



Republic of the Philippines
Supreme Court of the Philippines
Manila

2023 BAR EXAMINATIONS

REMEDIAL LAW
September 24, 2023
(2:00 P.M. – 6:00 P.M.)

1. This is a 4-hour examination consisting of 20 essay-type questions worth five points each, for a total of 100 points. There are no sub-questions.
2. Read each question carefully.
3. Provide a clear and concise answer by demonstrating your ability to give a complete analysis of the facts, apply the correct legal basis, and arrive at a sound and logical conclusion. Always begin your answer with a “yes” or “no”, unless the question requires a different response. A mere “yes” or “no” answer will not be given credit.
4. Follow the prescribed format in the *Exemplify* Manual (font style Times New Roman and font size 14). Do not make any markings on your answers. Marking of submitted answers consists of writing your name, distinguishing marks, or extraneous words or phrases in any of the answers. This may be considered cheating and may disqualify you from the 2023 Bar Examinations.
5. Allocate your time efficiently. *Exemplify* allows you to skip items and move to items that you may find easier to answer. Use the “Flag” feature to return to the unanswered items.
6. Do not panic in the rare case that you experience technical issues during the exam. Do not attempt to submit your exam answers. Call the attention of your proctor for assistance.
7. If you need to step out of the room, use the “Hide Screen” feature to prevent anyone from seeing your answers.
8. Make sure you have completed and reviewed all of your answers before submitting the exam. When submitting, the system will ask you one more time to confirm if you are ready to submit your answer file, giving you another opportunity to review your answers.

9. Once done, show your proctor the green screen confirming your submission.
If the green screen does not appear, check with your proctor before leaving
the room.

10. **You can do it.**

A handwritten signature in black ink, appearing to read "R. Hernando", is written over a solid horizontal line.

RAMON PAUL L. HERNANDO

Associate Justice, Supreme Court of the Philippines

Chairperson, 2023 Bar Examinations

1. Rafaelle Beatrice filed an action for recovery of the sum of ₱2.5 million against Tess in the Regional Trial Court (RTC) of Taguig City. Attached to the complaint was the promissory note, the check issued by Rafaelle Beatrice to Tess covering said amount, and a copy of the withdrawal slip of Tess from Banco de Otso-Rockwell Branch, Makati City. In her answer, Tess raised as her compulsory counterclaim the recovery of her attorney's fees in the amount of ₱500,000 arising from the case, and a permissive counterclaim against Rafaelle Beatrice for rescission of contract of sale involving an Arturo Luz painting valued at ₱2 million. Tess paid the filing fees of her permissive counterclaim. **Are the counterclaims within the jurisdiction of the RTC of Taguig City? Discuss your answer.**
2. Trinca borrowed ₱1.5 million from Ida. Trinca executed a promissory note promising to pay Ida in three equal monthly installments. When Trinca failed to pay her obligation, Ida filed an action for recovery of a sum of money against her in the Metropolitan Trial Court of Pasay City. The case was raffled to Judge Risa, who upon reading the complaint, noticed that Trinca and Ida were neighbors in *Barangay* 189 in Pasay City and that there was no prior referral of the case for *barangay* conciliation. Hence, Judge Risa dismissed the case *motu proprio* for failure to comply with a condition precedent. **Was the dismissal by Judge Risa proper? Explain your answer.**
3. Pauline and Regine had a dispute over a 500-square meter parcel of land that they inherited from their deceased parents, Milcah and James. During the *barangay* conciliation proceedings, both Pauline and Regine agreed to partition the lot in equal shares. As a result, the title to the property was cancelled and new titles were issued in favor of Pauline and Regine as to their respective lots. However, Regine discovered that the lot covered by her title was on the eastern portion rather than the northern portion, contrary to their agreement. Hence, Regine filed a "*Petition for Annulment of Transfer Certificate of Title (TCT) and Barangay Partition, with Prayer for Judicial Partition of the Intestate Estate of the Spouses Milcah and James*" against Pauline. After trial, the court rendered judgment in favor of Regine. Pauline then consulted a newly-minted lawyer, Atty. Terry, who explained to her that there was a misjoinder of causes of action when Regine included both annulment of TCT and the *barangay* partition, as well as judicial partition in the petition. Hence, the trial court erred when it ruled on both causes of action instead of dismissing the petition of Regine. **Is Atty. Terry correct? Explain.**
4. Hannah Corporation (HC) is the registered owner of a parcel of land in Kapitolyo, Pasig City. Saint Aaron School (SAS), occupied said lot by mere tolerance since 1992 until December 2018. HC informed SAS that beginning January 1, 2019, it will be charging ₱100,000 per month for the use and occupation of the property. SAS refused to pay the monthly rentals prompting HC to issue a demand letter for the payment of the amount of ₱4.8 million, representing the unpaid rentals from January 2019 to December 2022. SAS failed to heed the demand of HC. Hence, HC, which holds business in Quezon City, filed a complaint for collection of a sum of money against SAS in the Regional Trial Court (RTC) of Quezon City. SAS filed a motion to dismiss on the ground of forum shopping since HC

had also filed an ejectment case against it before the Metropolitan Trial Court of Pasig City. **Should the RTC grant the motion to dismiss on the ground of forum shopping? Explain your answer.**

