PHILIPPINE COMPUTER SOLUTIONS, INC., PETITIONER, VS. HON. JOSE R. HERNANDEZ, PRESIDING JUDGE, RTC OF PASIG CITY, BR. 158, AND WINEFRIDA MANZO, RESPONDENTS.

G.R. NO. 168776. July 17, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Court filed by petitioner Philippine Computer Solutions, Inc. assailing (1) the Decision[1] of the Court of Appeals in CA-G.R. SP No. 81351 dated 30 September 2004 affirming the Order[2] dated 8 December 2003 of the Regional Trial Court (RTC) of Pasig City, Branch 158, in Civil Case No. 68524, denying petitioner's Motion for the Issuance of a Commission to Depose its witnesses abroad, and (2) the Resolution[3] of the Court of Appeals dated 17 May 2007 denying petitioner's Motion for Reconsideration.

Petitioner was incorporated on 17 October 1994 for the purpose of providing general computer services in the Philippines. Its incorporators, who are also its stockholders, are Ralph Bergen (Bergen), Rizalito Condol (Condol), Josephine Fugoso (Fugoso), Norma Potot (Potot), and Adorina Lisama (Lisama). Alleging that its corporate name was being unlawfully used in unauthorized business transactions both here in the Philippines and overseas, petitioner filed on 7 June 1999 before the Securities and Exchange Commission (SEC) a Complaint[4] against Condol and Lisama, together with Winefrida Manzo (Manzo), private respondent in this petition, and Condol International Incorporated (Condol International), a corporation organized under Philippine Laws on 29 August 1996 and is engaged in similar business as that of the petitioner.

The Complaint alleged that Condol previously withdrew his participation in the business of petitioner but continued to remain as an incorporator and shareholder thereof. Petitioner subsequently discovered that Condol had been engaging or is continuously engaged in business in its behalf both in the Philippines and abroad. Condol was acting as the purported corporate president and Manzo as the alleged corporate secretary/treasurer of petitioner. In January of 1996, Manzo, in her capacity as the alleged corporate secretary, executed an Affidavit of Loss of Stock and Transfer Book of petitioner. An investigation of the records with the SEC showed that Condol, Lisama and Manzo executed a Trustees' Certificate where they made it appear that petitioner created a Board of Trustees where they were appointed as members, and that petitioner's Amended Articles of Incorporation was approved by 2/3 of the members and majority of the Board of Trustees at a meeting held on 22 January 1996 at petitioner's principal office. The stipulations in the Trustees' Certificate are false and fraudulent inasmuch as petitioner is a stock corporation governed by a Board of Directors. On the basis of the Trustees' Certificate, Condol, Lisama and Manzo were able to amend petitioner's Articles of Incorporation with respect to the address of its principal office. Condol, Lisama and Manzo, representing themselves as officers of petitioner, conducted business with clients, collected money and hired employees. In the early part of 1995, Condol, Lisama and Manzo, in behalf of petitioner, entered into a partnership with PeopleSoft Australia and executed an Implementation Partners Agreement with the latter. Considering petitioner's demand to refrain from any business

dealings in its name, Condol effected the transfer of petitioner's right arising from the Implementation Partners Agreement with PeopleSoft Australia to Condol International. Condol, Lisama and Manzo, likewise, contracted with PeopleSoft USA[5] later transferring the contractual rights they derived therefrom to Condol International.

Of the four defendants named in the SEC complaint, only Manzo filed an Answer as well as a Motion to Dismiss the Complaint. It appears that the SEC failed to serve summons on the rest of the defendants since they can no longer be found in their respective last known addresses.

The SEC heard Manzo's Motion to Dismiss on 26 August 1999 and directed the service of summons by publication upon the remaining defendants on 1 April 2000.

Before petitioner could serve summons by publication, Republic Act No. 8799, which transferred jurisdiction over intra-corporate controversies to the regular courts, took effect. Consequently, the pending dispute was transferred, initially to the RTC of Cebu City, Branch 11, and later to the RTC of Pasig City, Branch 158, where it was docketed as SEC Case No. 68524.

