



Republic of the Philippines

Supreme Court

Manila

2022 BAR EXAMINATIONS

REMEDIAL LAW II (WITH BASIC TAX REMEDIES)
AND LEGAL ETHICS

November 20, 2022

2:00 p.m. to 5:00 p.m.

INSTRUCTIONS

1. **This is a 3-hour examination consisting of 12 items, each worth 5 points.** If the item contains sub-questions, please mark your answer separately with “(a)” followed by the corresponding answer, then “(b)” followed by the answer and so on.
2. **Read each question carefully.** Do not assume facts that are not provided in the question.
3. **Answer the questions clearly and concisely.** Your answer should demonstrate your ability to analyze the facts, identify issues, apply the law and jurisprudence, and arrive at a sound and logical conclusion. A mere “Yes” or “No” answer, or a mere legal conclusion without an explanation will not be given full credit.
4. **Allocate your time efficiently.** The items are in random sequence. You may skip items and move to items that you may find easier to answer. Use the 'Flag' feature so that you can return to the unanswered items.

5. **Do not write your name, distinguishing marks, or extraneous words or phrases in any of your answers.** This may be considered cheating and may disqualify you from the entire Bar Examinations.
6. **Do not type your final answer in the notes box, which is an optional tool.** Any text written in the notes box will not be included in your final answer.
7. **Technical issues during the exam are rare, but if you experience one, do not panic. Do not attempt to submit your exam answers.** Call the attention of your proctor for assistance.
8. If you need to step out of the room, **use the Hide Screen feature** to prevent anyone else from seeing your answers.
9. **You have until 5:00 p.m. to finish the exam.** Make sure you have completed and reviewed your answers before then. When submitting, the system will ask you one more time to confirm if you are ready to submit your answer file, to give you another opportunity to review your answers.
10. **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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice and
2022 Bar Examinations Chairperson

1. [This item has five questions.] Assume that you received an adverse decision and filed a motion for reconsideration which was denied.

Give the reglementary periods for filing the following:

- (a) **Notice of Appeal to the Court of Appeals**
- (b) **Petition for *Certiorari* under Rule 65**
- (c) **Petition for Review to the Court of Appeals under Rule 42**
- (d) **Petition for Review on *Certiorari* to the Supreme Court under Rule 45**
- (e) **Petition for *Certiorari* under Rule 64**

(5 points)

2. [This item has two questions.] Fides filed a case before the Regional Trial Court (RTC) questioning the authority of the local government unit (LGU) to assess real property taxes (RPT) on a certain property she owns. She also prayed for a writ of preliminary injunction (WPI) to restrain the LGU from collecting the RPT. The LGU moved to dismiss Fides' case arguing that since the matter involves RPT, her remedy was to file an appeal to the Local Board of Assessment Appeals.

- (a) **Is the LGU correct? Explain briefly.**
- (b) **If the RTC issues an order denying the application for a WPI, and thereafter denies Fides' subsequent motion for reconsideration, what is her remedy? Explain briefly.**

(5 points)

3. Gail filed a forcible entry complaint against Marianina before the Metropolitan Trial Court (MeTC). The MeTC ruled in favor of Marianina. Gail appealed the MeTC decision to the Regional Trial Court (RTC). The RTC denied Gail's appeal and sustained the MeTC. Gail then filed a notice of appeal with the RTC indicating that it is appealing the RTC's decision to the Court of Appeals (CA). In her notice of appeal, Gail also requested the RTC to transmit the records of the case to the CA.

Did Gail take the correct of mode of appeal? Explain briefly. (5 points)

4. The Regional Trial Court (RTC) rendered a decision against Kat. She received a copy of the decision on December 26, 2021. Kat's counsel filed with the Supreme Court a petition for review on *certiorari* under Rule 45 by registered mail on January 10, 2022. The petition was dismissed for failure to pay the docket fees within the reglementary period. Kat's counsel challenged the dismissal arguing that: (i) the intention was to pay the docket fees after the same is assessed upon the court's receipt of the petition by registered mail; and (ii) the dismissal of the petition effectively rendered nugatory a party's statutory right to appeal by registered mail under the rules. Kat's counsel also added that she did not want to include cash money in the mail.

Is Kat's counsel correct? Explain briefly. (5 points)

5. In December of 2021, Matibag Realty Corp. and Kasangga Construction Co. submitted their construction dispute to arbitration before the Construction Industry Arbitration Commission (CIAC). In March 2022, the CIAC arbitral tribunal rendered an award in favor of Kasangga Construction Co.