5. Anjan and Pam were married in 1996. However, in November 2003, Pam left for the United States (US) due to her alleged irreconcilable differences with Anjan. In 2020, Anjan filed a petition for the declaration of nullity of his marriage with Pam before the Regional Trial Court (RTC) of Makati City, where he resides. Subsequently, Anjan filed a motion for issuance of summons by publication because Pam already resided abroad. The RTC issued an Order dated August 27, 2020 granting the motion and directed the summons to be served upon Pam by publication in a newspaper of general circulation in the US. However, the copies of the order, summons, and complaint were not served at her last known address. Meanwhile, no answer was filed by Pam. Thus, the RTC rendered a decision granting the petition, which eventually became final and executory. **Was the August 27, 2020 Order of the RTC proper? Explain your answer.**
6. Clarisse and Myra offered Gaita a job as a domestic helper in Indonesia. Clarisse gave Gaita her plane ticket and luggage to bring on her trip. Upon reaching the airport of Yogyakarta, Indonesia, she was apprehended by the police for allegedly carrying two kilograms of heroin inside her luggage. She was then charged before the Indonesian courts with drug trafficking, and subsequently convicted and sentenced to death by firing squad. Meanwhile, in the Philippines, Clarisse and Myra were arrested and charged with Qualified Trafficking of Persons, Illegal Recruitment, and *Estafa* in the Regional Trial Court (RTC) of Angeles City. Gaita was given an indefinite reprieve by the Indonesian Government to give her the opportunity to testify in the case against Clarisse and Myra. Hence, the People of the Philippines, through the Office of the Solicitor General (OSG), filed a motion to take the testimony of Gaita upon written interrogatories under Rule 23 (Deposition Pending Action) of the Rules of Court. The RTC granted the motion of the OSG. **Was the action of the RTC proper? Discuss your answer.**
7. Kyna, a resident of Antipolo City, is the registered owner of a house and lot located in Tondo, Manila with an assessed value of ₱900,000. Kyna claimed that she allowed Sarah, her sister-in-law, to stay in the house out of compassion. Years later, Kyna decided to distribute the property to her children, so she demanded that Sarah vacate the premises. However, Sarah ignored the demand. She even filed a case against Kyna questioning her ownership of the property and contending that she obtained title over the property through fraud, deceit, and falsification. On August 23, 2023, Kyna sent a formal demand letter to Sarah to vacate the property, but this remained unheeded. Kyna wants to commence an action against Sarah no later than May 16, 2024, before Kyna leaves and temporarily stays in the United States. **If you are the counsel of Kyna, what action will you file, where, and in what court? Explain briefly.**
8. In 2014, Karina filed before the Regional Trial Court a petition for change of name under Rule 103 of the Rules of Court to change her first name, include her middle name, and correct the spelling of her surname, from “*Karen Lapus*”, as stated in her birth certificate, to “*Karina Garcia Lapuz*”. According to Karina,

she has been using the name “*Karina Garcia Lapuz*” since childhood. **Will the petition of Karina prosper? Explain your answer.**

9. William and several other persons were charged with violation of the Anti-Hazing Act. During their arraignment, William and his co-accused pleaded not guilty to the charge that they unlawfully subjected Carding Cruz to hazing. The information was later amended by adding the suffix “*III*” to the name “*Carding Cruz*”. Trial ensued without the accused having been re-arraigned on the amended information. After the accused were convicted by the trial court, William appealed contending that his right to be informed of the nature and cause of the accusation against him was violated when he was not re-arraigned after the amendment of the information. **Is William correct? Discuss.**
10. Angel was charged with Murder before the Regional Trial Court (RTC). After trial, the court convicted her of Homicide due to the absence of the qualifying circumstance of treachery. She then filed a notice of appeal and applied for bail with the RTC before transmittal of the records to the Court of Appeals. The prosecution opposed the application, contending that the RTC has no jurisdiction to act on the application for bail. The RTC granted the application for bail on the ground that the prosecution failed to prove the five bail-negating circumstances. **Did the RTC have jurisdiction to act on the application for bail filed by Angel? Discuss your answer.**
11. On October 18, 2021, a warrant of arrest was issued against Erica. At 11:00 p.m. on October 30, 2021, police officers arrested Erica at her house pursuant to the arrest warrant. Before arraignment, Erica moved to quash the information on the grounds that the warrant was served at nighttime and beyond ten days from its issuance. **Is the position of Erica tenable? Explain.**
12. An information for Corruption of Public Officials was filed against Bel. Assistant City Prosecutor Chi, the investigating prosecutor, certified in the information that the same was filed with the prior authority of Jill, the City Prosecutor. After the presentation of evidence by both parties, the trial court *motu proprio* dismissed the case on the ground that Chi does not have the authority to prosecute the case because the information does not bear the signature of Jill or any other indication that she approved the same. The trial court explained that the lack of authority to file an information is a jurisdictional defect that cannot be cured. **Is the trial court correct? Explain.**
13. Raisa filed a case for support against Ton on behalf of their 9-year-old daughter, Rox. During trial, Rox was presented as a witness. The counsel of Ton invoked the rule on the incompetence of Rox to testify against her father given her tender age. The trial court allowed Rox to testify. **Is the trial court correct? Explain briefly.**
14. In a criminal case for Murder filed against Erika, the prosecution presented Chelle as an eyewitness to the killing of Ly. Chelle testified that while the three of them were on board a boat, Erika shot Ly with a .45 caliber pistol and threw both the gun and the body of Ly into the sea. Efforts to retrieve the gun and the

