

SYLLABUS FOR THE 2019 BAR EXAMINATIONS

REMEDIAL LAW

NOTE: This syllabus is an outline of the key topics that fall under the core subject “Remedial Law”. Accordingly, all Bar candidates should be guided that only laws, rules, issuances, and jurisprudence pertinent to these topics as of **June 30, 2018** are examinable materials within the coverage of the 2019 Bar Examinations.

I. GENERAL PRINCIPLES

- A. Substantive law vs. remedial law
- B. Rule-making power of the Supreme Court
- C. Principle of judicial hierarchy
- D. Doctrine of non-interference/judicial stability

II. JURISDICTION

- A. Classification of jurisdiction
 - 1. Original vs. appellate
 - 2. General vs. special
 - 3. Exclusive vs. concurrent
- B. Doctrines of hierarchy of courts and continuity of jurisdiction
- C. Jurisdiction of various Philippine courts
- D. Aspects of jurisdiction
 - 1. Jurisdiction over the parties
 - 2. Jurisdiction over the subject matter
 - 3. Jurisdiction over the issues
 - 4. Jurisdiction over the *res* or the property in litigation
- E. Jurisdiction vs. exercise of jurisdiction
- F. Jurisdiction vs. venue
- G. Jurisdiction over cases covered by Barangay Conciliation, Small Claims Cases, and cases covered by Summary Procedure

III. CIVIL PROCEDURE

- A. General provisions (Rule 1)
- B. Cause of action (Rule 2)
- C. Parties to civil actions (Rule 3)
- D. Venue (Rule 4)
- E. Pleadings
 - 1. Kinds (Rule 6)
 - 2. Parts of a pleading (Rule 7)
 - 3. Manner of making allegations (Rule 8)
 - 4. Effect of failure to plead (Rule 9)
 - 5. Amended and supplemental pleadings (Rule 10)
 - 6. When to file responsive pleadings (Rule 11)
- F. Filing and service of pleadings, judgments, final orders, and resolutions
 - 1. Rules on payment of docket fees; effect of non-payment
 - 2. Rule 13
- G. Summons
 - 1. Nature and purpose of summons in relation to actions *in personam*, *in rem*, and *quasi in rem*
 - 2. Rule 14
- H. Motions
 - 1. In general (Rule 15)
 - 2. Motion to dismiss (Rule 16)
 - 3. Motion for bill of particulars (Rule 12)

- I. Dismissal
 - 1. Kinds
 - a. With prejudice vs. without prejudice
 - b. Dismissals which have an effect of an adjudication on the merits
 - 2. Rule 17
- J. Pre-trial (Rule 18)
- K. Intervention (Rule 19)
- L. Subpoena (Rule 21)
- M. Computation of time (Rule 22)
- N. Modes of discovery
 - 1. Depositions (Rules 23 and 24)
 - 2. Interrogatories to parties (Rule 25)
 - 3. Admission by adverse party (Rule 26)
 - 4. Production or inspection of documents or things (Rule 27)
 - 5. Physical and mental examination of persons (Rule 28)
 - 6. Refusal to comply with modes of discovery (Rule 29)
- O. Trial (Rule 30)
- P. Consolidation or severance (Rule 31)
- Q. Demurrer to Evidence (Rule 33)
- R. Judgments and final orders
 - 1. Judgment on the pleadings (Rule 34)
 - 2. Summary judgments (Rule 35)
 - 3. Rendition and entry of judgments and final orders (Rule 36)
- S. Post-judgment remedies
 - 1. Motion for new trial or reconsideration
 - a. Rule 37
 - b. Remedy against denial and fresh-period rule
 - 2. Appeals
 - a. Judgments and final orders subject to appeal
 - b. Matters not appealable; available remedies
 - c. Doctrine of finality/immutability of judgment
 - d. Modes of appeal from judgments or final orders of various courts (Rules 40, 41, 42, 43, and 45)
 - i. Period of appeal
 - ii. Perfection of appeal
 - iii. Issues to be raised
 - e. Review of judgments or final orders of the COA, COMELEC, CSC, and the Ombudsman
 - f. Review of judgments or final orders of quasi-judicial agencies
 - g. Dismissal, reinstatement, and withdrawal of appeal
 - 3. Petition for relief from judgment (Rule 38)
 - 4. Annulments of judgment (Rule 47)
 - 5. Collateral attack on judgments
- T. Execution, satisfaction, and effect of judgments (Rule 39)

IV. PROVISIONAL REMEDIES

- A. Nature, purpose, and jurisdiction over provisional remedies
- B. Preliminary attachment (Rule 57)
- C. Preliminary injunction (Rule 58)
- D. Receivership (Rule 59)
- E. Replevin (Rule 60)

V. SPECIAL CIVIL ACTIONS

- A. Jurisdiction and venue
- B. Interpleader (Rule 62)
- C. Declaratory relief and similar remedies (Rule 63)
- D. Review of judgments and final orders or resolutions of the COMELEC and COA

