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SECOND DIVISION

[G.R. No. 172023. July 9, 2010]

HEIRS OF SANTIAGO C. DIVINAGRACIA, *petitioners, vs.* **HONORABLE J. CEDRICK O. RUIZ, Presiding Judge, Branch 39, Regional Trial Court, Iloilo City; GERRY D. SUMACULUB, as Clerk of Court of the Regional Trial Court; CBS DEVELOPMENT CORPORATION, INC. (CBSDC) represented by its President and Chief Executive Officer, ROGELIO M. FLORETE, SR., and DIAMEL, INC., represented by ROGELIO M. FLORETE, SR.,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; INTERIM RULES OF PROCEDURE GOVERNING INTRA-CORPORATE CONTROVERSIES; THAT DECISIONS COVERED THEREBY ARE IMMEDIATELY EXECUTORY EXCEPT AWARDS FOR MORAL DAMAGES, EXEMPLARY DAMAGES AND ATTORNEY'S FEES; RETROACTIVE APPLICATION THEREOF. — On 19 September 2006, while the present [intra-corporate] case remained pending before this Court, the Court *en banc* issued a Resolution in A.M. No. 01-2-04-SC titled "R**e:** Amendment of Section 4, Rule 1 of the Interim Rules of Procedure Governing Intra-Corporate Controversies by Clarifying that Decisions Issued Pursuant to Said Rule are Immediately Executory Except the Awards for Moral Damages, Exemplary Damages and Attorney's Fees, if any." x x x The amended provision expressly exempts awards for moral damages, exemplary damages, and attorney's fees from the rule that decisions and orders in cases covered by the Interim Rules are immediately executory. As can be gleaned from the title of A.M. No. 01-2-04-SC, the amendment of Section 4, Rule 1 of the Interim Rules was crafted precisely to clarify the previous rule that decisions on intra-corporate disputes are immediately executory, by specifically providing for an exception. Thus, the prevailing rule now categorically provides that awards for moral damages, exemplary damages, and attorney's fees in intra-

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corporate controversies are ***not*** immediately executory. Indisputably, the amendment of Section 4, Rule 1 of the Interim Rules is procedural in character. Well-settled is the rule that procedural laws are construed to be applicable to actions pending and undetermined at the time of their passage, and are deemed retroactive in that sense and to that extent. Procedural laws do not fall under the general rule against retroactive operation of statutes. Further, the retroactive application of procedural laws does not violate any personal rights because no vested right has yet attached or arisen from them. Clearly, the amended Section 4, Rule 1 of the Interim Rules must be applied retroactively to the present case.

2. ID.; ID.; ID.; ID.; THAT EVEN THEN, AWARDS FOR MORAL AND EXEMPLARY DAMAGES CANNOT BE THE SUBJECT OF EXECUTION PENDING APPEAL; ELUCIDATED.— Even before the amendment of Section 4, Rule 1 of the Interim Rules, the Court has already held that awards for moral and exemplary damages cannot be the subject of execution pending appeal. In *International School, Inc. (Manila) v. Court of Appeals*, the Court reiterated the ruling in *Radio Communications of the Philippines, Inc. (RCPI) v. Lantin*, and quoted the following reason for such principle: x x x **The execution of any award for moral and exemplary damages is dependent on the outcome of the main case**. Unlike the actual damages for which the petitioners may clearly be held liable if they breach a specific contract and the amounts of which are fixed and certain, liabilities with respect to moral and exemplary damages as well as the exact amounts remain uncertain and indefinite pending resolution by the Intermediate Appellate Court and eventually the Supreme Court. **The existence of the factual bases of these types of damages and their causal relation to the petitioners' act will have to be determined in the light of errors on appeal**. It is possible that the petitioners, after all, while liable for actual damages may not be liable for moral and exemplary damages. Or as in some cases elevated to the Supreme Court, the awards may be reduced.

