

**[ A.M. No. 19-08-15-SC, October 08, 2019 ]**

**2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE**

**RESOLUTION**

**WHEREAS**, pursuant to Section 5(5), Article VIII of the 1987 Constitution, the Supreme Court is vested with the power to promulgate rules concerning the pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged;

**WHEREAS**, the proposed amendments to the Revised Rules on Evidence date back to 2008 when then Chief Justice Reynato S. Puno organized the Sub-Committee for its revision;

**WHEREAS**, the Sub-Committee is composed of then Supreme Court (SC) Associate Justice (now Philippine Judicial Academy Vice-Chancellor) Romeo J. Callejo, Sr., as Chairperson; then SC Associate Justice Bernardo P. Pardo and retired Court of Appeals Justice Oscar C. Herrera,<sup>+</sup> as Consultants, as well as the following, as members: then Court of Appeals (now Chief Justice) Lucas P. Bersamin, then Sandiganbayan Associate Justice (now SC Associate Justice) Diosdado M. Peralta, Judge Aloysius C. Alday, then Judge (now Deputy Court Administrator) Raul B. Villanueva, Atty. Rogelio A. Vinluan, Atty. Francis Ed Lim, and Atty. Jose C. Sison, representing the academe and private practitioners;

**WHEREAS**, after a series of intensive consultative meetings, the Sub-Committee was able to complete and submit its proposed amendments in 2010, but their approval was put on hold in view of advances in technology and developments in both procedural and substantive law, jurisprudence, as well as international conventions;

**WHEREAS**, after several meetings in 2019, the re-organized Committee on the Revision of the Rules of Court (*Mother Rule Committee*)<sup>[1]</sup>— which included the original Sub-Committee members, like Chief Justice Bersamin (Chairperson), Justice Peralta (Vice/Working Chairperson), Justice Callejo and Atty. Lim, as well as new members, namely: SC Associate Justice Francis H. Jardeleza, SC Associate Justice Alfredo Benjamin S. Caguioa, SC Associate Justice Alexander G. Gesmundo, Department of Justice Secretary Menardo I. Guevarra, Philippine Judicial Academy Chancellor and retired SC Associate Justice Adolfo S. Azcuna, Court Administrator Jose Midas P. Marquez; Atty. Tranquil Gervacio S. Salvador III and Atty. Ramon S. Esguerra (representing the academe and private practitioners); and Atty. Amador Z. Tolentino, Jr. (representing the Integrated Bar of the Philippines)—has finally finished amending and updating the 2010 Proposed Amendments to the Revised Rules on Evidence, in order to incorporate the technological advances and developments in law, jurisprudence and international conventions in the past decade;

**NOW, THEREFORE**, acting on the recommendation of the Chairperson of the Committee on the Revision of the Rules of Court, the Court resolves to **APPROVE**

the "**2019 Proposed Amendments to the Revised Rules on Evidence.**"

The 2019 Proposed Amendments to the Revised Rules on Evidence shall take effect on May 1, 2020, following its publication in the Official Gazette or in two newspapers of national circulation.

October 8, 2019, Manila, Philippines.

*Bersamin (C.J.), Carpio, Peralta, Perlas-Bernabe, Leonen, Caguioa, A. Reyes, Jr., Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting (on official business but left his vote), and Zalameda, JJ., concur.*

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[1] Memorandum Order No. 03-2019 dated January 14, 2019.

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**2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE**

**RULE 128**

**GENERAL PROVISIONS**

Section 1. *Evidence defined.* - Evidence is the means, sanctioned by these rules, of ascertaining in a judicial proceeding the truth respecting a matter of fact. (1)

Sec. 2. *Scope.* - The rules of evidence shall be the same in all courts and in all trials and hearings, except as otherwise provided by law or these rules. (2)

Sec. 3. *Admissibility of evidence.* - Evidence is admissible when it is relevant to the issue and not excluded by the Constitution, the law or these Rules. (3a)

Sec. 4. *Relevancy; collateral matters.* - Evidence must have such a relation to the fact in issue as to induce belief in its existence or non-existence. Evidence on collateral matters shall not be allowed, except when it tends in any reasonable degree to establish the probability or improbability of the fact in issue. (4)

**RULE 129**

**WHAT NEED NOT BE PROVED**

Section 1. *Judicial notice, when mandatory.* - A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (1a)

Sec. 2. *Judicial notice, when discretionary.* - A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions.