What is Matibag Realty Corp.'s remedy? Explain briefly. (5 points)

6. Nysa was defrauded by Jackie resulting in damages to the former. Nysa filed a civil suit before the Regional Trial Court (RTC). The RTC dismissed her complaint. Within four years from Nysa's discovery of the dismissal of her complaint, she filed, through her counsel, a petition for annulment of judgment under Rule 47 of the Rules of Court before the Court of Appeals (CA) on the ground of fraud.

Should the CA give due course to Nysa's petition? Explain briefly. (5 points)

7. Alex, Bobbie, and Gabbie were charged with the crime of Murder. Finding them to have acted in conspiracy, the Regional Trial Court (RTC) convicted them of Homicide. Only Bobbie appealed the conviction with the Court of Appeals (CA). Consequently, an entry of judgment was issued as against Alex and Gabbie.

Subsequently, the CA modified Bobbie's conviction from Homicide to Murder. In the same judgment, the CA likewise modified Alex and Gabbie's conviction from Homicide to Murder.

Upon learning of the CA's decision, Alex and Gabbie confronted Bobbie, saying: "*Bakit ka pa ba nag-appeal? Tumaas tuloy ang sentensya namin. Nadamay pa kami!*" Bobbie snapped back: "*Bakit parang galit kayo? Pero bakit kasalanan ko? Parang kasalanan ko?*"

Was the CA correct in modifying the judgment as to Alex and Gabbie? Explain briefly. (5 points)

8. Mayor Dalupan, who was notorious for being involved in rigged public biddings, was convicted by the Sandiganbayan, in the exercise of its original jurisdiction, for violation of Section 3 (e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act. Seeking to overturn his conviction, Mayor Dalupan filed a Rule 65 petition for *certiorari* before the Supreme Court on the 59th day from notice of the assailed Sandiganbayan ruling.

Is the remedy availed of by Mayor Dalupan correct? Explain briefly. (5 points)

9. Police officers Miggy and Laida were involved in an alleged buy-bust operation against Mr. Magtalas, a suspected drug dealer. Mr. Magtalas maintained his innocence, asserting that the drugs were merely planted. He further claimed that he was unjustifiably beaten up by the police officers. Mr. Magtalas filed before

the Office of the Deputy Ombudsman for Military and Other Law Enforcement Officers (OMB-MOLEO) a criminal complaint for planting evidence which is punishable under Section 29 of the Dangerous Drugs Act (R.A. No. 9165). Mr. Magtalas also filed an administrative complaint for grave misconduct against Miggy and Laida in light of the unwarranted physical assault against him.

The Office of the Ombudsman (OMB) rendered a decision holding Miggy and Laida administratively liable for grave misconduct and accordingly imposed the penalty of dismissal from service. A few weeks later, the OMB issued a separate resolution finding probable cause against them for violation of Section 29 of R.A. No. 9165.

Aggrieved, Miggy and Laida filed before the Supreme Court the following: (i) a Rule 65 petition for *certiorari* assailing the OMB's decision finding them administratively liable for grave misconduct; and (ii) a Rule 45 petition for review on *certiorari* assailing the OMB's resolution finding probable cause against them.

Were the remedies availed of by Miggy and Laida proper? Explain briefly. (5 points)

10. After due proceedings, the Bureau of Internal Revenue (BIR) issued a Final Notice and Assessment with Final Letter of Demand assessing Kotse Corp. for deficiency income taxes covering calendar year 2021, which Kotse Corp. duly protested. A month after receipt of the protest, the Commissioner of Internal Revenue issued a notice of garnishment against Kotse Corp.'s deposit accounts in GENZ Bank.

If you were counsel for Kotse Corp., what advice would you give to secure an injunction against the notice of garnishment? Explain briefly. (5 points)

11. You are the counsel for Boni and Klyde, who are accused as co-conspirators in a Murder case. During arraignment, they both pleaded not guilty. In the course of the trial, Klyde confessed to you that it was actually Boni who committed the Murder and that he merely helped Boni dispose of the body. Klyde tells you that he wants to plead guilty and directs you to inform the prosecution and the judge that he wants to testify against Boni as a state witness.

Can you continue to represent Boni, or Klyde, or both? Explain briefly. (5 points)

12. **Identify five duties of a lawyer as stated in the Lawyer's Oath. (5 points)**