record of the proceedings had in the court of origin and such memoranda as are filed."[94] This is the second warranty of a complete review.

But even before an appeal, a party dissatisfied with the final order or judgment may already file a motion for reconsideration with the First Level Court that rendered it, on any of the following grounds: (1) the damages awarded are excessive; (2) the evidence is insufficient to justify the decision or final order; or (3) the decision or final order is contrary to law.[95] This is the first warranty of a complete review.

The appeal to the Second Level Court suffices to ensure that any mistake, procedural or substantive, committed by the court of origin will be identified, reviewed, and addressed. If a motion for reconsideration is filed, which is the norm, the question of fact and law subject of the appeal would already be effectively on its second review by the Regional Trial Court. On the other hand, any error that affects the court's jurisdiction or is tainted with grave abuse of discretion is remediable through a Rule 65 petition for *certiorari*.[96]

Patently, a decision of the Regional Trial Court in the exercise of its appellate jurisdiction has all the earmarks of a "just disposition" of an action as it is reached after a consideration of the entire records on both questions of fact and law, as the party-appellant chooses, with full opportunity to participate. In situations where the cause for redress is an alleged deprivation of the a party's right to participate in the proceedings, as earlier mentioned, there exists the equitable remedies of a motion for new trial under Rule 37, a petition for relief under Rule 38, a petition for annulment of judgment

92. RULES OF CIVIL PROCEDURE, rule 40, § 1.

93. Far Eastern Surety and Insurance Co., Inc. v. People, 710 SCRA 358, 364 (2013).

94. RULES OF CIVIL PROCEDURE, rule 40, § 7 (c).

95. *Id.* rule 37, § 1.

96. *Id.* rule 65, § 1.

under Rule 47, only for decisions of Second Level Courts, and a petition for a writ of *certiorari* under Rule 65.

Both R.A. No. 5433 and R.A. No. 6031 intended for decisions of the Second Level Court — then the Court of First Instance — in appealed cases from First Level Courts, to be final.[97] In providing for a resort to the Court of Appeals via a petition for review, when there is *prima facie* error of fact or of fact and law, both laws provided that the decision of the Court of Appeals shall be final.[98] The obvious intendment of the legislators was to safeguard the right to a "just disposition" of every litigation without compromising the equal right to the speedy disposition of the case. The conclusion was born of the confidence in the other existing procedural remedies at the time to bring about a fair resolution of a controversy. Hence, the discretion given to the Court of Appeals to entertain only those petitions which clearly show error, and which warrant reversal or modification.

Unfortunately, in both B.P. Blg. 129 and the 1997 Rules of Civil Procedure, there is no provision that the Court of Appeals' decision on a Rule 42 petition is to be accorded finality. On the contrary, Rule 45 provides for an appeal by *certiorari* to the Supreme Court of a judgment, final order, or resolution of the Court of Appeals on pure questions of law.[99] With the removal of the provision found in both R.A. Nos. 5433 and 6031 that decisions of the Court of First Instance, now the Regional Trial Court, shall be "final,"[100] the end result is an extra layer of review that is unnecessary, and the clogging not only of the Court of Appeals' docket but, more deleteriously, the Supreme Court's own docket.

a. The speedy and inexpensive disposition of cases

"All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial[,] or administrative bodies,' so the Constitution declares in no uncertain terms. This right, like the right to a speedy trial, is deemed violated when the proceedings are attended by vexatious, capricious[,] and oppressive delays."[101]

97. *Torres*, 119 SCRA at 58.

98. *Id.*

99. RULES OF CIVIL PROCEDURE, rule 45, § 1.

100. Republic Act No. 6031, § 1 & Republic Act No. 5433, § 1.

101. Enriquez v. Office of the Ombudsman, 545 SCRA 618, 619 (2008) (citing PHIL. CONST. art. III, § 16).

As the resort to a Rule 42 review is mandated under the Rules of Court, it could not be deemed vexatious, capricious, or oppressive per se. Nevertheless, the question needs to be asked — *has Rule 42 enhanced the speedy and inexpensive disposition of cases, as part of the Rules of Court, the ordained purpose of which is to secure a just, speedy, and inexpensive disposition of cases?*

Under B.P. Blg. 129, as amended by R.A. No. 7691, the Municipal Trial Courts, the Metropolitan Trial Courts, and the Municipal Circuit Trial Courts — the First Level Courts — have exclusive original jurisdiction over the following civil cases:[102]

> (1) all civil actions and probate proceedings where the value of the claim, or the estate, or property does not exceed ₱400,000.00 in Metro Manila, or ₱300,000.00 outside Metro Manila;[103]
>
> (2) ejectment cases;[104] and
>
> (3) all civil actions which involve title to or possession of real property or an interest therein where the assessed value of the property or interest does not exceed ₱50,000.00 in Metro Manila, or ₱20,000.00 elsewhere. In criminal cases, First Level Courts have jurisdiction over all violations of ordinances committed within their territorial jurisdiction, as well as all offenses punishable with imprisonment not exceeding six years.[105]

Of these cases, pursuant to the Revised Rule on Summary Procedure,[106] the First Level Courts are mandated to apply the summary rule in all cases of forcible entry and unlawful detainer, and in all other civil cases (except probate proceedings) where the amount of the claim does not exceed

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102. An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose Batas Pambansa Blg. 129, Otherwise Known as the "Judiciary Reorganization Act of 1980," Republic Act. No. 7691, § 3 (1994).

103. *Id.* §§ 2 & 5.

104. *Id.* § 2.

