

JURISTS BAR REVIEW CENTER

SUGGESTED ANSWERS TO THE 2009 REMEDIAL LAW BAR EXAMINATION

PART I

I

TRUE or FALSE. Answer TRUE if the statement is true, or FALSE if the statement is false. Explain your answer in not more than two (2) sentences. (5%)

[a] The Vallejo standard refers to jurisprudential norms considered by the court in assessing the probative value of DNA evidence.

[b] The One-Day Examination of Witness Rule abbreviates court proceedings by having a witness fully examined in only one day during trial.

[c] A suit for injunction is an action in rem.

[d] Under the doctrine of adoptive admission, a third party's statement becomes the admission of the party embracing or espousing it.

[e] Summons may be served by mail.

ANSWERS:

(a)

TRUE. The standards were laid down by the Supreme Court in *People v. Vallejo* (G.R. 144656, 9 May 2004) and consists, among others, of the court assessing how the standards were collected, how they were handled, the possibility of sample contamination, etc.

(b)

TRUE. The rule is however subject to the court's discretion during trial on whether or not to extend the direct and/or cross-examination for justifiable reasons. (SC Rule on Guidelines on Pre-trial and Discovery).

(c)

FALSE. An action for injunction is in personam since it can be enforced only against the defendant therein. (*Dial Corp. v. Soriano*, G.R. 82330, 31 May 1988).

(d)

TRUE. A party is bound by the statement of another which he has adopted by his words or conduct. (*Republic v. Kenrick Dev't Corp.*, 8 August 2006)

(e)

TRUE. This can be done under S15 R14 which provides that the service of summons may be done in any other manner the court may deem sufficient.

II

Angelina sued Armando before the Regional Trial Court (RTC) of Manila to recover the ownership and possession of two parcels of land; one situated in Pampanga, and the other in Bulacan.

[a] May the action prosper? Explain. (2%)

[b] Will your answer be the same if the action was for foreclosure of the mortgage over the two parcels of land? Why or why not? (2%)

ANSWERS:

(a)

No, the action may not prosper.

Under Rule 4 of the Rules of Court, venue in case of real actions lies with the court having jurisdiction over the place where the real property is situated. The action is real since it affects title to or possession of real property.

Here the properties were located in Pampanga and Bulacan. Hence Armando may file a motion to dismiss on the ground of improper venue.

(b)

My answer would still be the same.

An action for foreclosure of real estate mortgage is a real action since it affects title to or possession of real property. Hence Armando may file a motion to dismiss on the ground of improper venue.

III

Amorsolo, a Filipino citizen permanently residing in New York City, filed with the RTC of Lipa City a Complaint for Rescission of Contract of Sale of Land against Brigido, a resident of Barangay San Miguel, Sto. Tomas, Batangas. The subject property, located in Barangay Talisay, Lipa City, has an assessed value of P19,700.00. Appended to the complaint is Amorsolo's verification and certification of non-forum shopping executed in New York City, duly notarized by Mr. Joseph Brown, Esq., a notary public in the State of New York.

Brigido filed a motion to dismiss the complaint on the following grounds:

[a] The court cannot acquire jurisdiction over the person of Amorsolo because he is not a resident of the Philippines; (2%)

[b] The RTC does not have jurisdiction over the subject matter of the action involving real property with an assessed value of P19,700.00; exclusive and original jurisdiction is with the Municipal Trial Court where the defendant resides; (3%) and

[c] The verification and certification of non-forum shopping are fatally defective because there is no accompanying certification issued by the Philippine Consulate in New York, authenticating that Mr. Brown is duly authorized to notarize the document. (3%)

Rule on the foregoing grounds with reasons.

ANSWERS:

a) The ground that the court cannot acquire jurisdiction over the person of Amorsolo is without merit.

The Supreme Court has held that a court acquires jurisdiction over the person of the plaintiff when he files the complaint or petition before the court. Besides the

ground for a motion to dismiss is that the court has no jurisdiction over the person of the defending party, not over the person of the claimant.

b) The ground that the RTC does not have subject-matter jurisdiction is without merit. A complaint for rescission of a contract of sale is an action incapable of pecuniary estimation and hence within the jurisdiction of the RTC pursuant to B.P. Blg. 129.

c) The ground that the verification and the certification of non-forum shopping are fatally defective because there is no accompanying certification by the Philippine consulate is without merit. The absence of such certification on the verification and certificate of non-forum shopping is a mere formal defect which may easily be remedied by subsequent compliance by Amorsolo. The SC has held that formal defects or imperfections in a verification and certification against forum shopping should simply be corrected rather than dismissing the complaint outright.