APPEARANCES OF COUNSEL

Fortun Narvasa & Salazar for petitioners.
Gregorio M. Rubias for respondents.

D E C I S I O N

CARPIO, *J.*:

The Case

For review[1] is the 6 October 2005 Decision[2] and 22 February 2006 Resolution[3] of the Court of Appeals in CA-G.R. CEB-SP No. 00040. The Court of Appeals dismissed the petition for *certiorari* filed by petitioners seeking the nullification of the 13 October 2004 Resolution[4] and the 17 November 2004 writ of execution[5] issued in Corporate Case No. 02-27050. In the assailed resolution, the Court of Appeals denied reconsideration.

The Antecedents

The present controversy originated from Corporate Case No. 02-27050, which involved a Petition for *Mandamus* and Nullification of Delinquency Call and Issuance of Unsubscribed Shares filed by Santiago C. Divinagracia (Santiago) before the Regional Trial Court of Iloilo City.

Santiago alleged that he was then a stockholder of respondent CBS Development Corporation, Inc. (CBSDC), owning 3,000 shares, and was issued CBSDC certificates of stock for 750 shares. In petitioners' Memorandum, they alleged that Santiago opposed a proposal to authorize respondent Rogelio Florete, in his capacity as President of CBSDC, to mortgage all or substantially all of CBSDC's real properties to secure the loan obtained by Newsounds Broadcasting Network, Inc. (NBN), Consolidated Broadcasting System (CBS), and People's Broadcasting Services, Inc. (PBS). However, despite Santiago's

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[1] Under Rule 45 of the Rules of Court.

[2] *Rollo*, pp. 50-57. Penned by Associate Justice Isaias P. Dicdican with Associate Justices Ramon M. Bato, Jr. and Enrico A. Lanzanas concurring.

[3] *Id.* at 58-59.

[4] *Id.* at 161-166.

[5] *Id.* at 188-190.

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and the other stockholders' protest, a majority, representing more than 2/3 of the outstanding capital stock of CBSDC, voted and approved the grant of such authority to the Board.

Subsequently, Santiago, as a dissenting stockholder, wrote a letter objecting to the mortgage and exercising his appraisal right under Section 81 of the Corporation Code. In response, the corporate secretary informed Santiago that a majority of CBSDC's Board of Directors approved the exercise of his appraisal right.

Thereafter, Santiago surrendered his stock certificates to CBSDC and then demanded an appraisal of his shares. The Board indefinitely postponed action on Santiago's appraisal right, to which Santiago protested. The corporate secretary denied Santiago's protest and informed him that his CBSDC shares, including those for which he was issued Certificates of Stock, were declared delinquent and were to be sold on auction on 12 February 2002.

On 6 February 2002, Santiago filed with the Regional Trial Court of Iloilo City a Petition for *Mandamus* and Nullification of Delinquency Call and Issuance of Unsubscribed Shares.

On 12 February 2002, Santiago's CBSDC shares were sold on auction to respondent Diamel, Inc. Consequently, Santiago filed an amended petition on 10 June 2002.

Private respondents filed an Answer with Compulsory Counterclaim.

On 14 April 2004, Santiago died and his heirs substituted him in the case.

On 12 August 2004, respondent Judge rendered a Decision, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing disquisitions, the instant "Petition" and/or "Amended Petition" is/are hereby DISMISSED for utter lack of merit.
>
> The "Compulsory Counterclaim[s]" of the herein corporate respondents CBS Development Corporation, Inc. (CBSDC) and Diamel, Inc. (Diamel) are hereby given DUE COURSE and GRANTED. Consequently, the Heirs of Santiago Divinagracia, namely:

