

Appeal from RTC to CA



The following orders and judgments cannot be appealed (Rule 41, Section 1):

1. An order denying a motion for new trial or reconsideration (the appellant, in appealing the decision, can assign as errors the ruling of the court in denying the motion for new trial or reconsideration, or he may resort to certiorari)

2. An order denying a petition for relief or any similar motion seeking relief from a judgment

3. An interlocutory order (the remedy in this case is to file for certiorari but only in cases of grave abuse of discretion tantamount to lack or excess of jurisdiction)

4. An order disallowing or dismissing an appeal (remedy is either mandamus or certiorari, or petition for relief under Rule 38, Section 2)

5. An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent (re-

medy is either certiorari or annulment of the decision filed with the CA under Rule 47)

6. An order of execution (if the order varies the terms of the judgment, the losing party should file a special civil action for certiorari)

7. A judgment or final order in separate claims, counterclaims, crossclaims and third party complaints, while the main case is pending, unless the court allows an appeal.

8. An order dismissing an action without prejudice (the losing party can simply refile the case, or file for certiorari)

From MTC to RTC to the CA (Rule 42)

1. If case is appealed from the MTC and decided by the RTC, the appellant files a verified petition for review with the CA. Copies are served on the RTC and the adverse party within fifteen days from notice of the decision of the RTC.

2. The CA may require the respondent to file a comment on the petition, not a motion to dismiss, within ten days from

notice, or dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questions raised are too unsubstantial for consideration.

3. If given due course, the CA may order the elevation of the records of the RTC. It may require oral arguments or the submission of memoranda.

4. The CA may dismiss the appeal. It may reverse, affirm or modify the appealed judgment, or it may remand the case to the RTC for a new trial.

If the case is tried first at the RTC, the appellant files a notice of appeal with the RTC within fifteen days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty days from notice of the judgment or order (Rule 41)

Judgments, orders and resolutions of the RTC may be annulled by the CA based on grounds of extrinsic fraud and lack of jurisdiction (Rule 47). A motion for new trial may be filed based on newly discovered evidence (Rule 53).