In compliance with the trial court's 3 April 2002 Order, petitioner caused the service of the summons and the complaint, along with the copy of the court order dated 3 April 2002, upon Condol, Lisama and Condol International by publication in the 3 May 2002 issue of the Malaya. Petitioner also sent a letter to said defendants informing them of the fact of publication and furnishing them copies of the summons and the order dated 3 April 2002, of the trial court. None of these defendants filed an Answer.

Meanwhile, petitioner served written interrogatories upon Manzo. After initially objecting thereto, the latter filed her answer and, likewise, moved for the resolution of her pending Motion to Dismiss.

For their failure to file an Answer notwithstanding valid service of summons by publication, petitioner filed a Motion to Declare the non-participating defendants in default. It also filed a Motion dated 16 September 2003[6] for the Issuance of a Commission to take the deposition in Australia of a corporate officer of PeopleSoft Australia regarding the details of the foreign corporation's transactions with defendants; as well as that of Bergen, one of petitioner's incorporators and stockholders, who was then in the United States.

Manzo filed an Opposition to the motion to which petitioner countered with a Rejoinder.

In an Order dated 8 December 2003, the trial court denied Manzo's Motion to Dismiss and granted petitioner's Motion to Declare in Default Condol, Lisama and Condol International. The trial court, however, denied petitioner's Motion for the Issuance of a Commission.

The assailed RTC order reads:

> Lastly, [herein petitioner's] Motion for Issuance of Commission is DENIED. It is clearly a circumvention of Section 1, Rule 3 of the Interim Rules of Procedure for Intra-Corporate Controversies which provides that "a party can only avail of any of the modes of discovery not later than fifteen days from the joinder of issues." From the very beginning, [petitioner] has already alleged that defendant [Manzo] usurped its corporate powers and rights when they transacted business with PeopleSoft Australia (see pars. 2.17 and 4.4 of Complaint). The fact that defendant Manzo made admissions in her Answers to Written Interrogatories with respect to the allegation of usurpation of corporate powers did not change anything. Regardless of whether or not Manzo made such admissions, [petitioner] should have availed of the modes of discovery to ascertain the factual bases of its Complaint and gather evidence during such period when the same is allowed by the rules. Likewise, the personal circumstances of Bergen which would prevent him from personally testifying before this Court has been evident from the beginning.
>
> [Petitioner] cannot properly find solace in the cases of Fortune Corporation v. Court of Appeals (G.R. No.

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> 108119, January 19, 1994), Republic v. Sandiganbayan (G.R No. 112710, May 30, 2001) and Dasmariñas Garments, Inc. v. Hon. Reyes (G.R. No. 108229, August 24, 1993). While all three cases indeed allow oral testimony to be substituted by deposition under exceptional circumstances, both the Fortune and Dasmariñas cases presuppose that the deposition has been taken "only in accordance with (these) rules," or only during the period allowed under the Rules of Court. Moreover, in the Republic case, the main issue raised was whether or not a party may be allowed to take depositions before answer was served without leave of court.
>
> However, none of these cases resolved the issue of whether or not deposition may be accepted by the Court in lieu of direct testimony of the witness, especially so when the party could have taken such deposition at the earliest possible opportunity and within the period prescribed by law, but failed to do so. This Court then finds no cogent reason to allow the [petitioner] to avail of any of the modes of discovery beyond the period prescribed by the Interim Rules.[7]

Further in its Order[8] dated 7 March 2003, the trial court clarified that "for purposes, therefore, of reckoning the limited period to avail of any of the modes of discovery under Section 1, Rule 3 of the Interim Rules of Procedure governing intra-corporate controversies, there is deemed to have been a joinder of issues as of 3 July 2002 or immediately after the period for the respondents to file their Answer has lapsed. Petitioner, therefore, had until 18 July 2002 or fifteen days from the joinder of issues to avail of any of the modes of discovery." Having filed the motion to take deposition on 16 September 2003, the same was clearly beyond the 15-day period allowed by Rule 3, Section 1 of the Interim Rules on Intra-Corporate Controversies.