IV

Pedrito and Tomas, Mayor and Treasurer, respectively, of the Municipality of San Miguel, Leyte, are charged before the Sandiganbayan for violation of Section 3 (e), Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act). The information alleges, among others, that the two conspired in the purchase of several units of computer through personal canvass instead of a public bidding, causing undue injury to the municipality.

Before arraignment, the accused moved for reinvestigation of the charge, which the court granted. After reinvestigation, the Office of the Special Prosecutor filed an amended information duly signed and approved by the Special Prosecutor, alleging the same delictual facts, but with an additional allegation that the accused gave unwarranted benefits to SB Enterprises owned by Samuel. Samuel was also indicted under the amended information.

Before Samuel was arraigned, he moved to quash the amended information on the ground that the officer who filed the same had no authority to do so. Resolve the motion to quash with reasons. (3%)

ANSWER:

The motion to quash should be granted.

Under S4 R112, no complaint or information may be filed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

The Office of the Special Prosecutor is not mentioned among those authorized to approve the filing of complaints or information. Hence the motion to quash should be granted.

V

Frank and Gina were married on June 12, 1987 in Manila. Barely a year after the wedding, Frank exhibited a violent temperament, forcing Gina, for reasons of personal safety, to live with her parents. A year thereafter, Gina found employment as a domestic helper in Singapore, where she worked for ten consecutive years. All the time she was abroad, Gina had absolutely no communications with Frank, nor did she hear any news about him. While in Singapore, Gina met and fell in love with Willie.

On July 4, 2007, Gina filed a petition with the RTC of Manila to declare Frank presumptively dead, so that she could marry Willie. The RTC granted Gina's petition. The Office of the

Solicitor General (OSG) filed a Notice of Appeal with the RTC, stating that it was appealing the decision to the Court of Appeals on questions of fact and law.

[a] Is a petition for Declaration of Presumptive Death a special proceeding? Why or why not? (2%)

[b] As the RTC judge who granted Gina's petition, will you give due course to the OSG's Notice of Appeal? Explain. (3%)

ANSWERS:

(a)

No, a petition for declaration of presumptive death is not a special proceeding.

The Supreme Court has held that such a petition is not a special proceeding since it is not mentioned in the enumeration of special proceedings in S1 R72. (Republic v. Madrona, G.R. 163604, 6 May 2005).

(b)

As the RTC judge who granted Gina's petition, I will not give due course to the OSG's Notice of Appeal.

The Supreme Court has held that the judgment of the court in a petition for declaration of presumptive death is immediately final and executory pursuant to Article 247 of the Family Code. Hence such a judgment may not be appealed. (Republic v. Bermudez-Lorino, G.R. 160258, 19 January 2005).

VI

Arrested in a buy-bust operation, Edmond was brought to the police station where he was informed of his constitutional rights. During the investigation, Edmond refused to give any statement. However, the arresting officer asked Edmond to acknowledge in writing that six (6) sachets of "shabu" were confiscated from him. Edmond consented and also signed a receipt for the amount of P3,000.00, allegedly representing the "purchase price of the shabu." At the trial, the arresting officer testified and identified the documents executed and signed by Edmond. Edmond's lawyer did not object to the testimony. After the presentation of the testimonial evidence, the prosecutor made a formal offer of evidence which included the documents signed by Edmond.

Edmond's lawyer objected to the admissibility of the documents for being the "fruit of the poisoned tree." Resolve the objection with reasons. (3%)

ANSWER:

Objection sustained.

The Supreme Court has held that the signature of an accused in a receipt of items seized which signature was obtained without the assistance of counsel is inadmissible in evidence the same being tantamount to an uncounselled extra-judicial confession. (Gutang v. People, 11 July 2000).

The objection to the documentary evidence was made timely at the time these were offered in evidence. It was premature to object to the documents when they were merely being marked and identified.

VII

Cresencio sued Dioscoro for collection of a sum of money. During the trial, but after the presentation of plaintiff's evidence,

Dioscoro died. Atty. Cruz, Dioscoro's counsel, then filed a motion to dismiss the action on the ground of his client's death. The court denied the motion to dismiss and, instead, directed counsel to furnish the court with the names and addresses of Dioscoro's heirs and ordered that the designated administrator of Dioscoro's estate be substituted as representative party.

