



ADR?

WHAT IS ALTERNATIVE DISPUTE RESOLUTION?



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HISTORY OF ADR

- **Arbitration Law of 1953 (RA No. 876)**

- aimed to re-establish the non-judicial forum of dispute resolution.
- the concept of ADR was born, emphasizing the term “alternative” thereby recognizing that litigation is still the primary mode of resolving conflict and that arbitration only as secondary.



HISTORY OF ADR

- In **1978**, the **Katarungang Pambarangay** was formed (PD 1508).
- This law required the use of mediation, conciliation and arbitration in certain types of disputes in barangay.



HISTORY OF ADR

- In **1991**, the Katarungang Pambarangay Law was integrated into **Local Government Code** (RA 7160) in Title 1, Book 3, Chapter VII Sections 399-422, 515.



HISTORY OF ADR

- In **2004**, RA 9285 (ADR Act of 2004) was passed.



HISTORY OF ADR

- ENABLING LAW OF ADR:
REPUBLIC ACT 9285
(ALTERNATIVE DISPUTE RESOLUTION ACT OF 2004)



ADR ACT OF 2004 (R.A. 9285)

- An Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for Other Purposes



IMPLEMENTING RULES AND REGULATIONS OF ADR ACT OF 2004

- DOJ DEPARTMENT CIRCULAR NO. 98
SERIES OF 2009



OFFICE OF THE ALTERNATIVE DISPUTE RESOLUTION (OADR)

- An attached agency of the DOJ
- Aims to promote, develop and expand the use of alternative dispute resolution (ADR) in the private and public sectors;
- To assist the government to monitor, study and evaluate the use by the public and the private sector of ADR;
- To recommend to Congress needful statutory changes to develop, strengthen and improve ADR practices in accordance with world standards.



USE OF ADR IN GOVERNMENT SECTOR

1. Mandatory Government ADR Systems:
 - A. **Katarungang Pambarangay**
 - B. Judicial ADR Mechanisms
 - C. Labor Dispute Resolution
 - D. Construction Industry Arbitration



ADR AND KP LAW

- R.A. No. 9285 did not repeal, amend or modify the jurisdiction of the Katarungang Pambarangay Law under R.A. No. 7160 or the Local Government Code of 1991.
- These two laws co-exist and complement each other.



COMMON OBJECTIVES OF ADR AND KP LAW

- 1. Preserve the time-honored tradition of amicably settling disputes among parties at community level within their jurisdiction;
- 2. Help lighten the judicial workload of courts and prevent further congestion of dockets of the courts;



CASES UNDER
THE
JURISDICTION
OF
KATARUNGANG
PAMBARANGAY





CASES UNDER THE JURISDICTION OF KP

- Both parties are **natural** persons;
- Both parties are **actual** residents of same barangay OR different barangay but within the same municipality OR different municipality but adjoining barangay provided that both parties agree to participate;
- If subject of complaint is a criminal case, crime must carry an **imposable penalty of not more than one year of imprisonment OR a fine of more than Php 5,000.00**; OR
- If subject of complaint is a civil case, it is **without limit to the value** of property;
- Dispute is not among those excepted **by Sec. 408 and 412** of the Local Government Code of 199, by **jurisprudence** as issued by SC, and by **laws created** by Congress



JURISDICTION OF KATARUNGANG PAMBARANGAY

- 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:**



EXCEPTIONS TO JURISDICTION OF KP (SEC 408 of LGC)

- 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;



EXCEPTIONS TO JURISDICTION OF KP (SEC 408 of LGC)

- 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;



EXCEPTIONS TO JURISDICTION OF KP (SEC 408 of LGC)

- 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;



EXCEPTIONS TO JURISDICTION OF KP (SEC 412 of LGC)

- 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);



EXCEPTIONS TO JURISDICTION OF KP (SEC 412 of LGC)

- 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.