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	NAME	RESIDENCE
1.	Ma. Elena R. Divinagracia	23 Delgado St., Iloilo City
2.	Elsa R. Divinagracia	No., 1st Street Paradise Village Banilad, Cebu City
3.	Ruth Marie R. Divinagracia	Unit 4-C, Torre de Salcedo, Salcedo St., Legaspi Village, Makati City
4.	Liane Grace R. Divinagracia	23 Delgado St., Iloilo City
5.	Ricardo R. Divinagracia	16 Fajardo St., Jaro, Iloilo City
6.	Ma. Fe Emily R. Divinagracia	23 Delgado St., Iloilo City

("Notice of Death And Substitution Of Parties," page 1) are hereby ordered, jointly and severally, to pay each of the aforementioned corporations the following, to wit:

1. ONE HUNDRED THOUSAND PESOS (₱100,000.00) as and for exemplary damages; and

2. ONE HUNDRED THOUSAND PESOS (₱100,000.00) as and for attorney's fees.

No pronouncement as to costs.

SO ORDERED.[6]

On 26 August 2004, petitioners filed a Notice of Appeal of the trial court's decision.

On the other hand, private respondents filed on 30 August 2004 a Motion for Immediate Execution of the trial court's decision, which petitioners opposed.

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[6] *Id.* at 150-151.

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On 13 October 2004, respondent Judge issued a Resolution granting the motion and ordering the issuance of a writ of execution.

On 18 October 2004, petitioners filed a Petition for *Certiorari*[7] with Prayer for Temporary Restraining Order and Writ of Injunction before the Court of Appeals-Cebu City assailing the 13 October 2004 Resolution.

Meanwhile, on 17 November 2004, the trial court issued a writ of execution.

On 6 October 2005, the Court of Appeals rendered the assailed Decision, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the petition filed in this case and AFFIRMING the assailed resolution issued by the respondent judge on August 12, 2004[8] in Corporate Case No. 02-27050.
>
> SO ORDERED.[9]

On 22 February 2006, the Court of Appeals denied the motion for reconsideration.

Hence, this petition.

The Court of Appeals' Ruling

The Court of Appeals found no grave abuse of discretion in respondent judge's granting of private respondents' motion for immediate execution of the 12 August 2004 decision in Corporate Case No. 02-27050. According to the Court of Appeals, respondent judge acted pursuant to Section 4, Rule 1 of the Interim Rules of Procedure for Intra-Corporate Controversies (Interim Rules) which provides that "all decisions rendered in intra-corporate controversies shall immediately be executory."

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[7] Under Rule 65 of the Rules of Court.

[8] Should be 13 October 2004.

[9] *Rollo*, p. 56.

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The Issue

Petitioners raise the sole issue of whether the award of exemplary damages and attorney's fees in favor of private respondents can be immediately executed pending appeal of the corporate case.

The Ruling of the Court

The petition is meritorious.

From the filing of the intra-corporate dispute on 6 February 2002 until the promulgation of the challenged Court of Appeals' decision and resolution on 6 December 2005 and 22 February 2006, respectively, the governing rule, specifically Section 4, Rule 1 of the Interim Rules,[10] provided that:

> All decisions and orders issued under these Rules shall immediately be executory. No appeal or petition taken therefrom shall stay the enforcement or implementation of the decision or order, unless restrained by an appellate court. Interlocutory orders shall not be subject to appeal.

On 19 September 2006, while the present case remained pending before this Court, the Court *en banc* issued a Resolution in A.M. No. 01-2-04-SC titled "Re: Amendment of Section 4, Rule 1 of the Interim Rules of Procedure Governing Intra-Corporate Controversies by Clarifying that Decisions Issued Pursuant to Said Rule are Immediately Executory Except the Awards for Moral Damages, Exemplary Damages and Attorney's Fees, if any." The Court resolved to amend specifically Section 4, Rule 1 of the Interim Rules, to wit:

> Acting on the Resolution dated September 5, 2006 of the Committee on the Revision of Rules of Court, the Court Resolved to AMEND Section 4, Rule 1 of The Interim Rules of Procedure Governing Intra-Corporate Controversies as follows:
>
> xxx xxx xxx

[10] Embodied in A.M. No. 01-2-04-SC (RE: PROPOSED INTERIM RULES OF PROCEDURE GOVERNING INTRA-CORPORATE CONTROVERSIES UNDER R.A. NO. 8799) and issued on 13 March 2001.