After trial, the court rendered judgment in favor of Cresencio. When the decision had become final and executory, Cresencio moved for the issuance of a writ of execution against Dioscoro's estate to enforce his judgment claim. The court issued the writ of execution. Was the court's issuance of the writ of execution proper? Explain. (2%)

ANSWER:

The court's issuance of the writ of execution was not proper.

Under Section 20 of Rule 3, a favorable judgment in a contractual money claim shall be enforced in the manner especially provided in the Rules for prosecuting claims against the estate of a deceased person. Under Rule 86 of the Rules of Court, a judgment for money should be filed as a money claim with the probate court. The Supreme Court has held that a money claim cannot be enforced by a writ of execution but should instead be filed as a money claim.

VIII

On July 15, 2009, Atty. Manananggal was served copies of numerous unfavorable judgments and orders. On July 29, 2009, he filed motions for reconsideration which were denied. He received the notices of denial of the motions for reconsideration on October 2, 2009, a Friday. He immediately informed his clients who, in turn, uniformly instructed him to appeal. How, when and where should he pursue the appropriate remedy for each of the following: (10%)

- [a] Judgment of a Municipal Trial Court (MTC) pursuant to its delegated jurisdiction dismissing his client's application for land registration?
- [b] Judgment of the Regional Trial Court (RTC) denying his client's petition for a Writ of Habeas Data?
- [c] Order of a Family Court denying his client's petition for Habeas Corpus in relation to custody of a minor child?
- [d] Order of the RTC denying his client's Petition for Certiorari questioning the Metropolitan Trial Court's (MeTC's) denial of a motion to suspend criminal proceedings?
- [e] Judgment of the First Division of the Court of Tax Appeals (CTA) affirming the RTC decision convicting his client for violation of the National Internal Revenue Code?

ANSWERS:

(a)

The judgment of the MTC pursuant to its delegated jurisdiction is appealable to the Court of Appeals by way of a notice of appeal filed on or before 19 October 2009, 17 October (15th day from notice of the denial of the motion for reconsideration) being a Saturday.

This is because under B.P. Blg. 129, the judgment of the MTC in the exercise of its delegated jurisdiction in land registration cases shall be appealable in the same manner as decisions of the RTC. (Section 34, B.P. Blg. 129).

(b)

The judgment of the RTC denying his client's petition for a Writ of Habeas Data is appealable to the Supreme Court by filing a petition for review on certiorari on or before 9 October 2009, which is the 5th working day from notice. This is pursuant to the SC Rule on the Writ of Habeas Data.

(c)

The order of the Family Court denying his client's petition for a writ of habeas corpus is appealable to the Court of Appeals by filing a notice of appeal within 48 hours from notice of the order. (S3 R41). Since the 48th hour would fall on a Sunday, the notice of appeal may be filed on Monday, 5 October 2009.

(d)

The order of the RTC denying his client's Petition for Certiorari is appealable to the Court of Appeals by filing a notice of appeal on or before 19 October 2009. The RTC's order was rendered in the exercise of its original jurisdiction; hence the appeal is governed by Rule 41.

(e)

The judgment of the CTA's First Division affirming the RTC decision is appealable to the CTA *en banc* by a petition for review filed on or before 19 October 2009. (Sec. 18, R.A. No. 1125 [CTA Act]).

IX

Modesto sued Ernesto for a sum of money, claiming that the latter owed him P1-million, evidenced by a promissory note, quoted and attached to the complaint. In his answer with counterclaim, Ernesto alleged that Modesto coerced him into signing the promissory note, but that it is Modesto who really owes him P1.5-million. Modesto filed an answer to Ernesto's counterclaim admitting that he owed Ernesto, but only in the amount of P0.5-million. At the pre-trial, Modesto marked and identified Ernesto's promissory note. He also marked and identified receipts covering payments he made to Ernesto, to the extent of P0.5-million, which Ernesto did not dispute.

After pre-trial, Modesto filed a motion for judgment on the pleadings, while Ernesto filed a motion for summary judgment on his counterclaim. Resolve the two motions with reasons. (5%)

ANSWERS:

Modesto's motion for judgment on the pleadings should be denied.

Under Rule 34, a judgment on the pleadings is proper only if the answer fails to tender an issue.