From this Order of the RTC, petitioner sought recourse before the Court of Appeals by way of a Petition for Certiorari with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction. The Court of Appeals did not issue the restraining order or injunction prayed for; thus, the trial court continued with the proceedings in Civil Case No. 68524.[9]

As earlier adverted to, the Court of Appeals dismissed the Petition and affirmed the Order of the RTC. Rationalizing its decision, the Court of Appeals stressed that the issues in the case had been joined as early as 3 July 2002, immediately after the lapse of the reglementary period for the other defendants to file their respective answers. Though no responsive pleading was filed, petitioner had 15 days therefrom or until 18 July 2003 within which to serve written interrogatories on its witnesses abroad. Its failure to take full advantage of its right to secure the testimonies of its witnesses by deposition when it had the opportunity to do so negates the allegation of denial of due process.[10]

Petitioner's Motion for Reconsideration was denied by the Court of Appeals in its resolution dated 17 May 2005.

Aggrieved, petitioner comes to this Court by way of Petition for Review raising the following issues:

> I.
> WHETHER OR NOT THE COURT OF APPEALS GROSSLY ERRED IN RULING THAT THE REGLEMENTARY PERIOD SET BY SECTION 1 RULE 3 OF THE INTERIM RULES OF PROCEDURE FOR INTRA-CORPORATE CONTROVERSIES APPLIES TO DEPOSITION THAT IS RESORTED TO AS A METHOD OF PRESENTING THE TESTIMONY OF A WITNESS.
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> II.
>
> WHETHER OR NOT THE COURT OF APPEALS GROSSLY ERRED IN FAILING TO CONSIDER THAT A DEPOSITION AS A MODE OF DISCOVERY CAN ONLY BE ADDRESSED TO AN ADVERSE PARTY AND NOT TO A WITNESS; THE DEPOSITION SOUGHT BY PCSI IS A MODE OF PRESENTING THE TESTIMONIES OF ITS OWN WITNESES, NOT TO ELICIT FACTS FROM THE ADVERSE PARTIES.

III.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GROSS ERROR IN RULING THAT THE REGLEMENTARY PERIOD MANDATED UNDER SECTION 1 RULE 3 OF THE INTERIM RULES INCLUDED A DEPOSITION AS A MODE OF PRESENTING THE TESTIMONY OF A PARTY'S WITNESS, BECAUSE IT HAS RENDERED NUGATORY THE DUAL FUNCTION OF A DEPOSITION.

IV.

WHETHER OR NOT THE ASSAILED DECISION OF THE COURT OF APPEALS IS TANTAMOUNT TO A DENIAL OF PCSI'S RIGHT TO PRESENT THE TESTIMONY OF ITS WITNESSES ON A MATTER WHICH IS VERY MATERIAL AND RELEVANT TO THE ISSUES BEING LITIGATED; THE SAME IS TANTAMOUNT TO A DENIAL OF PCSI'S RIGHT TO BE HEARD, RESULTING TO GRAVE INJUSTICE.[11]

It is petitioner's stand that the Court of Appeals committed a gross misapprehension of the 15-day reglementary period under Rule 3, Section 1 of the Interim Rules on Intra-Corporate Controversies, which reads:

RULE 3

MODES OF DISCOVERY

SECTION 1. In general. – A party can only avail of any of the modes of discovery not later than fifteen (15) day from the joinder of issues.

According to the petitioner, the 15-day reglementary period mandated under Rule 3 of the Interim Rules pertains to a deposition resorted to as a mode of discovery. It does not apply when the deposition is resorted to by a party as a means of presenting the testimony of its witnesses, as in the instant petition.[12] Petitioner submits that since the deposition sought by it is resorted to as a means of presenting the testimony of its witness, the 15-day period under Rule 3, Interim Rules, does not apply. Instead, the general rule under the Rules of Court should be applied.[13]

Petitioner also relies on Fortune Corporation v. Court of Appeals[14] to strengthen its claim that the Rules of Court and not the Interim Rules applies. According to petitioner, said case enumerates two uses of deposition. First, deposition as a mode of discovery where the Interim Rules on intra-corporate controversies applies. Second, deposition as a mode of presenting testimony where the Rules of Court applies. The significant portion of Fortune cited by the petitioner is hereby reproduced in part:

[U]nder the concept adopted by the new Rules, the deposition serves the double function of a method of discovery – with use on trial not necessarily contemplated – and a method of presenting testimony. Accordingly, no limitations other than relevancy and privilege have been placed on the taking of depositions, while the use at the trial is subject to circumscriptions looking toward the use of oral testimony wherever practicable. (Emphasis supplied.)

