

APPELLATE PRACTICE

1. Appeal: A proceeding by which case from a higher court the review of judgment or final order of a lower court on the ground that the judgment or final order is against the evidence or the law.
2. An appeal may be taken from a particular matter when declared by the rules to be appealable.
3. An appeal is not a constitutional but a statutory right.

Final Judgment Rule: An appeal may be taken only from a judgment or final order that completely disposes of the case or a particular matter which the rules declare to be appealable.

An appeal may be taken only from a

1. Judgment : Decision after the trial of merits.
 - a. Check Section 1 Rule 41 : Those final judgment which are not appealable.
2. Final order that completely disposes case (appeal)
 - a. Vs Interlocutory: It can still proceed with the case an order denying a MTD on the ground of res judicata it will proceed with the case (certiorari)
3. Particular matter in the case when declared by the rules to be appealable.
Example: Here the person who is making an appeal must file both a record of appeal and record of appeal (30 days from order. Record of appeal is needed because the trial court is still deciding the case)
 - a. Order of expropriation;
 - b. Order of partition: Order of partition issued however the court still has to render decision
 - c. Order allowing or disallowing the will: The order allowing the will does not mean that the court is done with the case. It will still render decision as to division of the property, pay the heirs etc.
 - d. An judgment on foreclosure is appealable within 30 days from the filing of the notice of appeal and record on appeal

In appeal the criterion is not grave abuse of discretion but reversible error. This must be differentiated from certiorari which ground is GADALEJ

Q: Can a party file a notice of appeal even if there is a pending MR by the adverse party?

A: Yes. The party can file a notice of appeal even if there is a pending motion for reconsideration by the adverse party. This must be differentiated from the motion for execution pending appeal. If there is a MR you cannot file a motion for execution pending appeal.(JP Latex Technology vs Balloon rangers)

Dual Function of appellate court

1. Review of Correctness of function

2. Institutional Function: Progressive development of the law for general application in the judicial system.

Classification of appeal

1. Appeal as a matter of right / Ordinary appeal (Rule 40 and 41)
2. Discretionary appeal: Petition for review (Rule 42 and 43) * Petition : initiatory pleading
 - a. The appellate court can refuse to give due course to the appeal

MEMORIZE: Ground to Dismiss: MTD: 1. Without merit 2. Dilatory 3. TURK: The issues raised are too unsubstantial to require consideration.

3. Appeal by certiorari/ Petition for review on certiorari (Rule 45) : Discretionary appeal : Rule 45 : SC

General Rule: Go to the SC appeal only through rule 45.

Exception:

1. Notice on appeal: Criminal cases where the penalty of reclusion perpetua is imposed. Notice of appeal to the SC
2. An appeal from the Sandiganbayan criminal case

Modes of appeal

1. Rule 40: MTC (First level courts) to RTC
2. Rule 41: Appeal from the RTC (original)
3. Rule 42: Appeal from the RTC(Appellate)
4. Rule 43 : Appeal from Quasi Judicial bodies
5. Rule 45 : Certiorari to SC

Question of law: The appellant does not have an issue as to the fact the issue here is how the application of law on state of facts.

Notes:

1. A board resolution authorizing representative to initiate the appeal is not required for the purpose of filing a notice of appeal. A board resolution is required in petition for review, but in notice of appeal a board resolution is no longer necessary.

OSG:

Participation of the SOLGEN: Solgen is the lawyer of the government of the republic of the Philippines. In the appeals of the criminal cases before the CA and the SC the OSG represents the people. (If appeal to the CA and SC it is the OSG who represents the SC).

- a. OSG has deputized counsel he still retains supervision and control of the case. Hence the period to appeal a decision is reckoned from the service of the OSG and not on deputized counsel.

Judgment or order NOT APPEALABLE (SPACE 10)

Rhode Island Appellate Practice 1 Vol Thru Rel3 1993

Sebastian Brünink



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Rhode Island Appellate Practice Joseph R. Weisberger, 1991 The rules and statutes affecting appellate practice and procedure as well as commentary are included in this one volume looseleaf work *Rhode Island Appellate Practice Essentials* Deming E. Sherman, Bruce E. Vealey, National Business Institute, 2002 **Effective Appellate Practice in Rhode Island** Thomas R. Bender, John J. Hogan, Peter J. McGinn, 1996 *Reports of Cases Argued and Determined in the Appellate Division of the Supreme Court of Rhode Island* Rhode Island. Supreme Court, 1854 **Rules of Practice of the Supreme Court of the State of Rhode Island, Etc** Rhode Island. Supreme Court, 1932 **Reports of Cases argued and determined in the Supreme Court of Rhode Island, etc. (1828-82.)** Rhode Island. Supreme Court, Samuel AMES, Joseph Kinnicut ANGELL, Charles Smith BRADLEY, 1847 *Reports of Cases Argued and Determined in the Supreme Court of Rhode Island* Rhode Island. Supreme Court, 1906 *First Laws of the State of Rhode Island, (First Laws of the Original Thirteen States)* Rhode Island, John D. Cushing, 1983 **Rules Of Practice Of The Supreme Court Of The State Of Rhode Island, Etc** Rhode Island Supreme Court, 2025-05-22 This volume contains the Rules of Practice of the Supreme Court of the State of Rhode Island providing a detailed guide to the procedures and regulations governing legal proceedings before the court It is an essential resource for legal professionals scholars and anyone interested in understanding the historical and contemporary practices of the Rhode Island judicial system Offering insights into the structure and function of the court this historical document illuminates the evolution of legal standards and protocols The rules of practice detailed within this book reflect the legal landscape of its time offering a valuable reference for comparing past and present judicial methods This work has been selected by scholars as being culturally important and is part of the knowledge base of civilization as we know it This work was reproduced from the original artifact and remains as true to the original work as possible Therefore you will see the original copyright references library stamps as most of these works have been housed in our most important libraries around the world and other notations in the work This work is in the public domain in the United States of America and possibly other nations Within the United States you may freely copy and distribute this work as no entity individual or corporate has a copyright on the body of the work As a reproduction of a historical artifact this work may contain missing or blurred pages poor pictures errant marks etc Scholars believe and we concur that this work is important enough to be preserved reproduced and made generally available to the public We appreciate your support of the preservation process and thank you for being an important part of keeping this knowledge alive and relevant **Rhode Island Civil and Appellate Procedure** , 2004 **Rhode Island Rules of Civil Procedure and Rules of Practice of the Superior Court** Rhode Island. Superior Court, 1965 *Rules of Practice of the Superior Court of the State of Rhode Island* Rhode Island. Superior Court, 1905 **Rules of Practice of the Supreme Court of the State of Rhode Island, Etc** Rhode Island. Supreme Court, 1905 **Index-Digest of the Rhode Island Reports** Rhode Island. Index-Digest, William H.

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