Here the answer of Ernesto tendered an issue, that is, the affirmative defense of duress.

Ernesto's motion for summary judgment should be granted.

Here since Modesto had already admitted that he owed Ernesto P0.5-million, a partial summary judgment may be rendered as to that amount, with trial proceeding as to the disputed remainder of P1 million.

X

Upon termination of the pre-trial, the judge dictated the pretrial order in the presence of the parties and their counsel, reciting what had transpired and defining three (3) issues to be tried.

[a] If, immediately upon receipt of his copy of the pre-trial order, plaintiff's counsel should move for its amendment to include a fourth (4th) triable issue which he allegedly inadvertently failed to mention when the judge dictated the order. Should the motion to amend be granted? Reasons. (2%)

[b] Suppose trial had already commenced and after the plaintiff's second witness had testified, the defendant's counsel moves for the amendment of the pre-trial order to include a fifth (5th) triable issue vital to his client's defense. Should the motion be granted over the objection of plaintiff's counsel? Reasons. (3%)

ANSWERS:

(a)

Yes, the motion to amend the pre-trial order should be granted.

Under Section 7 of Rule 19, the contents of the pre-trial order may be modified before trial to prevent manifest injustice.

For the court to refuse consideration of a triable issue would result in a manifest injustice.

(b)

The motion should not be granted. The contents of the pre-trial order shall control the subsequent course of action unless modified before trial to prevent manifest injustice. Here trial was already on-going. Hence the amendment of the pre-trial order to add an issue may no longer be made.

PART II

XI

TRUE or FALSE. Answer TRUE if the statement is true, or FALSE if the statement is false. Explain your answer in not more than two (2) sentences. (5%)

[a] The accused in a criminal case has the right to avail of the various modes of discovery.

[b] The viatory right of a witness served with a subpoena ad testificandum refers to his right not to comply with the subpoena.

[c] In the exercise of its original jurisdiction, the Sandiganbayan may grant petitions for the issuance of a writ of habeas corpus.

[d] An electronic document is the equivalent of an original document under the Best Evidence Rule if it is a printout or output readable by sight or other means, shown to reflect the data accurately.

[e] The filing of a motion for the reconsideration of the trial court's decision results in the abandonment of a perfected appeal.

ANSWERS:

(a)

TRUE. There is nothing in the Rules of Court which limit the defendant's right to avail of the various modes of discovery only to civil cases.

(b)

TRUE. The viatory right may be exercised in civil cases if the witness resides more than 100 kilometers from his residence to the place where he is to testify by the ordinary course of travel. (Sec. 10, Rule 21).

(c)

FALSE. The Sandiganbayan has jurisdiction over petitions for habeas corpus only in aid of its appellate jurisdiction.

(d)

TRUE. Hence there is no need to account for the non-production of the original electronic document.

(e)

FALSE. A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time. Hence he can no longer file a motion for reconsideration after his appeal had been perfected.

XII

Mike was renting an apartment unit in the building owned by Jonathan. When Mike failed to pay six months' rent, Jonathan filed an ejectment suit. The Municipal Trial Court (MTC) rendered judgment in favor of Jonathan, who then filed a motion for the issuance of a writ of execution. The MTC issued the writ.

[a] How can Mike stay the execution of the MTC judgment? Explain. (2%)

[b] Mike appealed to the Regional Trial Court (RTC), which affirmed the MTC decision. Mike then filed a petition for review with the Court of Appeals (CA). The CA dismissed the petition on the ground that the sheriff had already executed the MTC decision and had ejected Mike from the premises, thus rendering the appeal moot and academic. Is the CA correct? Reasons. (3%)

ANSWERS:

(a)

Mike can stay the execution of the MTC judgment by perfecting an appeal, filing a sufficient supersedeas bond in favor of Jonathan, and making deposits with the appellate court of the amount of rent due from time to time under the contract. (S19 R70).

(b)

No, the CA is not correct.

Under Rule 70 while the judgment of the RTC against the defendant shall be immediately executory, this is without prejudice to a further appeal that may be taken therefrom. (S21 R70).

XIII

[a] Continental Chemical Corporation (CCC) filed a complaint for a sum of money against Barstow Trading

Corporation (BTC) for the latter's failure to pay for its purchases of industrial chemicals. In its answer, BTC contended that it refused to pay because CCC misrepresented that the products it sold belonged to a new line, when in fact they were identical with CCC's existing products. To substantiate its defense, BTC filed a motion to compel CCC to give a detailed list of the products' ingredients and chemical components, relying on the right to avail of the modes of discovery allowed under Rule 27. CCC objected, invoking confidentiality of the information sought by BTC.