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> SEC. 4. Executory nature of decisions and orders.— All decisions and orders issued under these Rules shall immediately be executory EXCEPT THE AWARDS FOR MORAL DAMAGES, EXEMPLARY DAMAGES AND ATTORNEY'S FEES, IF ANY. No appeal or petition taken therefrom shall stay the enforcement or implementation of the decision or order, unless restrained by an appellate court. Interlocutory orders shall not be subject to appeal.

The amended provision expressly exempts awards for moral damages, exemplary damages, and attorney's fees from the rule that decisions and orders in cases covered by the *Interim Rules* are immediately executory. As can be gleaned from the title of A.M. No. 01-2-04-SC, the amendment of Section 4, Rule 1 of the Interim Rules was crafted precisely to clarify the previous rule that decisions on intra-corporate disputes are immediately executory, by specifically providing for an exception. Thus, the prevailing rule now categorically provides that awards for moral damages, exemplary damages, and attorney's fees in intra-corporate controversies are ***not*** immediately executory.

Indisputably, the amendment of Section 4, Rule 1 of the Interim Rules is procedural in character. Well-settled is the rule that procedural laws are construed to be applicable to actions pending and undetermined at the time of their passage, and are deemed retroactive in that sense and to that extent. Procedural laws do not fall under the general rule against retroactive operation of statutes.[11] Further, the retroactive application of procedural laws does not violate any personal rights because no vested right has yet attached or arisen from them.[12] Clearly, the amended Section 4, Rule 1 of the Interim Rules must be applied retroactively to the present case. Therefore, the trial court's award of exemplary damages and attorney's fees in favor of private respondents is not immediately executory.

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[11] *Republic of the Philippines v. Court of Appeals*, 447 Phil. 385, 393 (2003).

[12] See *Padua v. Court of Appeals*, G.R. No. 152150, 10 December 2008, 573 SCRA 383, 388.

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Moreover, even before the amendment of Section 4, Rule 1 of the Interim Rules, the Court has already held that awards for moral and exemplary damages cannot be the subject of execution pending appeal. In *International School, Inc. (Manila) v. Court of Appeals,*[13] the Court reiterated the ruling in *Radio Communications of the Philippines, Inc. (RCPI) v. Lantin,*[14] and quoted the following reason for such principle:

x x x **The execution of any award for moral and exemplary damages is dependent on the outcome of the main case.** Unlike the actual damages for which the petitioners may clearly be held liable if they breach a specific contract and the amounts of which are fixed and certain, liabilities with respect to moral and exemplary damages as well as the exact amounts remain uncertain and indefinite pending resolution by the Intermediate Appellate Court and eventually the Supreme Court. **The existence of the factual bases of these types of damages and their causal relation to the petitioners' act will have to be determined in the light of errors on appeal.** It is possible that the petitioners, after all, while liable for actual damages may not be liable for moral and exemplary damages. Or as in some cases elevated to the Supreme Court, the awards may be reduced.[15] (Emphasis supplied)

WHEREFORE, we *GRANT* the petition. We *SET ASIDE* the 6 October 2005 Decision and 22 February 2006 Resolution of the Court of Appeals in CA-G.R. CEB-SP No. 00040.

SO ORDERED.

Abad, Villarama, Jr.,[*] *Perez,*[**] and *Mendoza, JJ.,* concur.

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[13] 368 Phil. 791, 804 (1999).

[14] G.R. No. 59311, 31 January 1985, 134 SCRA 395.

[15] *Id.* at 400-401.

[*] Designated additional member per Special Order No. 858.

[**] Designated additional member per Special Order No. 863.