Essentially, petitioner questions the correctness of the Decision of the Court of Appeals affirming the denial by the trial court of petitioner's motion to take the deposition of its witnesses for having been filed beyond the period allowed by the Interim Rules governing intra-corporate controversies.

Specifically, petitioner sought to take (1) the deposition testimony of Peoplesoft Australia, which does not have an office in the Philippines and maintains its office in Australia, through any of its responsible officers, and (2) the deposition testimony of Ralph A. Bergen.[15]

The testimony of the responsible officers of Peoplesoft Australia is, as claimed by petitioner, indispensable in proving its claims against Manzo and her other co-defendants especially as to the income and the other corporate opportunities they derived from Peoplesoft Australia, which rightfully belonged to the petitioner, but were transferred to Condol International.

On the other hand, the testimony of Ralph Bergen, one of the incorporators and stockholders of the petitioner and who is already based in the United States, is necessary because he has personal knowledge of the facts as alleged by the petitioner in its Complaint. Petitioner cites the exorbitant cost and the impracticability of requiring the personal testimonies of its witnesses before the trial court here in the Philippines to justify its prayer to take the said witnesses' deposition.[16]

This Court notes that during the pendency of the instant Petition, specifically on 27 December 2006, the trial court already rendered a Decision in the main case, SEC Case No. 68524.[17] Taking her bearings from this incident, Manzo prays in her memorandum before this Court that the instant petition should now be dismissed.[18]

Petitioner, however, informs this Court that from the Decision of the trial court in Civil Case No. 68524, it filed a Notice of Appeal which the trial court denied in its Order dated 7 February 2007 on the ground that under A.M. No. 04-9-07 SC,[19] all decisions in cases falling under the Interim Rules shall be appealable by Petition for Review under Rule 43 of the Rules of Court and not by ordinary appeal. Petitioner alleges that it had filed a Petition for Review with the Court of Appeals which is still pending before said court at this time.[20]

It is not disputed that a Decision in the main case, SEC Case No. 68524, has already been rendered. While the Court of Appeals has yet to act on petitioner's Petition for Review, it is this Court's view that the issue has become moot and academic. An issue becomes moot and academic when it ceases to present a justiciable controversy so that a declaration on the issue would be of no practical use or value. In such cases, there is no actual substantial relief which petitioners would be entitled to and which would be negated by the dismissal of the petition. Courts of justice generally decline jurisdiction in said cases and no longer consider questions in which no actual interests are involved.[21]

It must be emphasized that the underlying reason for the instant Petition is to allow the petitioner to take the depositions of its witnesses, Mr. Ralph Bergen and any of the responsible officers of Peoplesoft Australia.

The Complaint of the petitioner in the main case before the RTC prayed that judgment be rendered as follows:

> - Declaring Null and Void Ab Initio the "Trustees" Certificate" and the "Affidavit of Loss" as well as any and all corporate acts done or conducted on the basis thereof;
>
> - Enjoining the defendants solidarily, from using the name PCSI in all their business dealings and from representing themselves as officers thereof;
>
> - Directing the defendants solidarily to render and submit an accounting of all business transactions undertaken by the defendants on behalf or in representation of PCSI. x x x And thereafter, all of the Defendants herein shall be directed solidarily to turn over said moneys, rights, choses-in-action to Plaintiff PCSI;
>
> - Directing the defendants to pay to the plaintiffs, jointly and severally, the following amount:
>
> 4.1. Actual damages of not less than TWO MILLION (P2,000,000.00) PESOS or as may be proved during trial;
>
> 4.2. Moral damages of not less than ONE HUNDRED THOUSAND (P100,000.00) PESOS;
>
> 4.3. Exemplary damages of not less than ONE HUNDRED THOUSAND (P100,000.00) PESOS;

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> 4.4. Attorney's fees of not less than TWO HUNDRED FIFTY THOUSAND (P250,000.00) PESOS or as may be proved during trial;
>
> 4.5. Actual litigation expenses of not less than ONE HUNDRED THOUSAND (P100,000.00) PESOS or as may be proved during the trial.