Resolve BTC's motion with reasons. (3%)

[b] Blinded by extreme jealousy, Alberto shot his wife, Betty, in the presence of his sister, Carla. Carla brought Betty to the hospital. Outside the operating room, Carla told Domingo, a male nurse, that it was Alberto who shot Betty. Betty died while undergoing emergency surgery. At the trial of the parricide charges filed against Alberto, the prosecutor sought to present Domingo as witness, to testify on what Carla told him. The defense counsel objected on the ground that Domingo's testimony is inadmissible for being hearsay. Rule on the objection with reasons. (3%)

(a)

BTC's motion should be denied.

A motion for production or inspection of documents or things under R27 is subject to the requirement that the documents or things should not be privileged.

Here what are sought to be produced is a detailed list of an industrial product's ingredients and chemical components which are trade secrets and thus privileged. Hence BTC's motion should be dismissed. (Air Philippines Corp. v. Pennswell, Inc., G.R. 172835, 13 December 2007).

(b)

The objection should be sustained.

Carla's declaration is hearsay as she was not presented in court to testify thereon. Her declaration will not qualify as a dying declaration exception since she was not the one who died. Nor will it qualify as a part of the res gestae since Carla's declaration was not made while a startling occurrence was taking place or immediately prior or subsequent thereto. At the time Carla made the statement to Domingo, Betty had already been brought to the hospital and then to the operating room, thereby indicating the lapse of an appreciable length of time between the shooting and the making of the statement.

XIV

The Republic of the Philippines, through the Department of Public Works and Highways (DPWH) filed with the RTC a complaint for the expropriation of the parcel of land owned by Jovito. The land is to be used as an extension of the national highway. Attached to the complaint is a bank certificate showing that there is, on deposit with the Land Bank of the Philippines, an amount equivalent to the assessed value of the property. Then DPWH filed a motion for the issuance of a writ of possession. Jovito filed a motion to dismiss the complaint on the ground that there are other properties which would better serve the purpose.

[a] Will Jovito's motion to dismiss prosper? Explain. (3%)

[b] As judge, will you grant the writ of possession prayed for by DPWH? Explain. (3%)

ANSWER:

(a)

Jovito's motion to dismiss will not prosper.

The Supreme Court has held that the defendant in an expropriation case cannot file a motion to dismiss but should raise his objections in the answer. (Masikip v. City of Pasig, 23 January 2006).

(b)

As judge, I will not grant the writ of possession prayed for.

In case of expropriation for national government infrastructure projects, the law requires that the government, in order that it will have the right to enter or take possession, should immediately pay the owner of the property 100% of the market value of the property. Here what was done was only to make a deposit of an amount equivalent to the assessed value. (R.A. No. 8974, Republic v. Gingoyon, 19 Dec 2005).

XV

[a] Florencio sued Guillermo for partition of a property they owned in common. Guillermo filed a motion to dismiss the complaint because Florencio failed to implead Hernando and Inocencio, the other co-owners of the property. As judge, will you grant the motion to dismiss? Explain. (3%)

[b] Mariano, through his attorney-in-fact, Marcos, filed with the RTC of Baguio City a complaint for annulment of sale against Henry. Marcos and Henry both reside in Asin Road, Baguio City, while Mariano resides in Davao City. Henry filed a motion to dismiss the complaint on the ground of prematurity for failure to comply with the mandatory barangay conciliation. Resolve the motion with reasons. (3%)

ANSWERS:

(a)

No, as judge I will not grant the motion to dismiss.

Under Rule 3, non-joinder of parties is not a ground for dismissal of an action. (S11 R3). The SC has held that S11 R3 applies to indispensable parties.

(b)

I will deny the motion to dismiss.

The mandatory barangay conciliation applies only if the parties reside in the same city or municipality. Here the Plaintiff resides in Davao City while the defendant resides in Baguio City. The residence of the agent is immaterial.

