



CIRCULAR NO. 14-93 July 15, 1993

TO: ALL REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS AND MUNICIPAL CIRCUIT TRIAL COURTS

SUBJECT: GUIDELINES ON THE KATARUNGANG PAMBARANGAY CONCILIATION PROCEDURE TO PREVENT CIRCUMVENTION OF THE REVISED KATARUNGANG PAMBARANGAY LAW (SECTIONS 399-422, CHAPTER VII, TITLE I, BOOK III, R.A. 7160. OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991).

The Revised Katarungang Pambarangay Law under R.A. 7160, otherwise known as the local Government Code of 1991, effective on January 1, 1992, and which repealed P.D. 1508, introduced substantial changes not only in the authority granted to the Lupong Tagapamayapa but also in the procedure to be observed in the settlement of disputes within the authority of the Lupon.

In order that the laudable purpose of the law may not be subverted and its effectiveness undermined by indiscriminate, improper and/or premature issuance of certifications to file actions in court by the Lupon or Pangkat Secretaries, attested by the Lupon/Pangkat Chairmen, respectively, the following guidelines are hereby issued for the information of trial court judges in cases brought before them coming from the Barangays:

I. All disputes are subject to Barangay conciliation pursuant to the Revised Katarungang Pambarangay Law (formerly P.D. 1508, repealed and now replaced by Secs. 399-422, Chapter VII, Title I, Book III, and Sec. 515, Title I, Book IV, R.A. 7160, otherwise known as the Local Government Code of 1991), and prior recourse thereto is a pre-condition before filing a complaint in court or any government offices, except in the following disputes:

1. Where one party is the government, or any subdivision or instrumentality thereof;
2. Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;
3. Where the dispute involves real properties located in different cities and municipalities, unless the parties thereto agree to submit their difference to amicable settlement by an appropriate Lupon;
4. Any complaint by or against corporations, partnership or juridical entities, since only individuals shall be parties to Barangay conciliation proceedings either as complainants or respondents (Sec. 1, Rule VI, Katarungang Pambarangay Rules);
5. Disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate Lupon;
6. Offenses for which the law prescribes a maximum penalty of imprisonment exceeding one (1) year or a fine over five thousand pesos (P5,000.00);
7. Offenses where there is no private offended party;
8. Disputes where urgent legal action is necessary to prevent injustice from being committed or further continued, specifically the following:
 - a. Criminal cases where accused is under police custody or detention (see Sec. 412 (b) (1), Revised Katarungang Pambarangay Law);
 - b. Petitions for *habeas corpus* by a person illegally deprived of his rightful custody over another or a person illegally deprived or on acting in his behalf;
 - c. Actions coupled with provisional remedies such as preliminary injunction, attachment, delivery of personal property and support during the pendency of the action; and
 - d. Actions which may be barred by the Statute of Limitations.
9. Any class of disputes which the President may determine in the interest of justice or upon the recommendation of the Secretary of Justice;
10. Where the dispute arises from the Comprehensive Agrarian Reform Law (CARL) (Sec. 46 & 47, R.A. 6657);

11. Labor disputes or controversies arising from employer-employee relations (Montoya vs. Escayo, *et al.*, 171 SCRA 442; Art. 226, Labor Code, as amended, which grants original and exclusive jurisdiction over conciliation and mediation of disputes, grievances or problems to certain offices of the Department of Labor and Employment);

12. Actions to annul judgment upon a compromise which may be filed directly in court (See Sanchez vs. Tupaz, 158 SCRA 459).

II. Under the provisions of R.A. 7160 on Katarungang Pambarangay conciliation, as implemented by the Katarungang Pambarangay Rules and Regulations promulgated by the Secretary of Justice, the certification for filing a complaint in court or any government office shall be issued by Barangay authorities only upon compliance with the following requirements:

1. Issued by the Lupon Secretary and attested by the Lupon Chairman (Punong Barangay), certifying that a confrontation of the parties has taken place and that a conciliation settlement has been reached, but the same has been subsequently repudiated (Sec. 412, Revised Katarungang Pambarangay Law; Sec. 2[h], Rule III, Katarungang Pambarangay Rules);

2. Issued by the Pangkat Secretary and attested by the Pangkat Chairman, certifying that:

a. a confrontation of the parties took place but no conciliation/settlement has been reached (Sec. 4[f], Rule III, Katarungang Pambarangay Rules); or

b. that no personal confrontation took place before the Pangkat through no fault of the complainant (Sec. 4[f], Rule III, Katarungang Pambarangay Rules).

3. Issued by the Punong Barangay, as requested by the proper party on the ground of failure of settlement where the dispute involves members of the same indigenous cultural community, which shall be settled in accordance with the customs and traditions of that particular cultural community, or where one or more of the parties to the aforesaid dispute belong to the minority and the parties mutually agreed to submit their dispute to the indigenous system of amicable settlement, and there has been no settlement as certified by the datu or tribal leader or elder to the Punong Barangay of place of settlement (Secs. 1,4 & 5, Rule IX, Katarungang Pambarangay Rules); and

4. If mediation or conciliation efforts before the Punong Barangay proved unsuccessful, there having been no agreement to arbitrate (Sec. 410 [b], Revised Katarungang Pambarangay Law; Sec. 1, c. (1), Rule III, Katarungang Pambarangay Rules), or where the respondent fails to appear at the mediation proceeding before the Punong Barangay (3rd par. Sec. 8, a, Rule VI, Katarungang Pambarangay Rules), the Punong Barangay shall not cause the issuance at this stage of a certification to file action, because it is now mandatory for him to constitute the Pangkat before whom mediation, conciliation, or arbitration proceedings shall be held.

III. All complaints and/or informations filed or raffled to your sala/branch of the Regional Trial Court shall be carefully read and scrutinized to determine if there has been compliance with prior Barangay conciliation procedure under the Revised Katarungang Pambarangay Law and its Implementing Rules and Regulations, as a pre-condition to judicial action, particularly whether the certification to file action attached to the records of the case comply with the requirements hereinabove enumerated in par. II;

IV. A case filed in court without compliance with prior Barangay conciliation which is a pre-condition for formal adjudication (Sec. 412 [a] of the Revised Katarungang Pambarangay Law) may be dismissed upon motion of defendant/s, not for lack of jurisdiction of the court but for failure to state a cause of action or prematurity (Royales vs. IAC, 127 SCRA 470; Gonzales vs. CA, 151 SCRA 289), or the court may suspend proceedings upon petition of any party under Sec. 1, Rule 21 of the Rules of Court; and refer the case *motu proprio* to the appropriate Barangay authority, applying by analogy Sec. 408 [g], 2nd par., of the Revised Katarungang Pambarangay Law which reads as follows:

The court in which non-criminal cases not falling within the authority of the Lupon under this Code are filed may at any time before trial, *motu proprio* refer case to the Lupon concerned for amicable settlement.

Strict observance of these guidelines is enjoined. This Administrative Circular shall be effective immediately.

Manila, Philippines. July 15, 1993.

(Sgd.) **ANDRES R. NARVASA**
Chief Justice

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