105. *Id.*

106. RE: AMENDMENT OF THE REVISED RULE ON SUMMARY PROCEDURE, A.M. No. 02-11-09-SC (2002).

₱200,00.00,[107] as well as to violations of traffic laws and rules, ordinances, the rental law, and other criminal cases where the penalty prescribed is imprisonment not exceeding six months or a fine not exceeding ₱1,000.00, or both.[108]

The increase in the threshold amounts under B.P. Blg. 129 through the amendments in R.A. No. 7691 has brought more cases under the summary procedure rule. As the appellation directs, proceedings thereunder are expedited for the reason that the cases falling under the rule are either deemed urgent, like ejectment cases which involve a perturbation of public order,[109] or are simple and straightforward that full-blown trial may be dispensed with, like claims for sum of money not exceeding ₱200,000.00 and violations of ordinances and traffic laws. "The Revised Rule on Summary Procedure was promulgated specifically to achieve an expeditious and inexpensive determination of cases."[110]

The bulk of cases filed with First Level Courts are summary procedure cases. For instance, statistics from the Quezon City and its Assisting Manila City Metropolitan Trial Courts, a station which annually receives one of the highest case filings nationwide, show that of the total pending cases in these courts, 48.91% are summary procedure cases.[111]

Regardless, however, of such summary nature, the decisions or final orders in these cases are subject of ordinary appeal to the Regional Trial Court, and further review on the self-same issues of fact and law by the Court of Appeals via a Rule 42 petition for review. Thereafter, if either party so opts, a further recourse to the Supreme Court on questions of law through a petition for review on *certiorari* under Rule 45 is allowed. The command for the speedy and inexpensive determination of the summary procedure action is thereby put to naught. For even assuming that the First Level Court does decide the case speedily, ideally in less than half a year, the length of review from the Second Level Court to the Court of Appeals, and

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107. *Id.*

108. 1991 REVISED RULES ON SUMMARY PROCEDURE, § I (B) (1-4).

109. Sarmiento, et al. v. Hon. Lindayag, 626 SCRA 292, 297 (2010) (citing Five Star Marketing Co., Inc. v. Booc, 535 SCRA 28, 44 (2007)).

110. Carriaga v. Municipal Judge Anasario, 396 SCRA 599, 602 (2003); Hipe v. Literato, 671 SCRA 9, 20 (2012); & Tugot v. Coliflores, 423 SCRA 1, 9 (2004).

111. Data gathered from the Offices of the Clerk of Court and Office of the Executive Judges of the Metropolitan Trial Courts of Quezon City and Manila City.

eventually to the Supreme Court could average anywhere from three to seven years. Under no measure can that be acceptable as "speedy." As for cost, the length of litigation brings about a proportionate increase in expenses for court and lawyer's fees, excluding incidentals such as for transportation and missed days of work, where applicable.

In juxtaposition, cases originally filed with the Second Level Courts only go through one review on questions of fact and law or questions of fact alone, through ordinary appeal under Rule 41 with the Court of Appeals.[112] If only a question of law is raised, the review may be directly sought from the Supreme Court under Rule 45.[113] Considering the complexity of cases falling within the jurisdiction of the Regional Trial Courts, and the severity of the penalties they are authorized to impose in criminal cases, if another layer of review is to ensure correctness, then the cases falling within the ambit of the Regional Trial Courts are more proper subjects of such extra review. Instead, the litigants only have the ordinary appeal under Rule 41 and the Rule 45 review on pure questions of law. This is so because it has been duly deliberated and determined that those remedies are adequate to safeguard the rights and interests of parties in those cases. Following this reasoning, there should be no further debate that even absent a Rule 42 review, decisions and final orders of a First Level Court need no extra layer of review and, like decisions and final orders of the Second Level Courts, they necessitate only one appeal, and the Rule 45 and Rule 65 supplementary remedies.

III. CONCLUSION

The history of Rule 42 highlights the principal motivation for its invention: to secure a just, speedy, and inexpensive determination of an action. To reiterate —

> To avoid protracted litigations over cases coming from inferior courts, like ejectment cases, which could pass through four courts, including th[e] [Supreme] Court, the lawmaking body found it expedient to abolish appeals to the Court of Appeals from judgments of the Court of the First Instance in cases decided by inferior courts and to allow the Court of Appeals to review the said judgments by means of a petition for review under certain conditions.[114]

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112. RULES OF CIVIL PROCEDURE, rule 41, § 2 (a).

113. *Id.* rule 41, § 2 (c).

114. *Torres*, 119 SCRA at 54.

The present procedure works against this express intendment. Rule 42 is an undue burden on the courts and on the litigants the courts are sworn to serve. It has contributed to delay in the administration of justice.

A rewriting of the Rules of Court is ideal to address the issue. Two recourses are available. First, reinstate the original wording of the laws that first created the petition for review now found in Rule 42, and make decisions of the Court of Appeals on such petitions final, save for a Rule 65 relief for grave abuse of discretion. Second, remove the remedy of a petition for review under Rule 42 completely, leaving decisions and final orders of the First Level Courts reviewable (1) by ordinary appeal to the Second Level Courts, and (2) on pure questions of law, by petition for review on *certiorari* under Rule 45 to the Supreme Court. These are the very same remedies available for cases originally decided by Second Level Courts. The second option will place all trial court litigants on equal footing in terms of available remedies and reliefs, achieving uniformity in procedure and institutionalizing the one-step appeal process that is favored internationally.[115]

115. Pursuant to the second option, the draft of the new Rules of Civil Procedure submitted to the Supreme Court *En Banc* on 3 September 2013 already embodies the proposal to delete Rule 42 as part of institutionalizing a uniform one-step appeal process. This proposal was unanimously adopted at the plenary deliberations for the adoption of the draft new Rules of Civil Procedure in Tagaytay City on 30 June 2013.