body of Ly were unsuccessful. Evidence was likewise introduced to prove that Ly was thrown in a shark-infested area. Erika consulted her nephew, Ted, a recent law school graduate who is reviewing for the Bar examinations. Confident of an acquittal, Ted recommended that Erika file a demurrer to evidence because: 1) there is no *corpus delicti* due to the failure to recover the gun and the body of Ly; and 2) the prosecution failed to prove that Erika fired the gun due to the lack of a paraffin test. **Is Ted correct? Discuss.**

15. While relaxing one Sunday afternoon, Kesh suddenly felt sick. While she was on the verge of losing consciousness, Kesh called for Robert, her personal nurse, who was told: “*Call Dr. Nancy forthwith!*” Robert asked Kesh about what happened and Kesh further relayed: “*I’m probably going to meet my Creator! I ate the instant noodles prepared by my husband last night and I think he put poison in it!*” The following day, Kesh passed away. The certificate of death issued by the medico-legal officer who conducted the autopsy reflected the cause of her death as aneurysm or rupture of a blood vessel. Later, the husband of Kesh was prosecuted for Murder. During trial and apart from the medico-legal certificate, the prosecution also offered in evidence the testimony of Robert to prove the utterance of Kesh. **Is the statement of Kesh admissible as a dying declaration? Explain.**

16. Vangie filed an action for compulsory recognition with prayer for support against Jay, her putative father. During trial, she presented and identified the following documents on the witness stand: 1) the birth certificate of Vangie reflecting Jay as the father of Vangie per information supplied by the mother of Vangie, but was unsigned by Jay; and 2) letters from the siblings of Jay, addressed to private schools where Vangie was enrolled, which attested that Jay is the father of Vangie and that he regularly supports her education. **Rule on the admissibility and sufficiency of the documents as evidence of acts or declarations about pedigree. Explain briefly.**

17. The Supreme Court suspended Atty. Irish for one year in an administrative case filed against her for Gross Misconduct. During the effectivity of her suspension, Janet appointed her as attorney-in-fact in an execution sale arising from a civil case that she previously handled. At the execution sale, Atty. Irish took part in the bidding and negotiations as regards the payment of the judgment award. Atty. Elvie, the opposing counsel in the civil case, questioned the appearance by Atty. Irish during the execution sale because of her suspension. Atty. Irish argued that she was merely acting as an attorney-in-fact of Janet, which was not tantamount to the practice of law. **Do you agree with Atty. Irish? Explain your answer.**

18. Kiko engaged the services of Atty. Benito for an ejectment case against illegal settlers occupying his property in Caloocan City. After one of their hearings, Kiko hurriedly walked to his car. When Atty. Benito asked him where he was headed, Kiko responded, “*Uwi na ako, Attorney! Galit si misis kasi nakalimutan ko anniversary namin.*” At that time, the marriage of Kiko was on the rocks. Kiko eventually won the ejectment case against the illegal settlers, which also marked the termination of his retainership agreement with Atty. Benito. A few months later, Kiko received summons in a petition for declaration of nullity of marriage

filed by his wife, Nena, through her counsel, Atty. Benito, who signed the petition. **Is Atty. Benito guilty of representing conflicting interests? Explain.**

19. Romy filed an administrative complaint against Judge Ferdie with the Office of the Ombudsman in relation to the Bribery he allegedly committed as a Presiding Judge of a Regional Trial Court. After investigation, the Ombudsman found him guilty of Grave Misconduct and imposed the penalty of dismissal from service. **May the Ombudsman dismiss Judge Ferdie? Explain.**

20. Edsel A. Flores, a resident of Bacoor City, Cavite, sold to Joel R. Vargas, a resident of Binondo, Manila, a parcel of land located in Bacoor City, Cavite. The parcel of land had an area of 500 square meters, and was covered by a clean Original Certificate of Title No. 1234567 issued by the Registry of Deeds of Cavite. The purchase price amounts to ₱8 million. The parties agreed that the seller shall bear the capital gains tax, real estate tax, and documentary stamp tax, while the buyer shall bear the rest of the expenses. **Prepare a notarized deed of absolute sale.**