

# Special Civil Actions



**1. Interpleader (Rule 62)** - a person who has property in his possession goes to court and asks that persons who claim the said property be required to litigate among themselves in order to determine who is the rightful owner or claimant. Upon the filing of the complaint, the court issues an order requiring the conflicting claimants to file their respective answers.

**2. Declaratory relief (Rule 63)** - a person asks the court to declare his rights or duties under a contract or law. There is no breach yet of the contract or any violation of the law but there is a genuine controversy. The court only makes a declaration about the rights or duties of the parties, and there is no execution of the decision.

**3. Review of judgments and final orders or resolutions of the Comelec and Commission of Audit (Rule 64)** - brought by the aggrieved party to the Supreme Court on certiorari under Rule 65. However, judgments and orders of the Civil Service Commission fall under the exclusive appellate jurisdiction of the Court of Appeals under Rule 43.

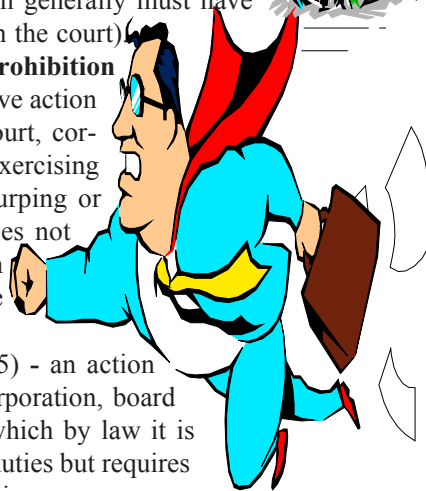
**4. Petition for certiorari (Rule 65)** - corrective action brought against any court, board or officer exercising judicial functions which is alleged to have acted (a) without jurisdiction; (b) in excess of jurisdiction; (c) with grave abuse of discretion.

This remedy may be resorted to when there is no other plain, speedy and adequate remedy in the ordinary course of law (but a motion for reconsideration generally must have been filed first with the court)



**5. Petition for prohibition (Rule 65)** - a preventive action intended to stop a court, corporation, board or person exercising judicial or ministerial functions from usurping or exercising jurisdiction which it or he does not have. Prohibition does not undo an action but restrains further proceedings by the court, person, etc.

**6. Petition for mandamus (Rule 65)** - an action asking the court to compel a court, corporation, board or person to perform a specific duty which by law it is obliged to do. Mandamus does not create duties but requires the performance of duties which are existing.



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**7. Quo warranto** (Rule 66) - generally brought by the government against a person, public officer or corporation, charging the latter with usurpation of office or franchise. This action intends to oust the defendant from his office or from enjoying privileges if the right to hold such office is not well founded, or if the holder has forfeited the said right. An individual person claiming to be entitled to a public office or position may also file this action in his name.

**8. Expropriation** (Rule 67) - also referred to as “eminent domain”, this is the power of government to take and appropriate private property for public use, but which can only be done if due process is complied with and just compensation is paid.

**9. Foreclosure of mortgage** (Rule 68) - the judicial or extra-judicial procedure by which a mortgagee-creditor or one who has succeeded to his rights is allowed to have the mortgaged property sold so that the debt may be satisfied from the proceeds of the said sale.

**10. Partition** (Rule 69) - the division and assignment of property owned in common by various co-owners according to each one’s interest in the said property. If the parties are unable to agree on the partition, the court appoints commissioners to make the partition, subject to its approval.

**11. Forcible entry** (Rule 70) - recovery of possession of any land or building taken by force, intimidation, strategy, threat or stealth.

**12. Unlawful detainer** (Rule 70) - brought by a land or building owner to recover the possession of his property from a person who is unlawfully holding the said property; for example, when a person refuses to vacate an apartment unit at the end of the lease contract.

**13. Contempt** (Rule 71) - Indirect contempt consists of such acts as mis-behavior by a court official in the performance of his duties; disobedience or resistance to a writ, process, order or judgment of the court; assuming to be an attorney or officer of the court and acting as such without authority; and failure to obey a subpoena served. Direct contempt is misbehavior in or near the presence of a judge or court which obstructs or interrupts court proceedings (punished by fine and imprisonment).

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**Forcible entry :** ( a ) possession is unlawful from the beginning; ( b ) formal demand to vacate is not essential before filing of suit; ( c ) one year demand in which to file starts upon unlawful entry into plaintiff’s entry; ( d ) plaintiff must prove that he was in prior physical possession of property until he was deprived thereof by the defendant.

**Unlawful detainer :** ( a ) possession was lawful at the beginning but became unlawful upon termination of the right to possess; ( b ) prior formal demand to vacate is essential unless the cause is the expiration of lease contract; ( c ) the one-year period within which to file the complaint starts from plaintiff’s last demand to vacate the property; ( d ) the plaintiff was in prior physical possession of the property.

