

CHAPTER -5



LEGAL PLEADINGS

Introduction

- Pleadings include:
 - The statement of claims
 - The statement of defense
 - The counterclaim
 - The memorandum of appeal, etc
- Pleadings serve part of the official record of a civil or criminal case
- Pleadings are oftentimes time-sensitive

Civil Pleadings

- Article 80(1) of the CPC:
 - “Pleading shall mean a statement of claim, statement of defence, counter-claim, memorandum of appeal, application or petition and any other document originating procedure or filed in reply thereto”
- Their purpose:
 - To formally initiate legal proceedings
 - To give an official record of the parties’ legal position regarding a cause of action and
 - To give notice of that legal position and initiation of the cause of action to a litigant’s opponent

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- General requirements (80-93 of Art. cpc)
 - All pleadings must be written in “ink, printed or typewritten”
 - You should refrain from submitting any document to a court that is not printed from a word-processor
 - It must include a concise statement of the material facts on which the party relies for his or her claim or defence
 - It must be in a form as near as possible to one of the forms provided in the First Schedule of the Civil Procedure Code

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- In response to another's pleadings, the pleader has the responsibility to raise:
 - All matters which show that a claim or counterclaim is not maintainable
 - All matters which show that a transaction is either void or voidable in point of law
 - All such grounds of defense or reply

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- Denials of facts alleged in an opponent's pleadings must be specific
 - It is insufficient for a pleader to deny generally the grounds alleged by the opponent's statement of claim or counterclaim
 - A statement of defense must deal specifically with each allegation of fact asserted by the opponent's claim or counterclaim
 - Otherwise, the particular fact will be deemed to be admitted [Article 83]

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- Specific requirements
 - For the Statement of Claim (a complaint) (222-233 of the cpc), it must contain:
 - The facts constituting the cause of action
 - The facts showing that the court has jurisdiction
 - The facts showing that the defendant is or claims to be interested in the subject-matter and is liable to be called upon to answer the claim
 - A prayer for relief
 - The specific relief sought by the plaintiff
 - Attaching an annex of the evidences
 - A complete list of those witnesses (if any)
 - Documentary evidences(if any)

Cont'd

- For the statement of defense (response or answer)
 - It gives notice to the court and plaintiff of the reasons why the plaintiff's position cannot be maintained
 - The statement of defense must contain:
 - Any facts showing that the claim is inadmissible for lack of jurisdiction or incapacity or any facts showing that the claim is inadmissible due to limitation;

Cont'd

- A statement of facts stating the material facts upon which the defendant relies upon for his or her defense;
- A specific denial of any fact stated in the statement of claim which is not admitted
 - The statement of defense must answer the point of substance of each and every fact asserted by the statement of claim i.e. evasive denial is not allowed
 - Facts that are not denied specifically or by necessary implication, or stated to be not admitted in the statement of defense, will be taken to be admitted (except against persons under disability)

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- Counter claim
 - If the defendant submits a counterclaim, the plaintiff would have to prepare a statement of defence in response
 - Presumably, the counterclaim would include the same contents as the statement of claim, although the Civil Code does not explicitly express the requirements of a counterclaim

Criminal Pleadings: The Charge

- It is a formal initiation of criminal proceedings
- Informs both the court and the accused of the charges being prosecuted
- The charge must contain (108-122 of the crpc):
 - The offence with which the accused is being charged
 - The legal and material ingredients of the offence