14. OTHER SPECIAL PROCEEDINGS

1. Voluntary Dissolution of Corporations

1. This Rule is no longer relevant. The voluntary dissolution of corporations has been governed by Presidential Decree No. 902-A and the provisions of the Corporation Code, particularly Secs. 117 to 122 thereof.

2. Proceedings have been before the Securities and Exchange Commission, but under Rep. Act No. 8799, which is the new Securities Regulation Code, approved July 19, 2000, its quasi-judicial cases have been transferred back to the regular courts. Sec. 5.2 of Rep. Act No. 8799 provides:

> The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: *Provided*, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/ rehabilitation cases filed as of 30 June 2000 until finally disposed.

3. Section 5 of Presidential Decree No. 902-A, mentioned in Sec. 5.2 of Rep. Act No. 8799 above-quoted, enumerates the following cases:

> (a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.
>
> (b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;
>
> (c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations; and
>
> (d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership, or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree. (*as added by P.D. No. 1758.*)

4. Decisions of the courts in the foregoing cases are appealable to the Court of Appeals, as provided by Section 70 of Rep. Act No. 8799, which is an affirmation of

Rule 43, 1997 Rules of Civil Procedure.

5. Effective December 15, 2000, the Interim Rules of Procedure on Corporate Rehabilitation took effect on December 15, 2000. (A.M. No. 008-10-SC, promulgated on November 21, 2000)

2. Judicial Approval of Voluntary Recognition of Minor Natural Children

1. There is no longer any provision in the Family Code for acknowledged natural children. Children are either legitimate or illegitimate.

2. What is to be proved is filiation, and voluntary recognition could be the means of proving filiation if the putative father or mother would later refuse to continue the child.

3. Relevant provisions of law are in Articles 172, 173 and 175 of the Family Code.

4. In the case of illegitimate children, the action also survives the death of either or both of the parties except when the action is based on the second paragraph of Article 172, referring to an action based on the open and continuous possession of the status of a legitimate child and any other means allowed by the Rules of Court, in which case the action may be brought only during the lifetime of the alleged parent.

5. The action under Rule 105 may be converted to an action for paternity and filiation.

5.1 Venue

The petition should be filed in the RTC (CFI) where the child resides. [264]

5.2 Contents of petition

Aside from the jurisdictional facts, the petition shall contain:

5.2.1 the names and residences of the parents or one of them who acknowledged, their compulsory heirs and the person or persons with whom the child lives; and

5.2.2 the document containing the recognition, a copy of which should be attached to the petition, which document is either a statement before a court of record or an authentic writing. [265]

5.3 A hearing is held after notice and publication. [266]The court grants the petition when it is satisfied that the recognition was willingly and voluntarily made and is for the best interest of the child. [267]

3. Constitution of the Family Home

1. Rule 106 on the Constitution of the Family Home is already irrelevant in view of the Family Code.

2. Under the Family Code, the family home is automatically constituted. Article 153 of the Family Code provides: 'The family home is deemed constituted on a house and lot from the time it is occupied as a family residence.'

3. The constitution of the family home, however, is not retroactive. [268]

4. The family home must be deemed constituted on both the house and lot such that if the occupants of the family residence do not own the lot on which it stands, there is no family home exempt from execution. [269]

[264] Rules of Court, Rule 105, Sec. 5.
[265] *Ibid*, Sec. 2.
[266] *Ibid*, Sec. 3.
[267] *Ibid*, Sec. 5.
[268] Modequilla v. Breva, G.R. No. 86355, May 31, 1990, 185 SCRA 766; Manacop v. Court of Appeals, G.R. No. 104875, November 13, 1992, 215 SCRA 773; Taneo, Jr. v. Court of Appeals, G.R. No. 108532, March 9, 1999, 304 SCRA 308, 319-320 [1999].
[269] Taneo, Jr. v. Court of Appeals, *supra,* note 268.