



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 250-2018

TO : ALL JUDGES AND CLERKS OF COURT OF THE FIRST LEVEL COURTS

SUBJECT : RESOLUTION DATED 13 NOVEMBER 2018 IN A.M. NO. 08-8-7-SC (RE: RULE OF PROCEDURE FOR SMALL CLAIMS CASES) RELATIVE TO THE PROVISION ON THE APPEARANCE OF A PARTY THROUGH REPRESENTATIVE UNDER SECTION 18 OF THE 2016 REVISED RULES OF PROCEDURE FOR SMALL CLAIMS CASES

For the information, guidance and strict observance of all first level courts, appended herein as Annex "A" is the Resolution dated 13 November 2018 of the Honorable Court, *En Banc*, in A.M. No. 08-8-7-SC (*Re: Rule of Procedure for Small Claims Cases*).

In the Resolution, the Court explicitly requires observance of the requisites under Section 18 of the 2016 Revised Rules of Procedure for Small Claims Cases, to quote:

xxx

At any rate, the 2016 Revised Rules of Procedure for Small Claims Cases will not apply, as the said requirement is very clear and needs no interpretation, to wit:

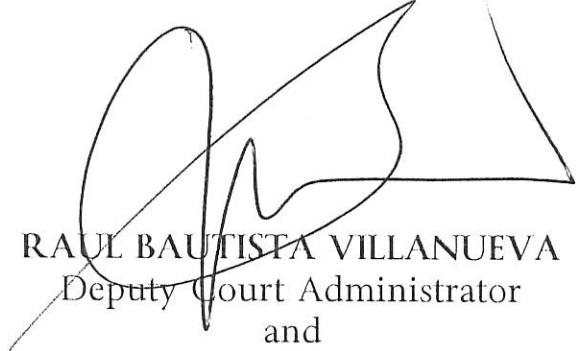
SECTION 18. *Appearance*. – The parties shall personally appear on the designated date of hearing.

Appearance through a representative must be for a valid cause. The representative of an individual-party must not be a lawyer and must be related to or next-of-kin of the individual-party. Juridical entities shall not be represented by a lawyer in any capacity.

The representative must be authorized under a Special Power of Attorney (*Form 7-SCC*) to enter into an amicable settlement of the dispute and to enter into stipulations or admissions of facts and of documentary exhibits.

Under the foregoing provision, the appearance through representative of an individual party is allowed as long as such representative is (1) not a lawyer; and (2) must be related to or next-of-kin. The same provision does not provide for any exception. xxx (*emphasis supplied*)

29 November 2018



RAUL BAUTISTA VILLANUEVA
Deputy Court Administrator
and
Officer-in-Charge
Office of the Court Administrator
(Per Office Order No. 13-2018
dated 23 November 2018)



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated NOVEMBER 13, 2018, which reads as follows:

“A.M. No. 08-8-7-SC (*Re: Rule of Procedure for Small Claims Cases*). - This refers to the letter dated November 8, 2018 of Atty. Juanito L. Garcia of Garcia Garcia & Associates Law Offices & Notaries, seeking action on his letter dated August 14, 2017, requesting (1) for clarification on the requirements for filing small claims cases [A.M. No. 08-8-7-SC], particularly the requirement that a representative of a complainant should be a relative within the 3rd degree of consanguinity or affinity, and (2) for exemption from compliance with the said requirement his client, Kok Wah Herman Bryan Chan, a Singaporean National who has no relative residing in the Philippines, but has appointed an attorney-in-fact to represent him in filing a complaint for sum of money. Attached as Annex “A” of the letter-request is an accomplished and notarized Statement of Claim (*Habla ng Pagsingil*) Standard Form.

The letter-request dated August 14, 2017 should be denied because under Section 3, Rule 3 of the Internal Rules of the Supreme Court, the Court cannot issue advisory opinions on the state and meaning of laws, subject only to notable exceptions involving constitutional issues. While Atty. Garcia claims that the Municipal Trial Court of San Pedro, Laguna, requires that the representative of his client must be his relative within the 3rd civil degree of consanguinity or affinity, there appears to be no Order issued by such court dismissing the small claims case on that ground. Hence, there is no actual case or controversy that is ripe for adjudication even on a pure question of law.

At any rate, the 2016 Revised Rules of Procedure for Small Claims Cases will not apply, as the said requirement is very clear and needs no interpretation, to wit:

SECTION 18. *Appearance.* — The parties shall personally appear on the designated date of hearing.

Appearance through a representative must be for a valid cause. **The representative of an individual-party must not be a lawyer and must be related to or next-of-kin of the individual-party.** Juridical entities shall not be represented by a lawyer in any capacity.

The representative must be authorized under a Special Power of Attorney (*Form 7-SCC*) to enter into an amicable settlement of the dispute and to enter into stipulations or admissions of facts and of documentary exhibits.

Under the foregoing provision, the appearance through representative of the individual-party is allowed as long as such representative is (1) not a lawyer, and (2) must be related to or next-of-kin. The same provision does not provide for any exception. The reason for the first requisite is that the presence of lawyers and the use of cross-examination during traditional open-court trials, tend to polarize the parties, increase antagonism and heighten the differences.¹ The reason for the second requisite is that the relative or next-of-kin may have personal knowledge of the civil affairs of the represented individual party.

At this point, to exempt the client of Atty. Garcia from the twin requirement is tantamount to an implied amendment of the procedural rules on small claims, which cannot be countenanced without due deliberation by the Court *En Banc*. Considering that the client of Atty. Garcia is a foreigner, who has no representative, who, in turn, is related to him or a next-of-kin, such client cannot file a small claims case through a representative. Nonetheless, the representative of that client — even if not a relative or next-of-kin — can still file an action before regular courts, which may be governed by the 1991 Revised Rule on Summary Procedure or the 1997 Rules of Civil Procedure, depending on the total amount of the claim.

WHEREFORE, the letter-request dated November 8, 2018 of Atty. Juanito L. Garcia is **DENIED.** Jardeleza, Tijam, Gesmundo and Hernando, JJ., on official leave. (adv31)

Very truly yours,


EDGAR O. ARICHETA
Clerk of Court

¹ Rationale of the Proposed Rule of Procedure for Small Claims Cases, A.M. No. 08-8-7-SC dated September 9, 2008.

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Supreme Court

A.M. No. 08-8-7-SC

kat 11/13/18 (URes31) 11/21/18

THE SECRETARIAT (x)

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c/o Atty. Anna-li R. Papa-Gombio
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