- (Rule 64 in relation to Rule 65)
- E. *Certiorari*, prohibition, and mandamus
 - 1. Definitions and distinctions
 - 2. Requisites; when and where to file (Rule 65)
 - 3. Exceptions to filing of motion for reconsideration before filing petition
- F. *Quo warranto* (Rule 66)
- G. Expropriation
 - 1. Rule 67
 - 2. Guidelines for expropriation proceedings of National Government Infrastructure Projects (Sec. 4, RA 8974)
- H. Foreclosure of real estate mortgage
 - 1. Judicial foreclosure (Rule 68)
 - 2. Extrajudicial foreclosure (Act 3135, as amended)
 - 3. The General Banking Law of 2000 (Sec. 47, RA 8791)
- I. Partition (Rule 69)
- J. Forcible entry and unlawful detainer
 - 1. Differentiated from *accion publiciana* and *accion reivindicatoria*
 - 2. Rule 70
- K. Contempt (Rule 71)

VI. SPECIAL PROCEEDINGS

- A. Settlement of estate of deceased persons
 - 1. Venue and process (Rule 73)
 - 2. Summary settlement of estates (Rule 74)
 - 3. Allowance or disallowance of wills (Rule 76)
 - 4. Claims against the estate (Rule 86)
 - 5. Payment of the debts of the estate (Rule 88)
 - 6. Sales, mortgages, and other encumbrances of property of decedent (Rule 89)
 - 7. Distribution and partition (Rule 90)
- B. Escheat (Rule 91)
- C. Guardianship
 - 1. Venue (Rule 92)
 - 2. Appointment of guardians (Rule 93)
 - 3. General powers and duties of guardians (Rule 96)
 - 4. Termination of guardianship (Rule 97)
- D. Writ of *habeas corpus*
 - 1. Rule 102
 - 2. Writ of *habeas corpus* in relation to custody of minors (A.M. No. 03-04-04-SC)
- E. Change of name (Rule 103)
- F. Cancellation or Correction of entries in the Civil Registry (Rule 108)
- G. Clerical error law (RA 9048)

VII. CRIMINAL PROCEDURE

- A. General matters
 - 1. Criminal jurisdiction; concept and requisites for exercise
 - 2. When injunction may be issued
- B. Prosecution of offenses (Rule 110)
- C. Prosecution of civil action (Rule 111)
- D. Preliminary Investigation
 - 1. Executive vs. judicial determination of probable cause
 - 2. Rule 112
- E. Arrest (Rule 113)
- F. Bail (Rule 114)
- G. Arraignment and plea (Rule 116)
- H. Motion to quash (Rule 117)

- I. Pre-trial (Rule 118)
- J. Trial (Rule 119)
- K. Judgment (Rule 120)
- L. New trial or reconsideration (Rule 121)
- M. Appeal (Rules 122, 123, 124 and 125)
- N. Search and seizure (Rule 126)
- O. Provisional remedies in criminal cases (Rule 127)
- P. Revised Guidelines on Continuous Trial (A.M. No. 15-06-10-SC)
- Q. The Rule on Cybercrime Warrants (A.M. No. 17-11-03-SC)

VIII. EVIDENCE

- A. General concepts
 - 1. Proof vs. evidence
 - 2. Burden of proof vs. burden of evidence
 - 3. Equipose rule
- B. Admissibility
 - 1. Requisites (Rule 128)
 - 2. Exclusionary rules
 - 3. Judicial notice and judicial admissions (Rule 129)
- C. Object (Real) Evidence (Rule 130, A)
- D. Documentary Evidence (Rule 130, B)
 - 1. Definition
 - 2. Best Evidence rule
 - 3. Secondary evidence
 - 4. Parol Evidence rule
 - 5. Interpretation of documents
- E. Testimonial Evidence (Rule 130, C)
 - 1. Qualification of witnesses
 - 2. Testimonial privilege
 - 3. Admissions and confessions
 - 4. Previous conduct as evidence
 - 5. Testimonial knowledge
 - 6. Hearsay and exceptions to the hearsay rule
 - 7. Opinion rule
 - 8. Character evidence
- F. Burden of proof and presumptions (Rule 131)
- G. Presentation of evidence (Rule 132)
 - 1. Examination of witnesses
 - 2. Authentication and proof of documents
 - 3. Offer and objection
- H. Judicial Affidavit Rule (A.M. No. 12-8-8-SC)
- I. Weight and sufficiency of evidence (Rule 133)
- J. Rules on Electronic Evidence (A.M. No. 01-7-01-SC)

IX. WRIT OF AMPARO (A.M. No. 07-9-12-SC)

X. WRIT OF HABEAS DATA (A.M. No. 08-1-16-SC)

XI. RULES OF PROCEDURE ON ENVIRONMENTAL CASES (A.M. No. 09-6-8-SC)

- A. Temporary Environmental Protection Order (TEPO)
- B. Writ of continuing mandamus
- C. Writ of *kalikasan*

- NOTHING FOLLOWS -