XVI

[a] After the prosecution had rested and made its formal offer of evidence, with the court admitting all of the prosecution evidence, the accused filed a demurrer to evidence with leave of court. The prosecution was allowed to comment thereon. Thereafter, the court granted the demurrer, finding that the accused could not have committed the offense charged. If the prosecution files a motion for reconsideration on the ground that the court order granting the demurrer was not in accord with the law and jurisprudence, will the motion prosper? Explain your answer. (3%)

[b] A criminal information is filed in court charging Anselmo with homicide. Anselmo files a motion to quash the information on the ground that no preliminary investigation was conducted. Will the motion be granted? Why or why not? (3%)

ANSWERS:

(a)

No, the motion will not prosper.

The Supreme Court has held that the grant of a demurrer to evidence is equivalent to an acquittal upon the merits and is immediately final. (People v. City Court of Silay, 9 Dec 1976). Hence the prosecution cannot move for reconsideration for that would place the accused in double jeopardy.

(b)

No, the motion to quash should not be granted.

The Supreme Court has held that the failure to conduct a preliminary investigation before the filing of an information is not a ground for a motion to quash since it is not mentioned in S3 R117.

XVII

Having obtained favorable judgment in his suit for a sum of money against Patricio, Orencio sought the issuance of a writ of execution. When the writ was issued, the sheriff levied upon a parcel of land that Patricio owns, and a date was set for the execution sale.

[a] How may Patricio prevent the sale of the property on execution? (2%)

[b] If Orencio is the purchaser of the property at the execution sale, how much does he have to pay? Explain. (2%)

[c] If the property is sold to a third party at the execution sale, what can Patricio do to recover the property? Explain. (2%)

ANSWERS:

(a)

Patricio may prevent the sale of the property by paying to the judgment obligee or to the sheriff, if the judgment obligee is not present to receive payment, the full amount stated in the writ of execution and all lawful fees. The payment shall be in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter. (S9[a] R39).

(b)

If Orencio is the purchaser of the property at the execution sale, he does not have to pay any amount since he is the judgment obligee. (S21 R39).

(c)

Patricio may redeem the property within one year from the registration of the certificate of sale. (S28 R39).

XVIII

Pinoy died without a will. His wife, Rosie, and three

children executed a deed of extrajudicial settlement of his estate. The deed was properly published and registered with the Office of the Register of Deeds. Three years thereafter, Suzy appeared, claiming to be the illegitimate child of Pinoy. She sought to annul the settlement alleging that she was deprived of her rightful share in the estate.

Rosie and the three children contended that (1) the publication of the deed constituted constructive notice to the whole world, and should therefore bind Suzy; and (2) Suzy's action had already prescribed.

Are Rosie and the three children correct? Explain. (4%)

ANSWER:

Rosie and her three children are not correct.

The publication of the deed of extrajudicial partition does not constitute constructive notice to the whole world since S1 R74 provides that "no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof."

Suzy's action has not prescribed. Her action to annul the settlement is in effect an action for reconveyance which may be filed within 10 years from the issuance of the title. Here only 3 years had lapsed hence Suzy's action has not yet prescribed.

XIX

[a] Distinguish the two (2) modes of appeal from the judgment of the Regional Trial Court to the Court of Appeals. (3%)

[b] What is the writ of amparo? How is it distinguished from the writ of habeas corpus? (2%)

[c] What is the writ of habeas data? (1%)

(a)

The two modes of appeal from the judgment of the RTC to the CA are ordinary appeal under Rule 41 and petition for review under Rule 42.

The appeal under Rule 41 is from a judgment of the RTC in the exercise of its original jurisdiction, while the appeal under Rule 42 is from a judgment of the RTC in the exercise of its appellate jurisdiction.

The appeal under Rule 41 is taken by filing a notice of appeal or both a notice of appeal and a record on appeal, while the appeal under Rule 42 is taken by filing a verified petition for review with the CA.

The appeal under Rule 41 is a matter of right while the appeal under Rule 42 is subject to the discretion of the CA.

(b)

A writ of amparo is a remedy available to any person whose right to life, liberty, and security has been violated or is threatened with violation by a public official or employee or a private individual or a private individual or entity. (S1, Rule on the Writ of Amparo [RWA]). The writ of amparo is distinguished from the writ of habeas corpus in that it covers violations of Constitutional and civil rights other than the right to unlawful deprivation of liberty, like enforced disappearances and extralegal killings.

(c)

A remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering or storing of data or information regarding the person, family, home, and correspondence of the aggrieved party. (S1, Rule on the Writ of Habeas Data [RWHD])

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