CRIMES UNDER JURISDICTION OF KP

- 1. Alarms and Scandals (Art 155) - menor
- 2. Less Serious Physical Injuries (Art. 265) –(10- 30 days) mayor
- 3. Slight Physical Injuries (Art. 266) – (incapacitated for 1-9 days) mayor/menor
- 4. Abandonment of Minor (Art. 277) – mayor /*correctional
- 5. Abandonment of Persons in Danger (Art 275) - mayor
- 6. Other Forms of Trespass (Art.281) - menor
- 7. Altering boundaries or landmarks (Art 313) – menor *fine
- 8. Removal, Sale or Pledge of Mortgaged Property - mayor



CRIMES UNDER JURISDICTION OF KP

- 8. Light Coercion/ unjust vexation (Art. 287 par2) menor/* fine
- 9. Light Threats – (Art 281) mayor
- 10. Theft (Art 309) (20k and below) mayor/menor
- 11. Swindling/ Estafa (Art. 315) (not more than P1, 200,000) mayor
- 12. Other Forms of Swindling (Art 316) mayor
- 13. Swindling a Minor (Art. 317) mayor
- 14. Interpreting dreams, telling fortunes (Art 318) menor
- Arson of Small Value (P25.00) and Other Case of Arson (P50-1,000)



CRIMES UNDER JURISDICTION OF KP

- 16. Other Mischiefs (Art 329) mayor/ menor
- 17. 19. 21. Slander by Deed (Art 359) (if not of serious nature) – menor



CRIMES UNDER JURISDICTION OF KP

- 22. Slander (Art 358) (oral defamation not of serious nature) menor
- 23 Incriminating Innocent Persons (Art 363) - menor
- 24. Reckless Imprudence (Art 365) mayor/menor



CRIMES UNDER JURISDICTION OF KP

PENALTY OF *ARRESTO MENOR* – 1- 30 DAYS

PENALTY OF *ARRESTO MAYOR* – 1MONTH AND 1 DAY
TO 6 MONTHS



CRIMES UNDER JURISDICTION OF KP

ALARMS AND SCANDALS

- Discharge of firearms, rockets, fire crackers or other explosives calculated to cause alarm or danger
- To take an active part in charivari or any disorderly meeting prejudicial to public tranquility
- Wandering about at night while engaged in nocturnal amusements and disturb public peace
- While intoxicated, causes public disturbance in public



CRIMES UNDER JURISDICTION OF KP

OTHER FORMS OF TRESPASS

- any person who enters closed premises or fenced estate of another, while uninhabited, but with manifest prohibition to enter. (NO TRESPASSING sign)



CRIMES UNDER JURISDICTION OF KP

LIGHT COERCION

- any person who by means of violence, seize anything belonging to his debtor for the purpose of applying the same as payment to debt (mayor)
- Unjust vexation (menor)



CRIMES UNDER JURISDICTION OF KP

LIGHT THREATS (mayor)

- A threat to commit a wrong not constituting a crime

OTHER LIGHT THREATS (menor)

- Drawing a weapon during quarrel (unless a lawful self defense)
- In heat of anger, orally threatens another of harm not constituting a crime but did not pursue with the threat



CRIMES UNDER JURISDICTION OF KP

OTHER MISCHIEFS/ MALICIOUS MISCHIEF

- to deliberately cause damage to the property of another (not falling under the provision of Special Cases of Malicious Mischief)
- If damage is not more than P40,000.00 (menor)
- If damage is more than P40,000.00 but less than P200,000.00 (mayor minimum to medium)
- If damage is more than P200,000.00 (mayor medium to max)



EXECUTION OF AWARD



PROPERTY EXEMPT FROM EXECUTION

(ARI-ARIANG DI KASAMA SA PAGPAPATUPAD)

1. Tahanan ng may pagkakautang
2. Mga Kasangkapang ginagamit sa hanapbuhay
3. Dalawang (2) kabayo o dalawang (2) baka o dalawang (2) kalabaw o iba pang hayop na kargahan na maaaring piliin ng may pakakautang



4. Kailangang kasuotan ng may pagkakautang pati ng kanyang pamilya
5. Households' furniture/utensils necessary for housekeeping
6. Gastusin para sa indibidwal o gamit ng pamilya para sa apat (4) na buwan



7. Professional libraries of attorneys, judges, physicians, pharmacists, dentists, engineers, surveyors, clergymen, teachers and other professionals
8. Isang (1) bangkang pangisda, lambat at iba pang gamit sa pangangisda na siya lamang tanging pinagkukunan ng kita



9. Mga lapidang may sulat
10. Salapi at benepisyo galing sa seguro maliban kung hindi hihigit ang kita sa P100,000.00