Sec. 3. Judicial notice, when hearing necessary. - During the pre-trial and the trial, the court, motu proprio or upon motion, shall hear the parties on the propriety of taking judicial notice of any matter.

Before judgment or on appeal, the court, motu proprio or upon motion, may take judicial notice of any matter and shall hear the parties thereon if such matter is decisive of a material issue in the case. (3a)

Sec. 4. *Judicial admissions*. - An admission, oral or written, made by the party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that the imputed admission was not, in fact, made. (4a)

## **RULE 130**

### **RULES OF ADMISSIBILITY**

#### **A. OBJECT (REAL) EVIDENCE**

Section 1. *Object as evidence*. - Objects as evidence are those addressed to the senses of the court. When an object is relevant to the fact in issue, it may be exhibited to, examined or viewed by the court. (1)

#### **B. DOCUMENTARY EVIDENCE**

Sec. 2. *Documentary evidence*. - Documents as evidence consist of writings, recordings, photographs or any material containing letters, words, sounds, numbers, figures, symbols, or their equivalent, or other modes of written expression offered as proof of their contents. Photographs include still pictures, drawings, stored images, x-ray films, motion pictures or videos. (2a)

##### **1. Original Document Rule**

Sec. 3. *Original document must be produced; exceptions*. - When the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself, except in the following cases:

- (a) When the original is lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice, or the original cannot be obtained by local judicial processes or procedures;
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole;
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office; and
- (e) When the original is not closely-related to a controlling issue.

(3a)

Sec. 4. *Original of document.* —

- (a) An "original" of a document is the document itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data is stored in a computer or similar device, any printout or other output readable by sight or other means, shown to reflect the data accurately, is an "original."
- (b) A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.
- (c) A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original. (4a)

## **2. Secondary Evidence**

Sec. 5. *When original document is unavailable.* - When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his or her part, may prove its contents by a copy, or by recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (5a)

Sec. 6. *When original document is in adverse party's custody or control.* - If the document is in the custody or under the control of the adverse party, he or she must have reasonable notice to produce it. If after such notice and after satisfactory proof of its existence, he or she fails to produce the document, secondary evidence may be presented as in the case of its loss. (6a)

Sec. 7. *Summaries.* - When the contents of documents, records, photographs, or numerous accounts are voluminous and cannot be examined in court without great loss of time, and the fact sought to be established is only the general result of the whole, the contents of such evidence may be presented in the form of a chart, summary, or calculation.

The originals shall be available for examination or copying, or both, by the adverse party at a reasonable time and place. The court may order that they be produced in court. (n)

Sec. 8. *Evidence admissible when original document is a public record.* — When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof. (7)

Sec. 9. *Party who calls for document not bound to offer it.* — A party who calls for the production of a document and inspects the same is not obliged to offer it as evidence. (8)

### **3. Parol Evidence Rule**

Sec. 10. *Evidence of written agreements.* — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, as between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.

However, a party may present evidence to modify, explain or add to the terms of the written agreement if he or she puts in issue in a verified pleading:

- (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
- (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
- (c) The validity of the written agreement; or
- (d) The existence of other terms agreed to by the parties or their successors in interest after the execution of the written agreement.

The term "agreement" includes wills. (9a)

### **4. Interpretation of Documents**

Sec. 11. *Interpretation of a writing according to its legal meaning.* — The language of a writing is to be interpreted according to the legal meaning it bears in the place of its execution, unless the parties intended otherwise. (10)

Sec. 12. *Instrument construed so as to give effect to all provisions.* — In the construction of an instrument, where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all. (11)

Sec. 13. *Interpretation according to intention; general and particular provisions.* — In the construction of an instrument, the intention of the parties is to be pursued; and when a general and a particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it. (12)

Sec. 14. *Interpretation according to circumstances.* — For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject thereof and of the parties to it, may be shown, so that the judge may be placed in the position of those whose language he or she is to interpret. (13a)

Sec. 15. *Peculiar signification of terms.* — The terms of a writing are presumed to have been used in their primary and general acceptation, but evidence is admissible to show that they have a local, technical, or otherwise peculiar signification, and were so used and understood in the particular instance, in which case the agreement must be construed accordingly. (14)