This prayer of the petitioner in its Complaint was substantially heeded by the trial court in its decision in the main case. The dispositive portion of the Decision of the trial court in SEC Case No. 68524 reads:

> WHEREFORE, premises considered, judgment is hereby rendered

- Declaring both the Trustees Certificate executed by defendants Rizalito Condol, Adorima Lisama and Winefrida Manzo for plaintiff and the Affidavit of Loss executed by defendant Winefrida Manzo and all other acts performed on the basis thereof as null and void;

- Enjoining defendants from using plaintiff's name in their dealings, absent proper authorization from the plaintiff, and from representing themselves as officers of plaintiff;

- Directing defendants Rizalito Condol and Adorima Lisama to pay plaintiff:

- Fifty Thousand Pesos (P50,000.00) as temperate damages;

- Twenty-Five Thousand Pesos (P25,000.00) as exemplary damages;

- One Hundred Thousand Pesos (P100,000.00) as attorney's fees; and

- Costs of suit.[22]

From a quick reference to the Decision of the trial court in SEC Case No. 68524, it is readily apparent that the trial court had already granted the prayer of petitioner in its Complaint. In other words, petitioner prevailed in the court a quo. As can be seen from the complaint of the petitioner and the RTC decision, the underlying prayer of the petitioner in its Complaint had been granted in the decision of the trial court. In a very real sense, therefore, the RTC has already granted what the petitioner had asked for in its Complaint.

Even more, during the hearings before the trial court, Mr. Ralph Bergen had already personally testified, hence, foregoing any need for taking his deposition.[23]

Considering the trial court's Decision dated 27 December 2006 in SEC Case No. 68524 and the personal testimony of Bergen before the trial court, this Court finds that the issue of whether a commission should be issued for the taking of depositions of petitioner's witnesses has indeed become moot.

Furthermore, the Order dated 8 December 2003 of the trial court denying petitioner's motion to take deposition is an interlocutory order. An order that does not finally dispose of the case, and does not end the court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the court, is interlocutory.[24] Interlocutory refers to something between the commencement and the end of the suit which decides some point or matter, but it is not a final decision on the whole controversy.[25]

In Investments, Inc. v. Court of Appeals[26] -

> A "final" judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, e.g., an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of res judicata or prescription. Once

> rendered, the task of the Court is ended, as far as deciding the controversy or determining the rights and liabilities of the litigants is concerned. Nothing more remains to be done by the Court except to await the parties' next move (which among others, may consist of the filing of a motion for new trial or reconsideration, or the taking of an appeal) and ultimately, of course, to cause the execution of the judgment once it becomes "final" or, to use the established and more distinctive term, "final and executory."
>
> x x x x
>
> Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory," e.g., an order denying a motion to dismiss under Rule 16 of the Rules, or granting a motion for extension of time to file a pleading, or authorizing amendment thereof, or granting or denying applications for postponement, or production or inspection of documents or things, etc. Unlike a "final" judgment or order, which is appealable, as above pointed out, an "interlocutory" order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.

Since a Decision has already been rendered by the trial court in SEC Case No. 68524 on 27 December 2006, then the Order of the same court dated 8 December 2003 denying petitioner's motion to take deposition, being an interlocutory order, should have been included and raised in the petition for review filed by the petitioner before the Court of Appeals.

In Go v. Court of Appeals,[27] the Court adverted to the hazards of interlocutory appeals:

> It is axiomatic that an interlocutory order cannot be challenged by an appeal. Thus, it has been held that "the proper remedy in such cases is an ordinary appeal from an adverse judgment on the merits, incorporating in said appeal the grounds for assailing the interlocutory order. Allowing appeals from interlocutory orders would result in the "sorry spectacle" of a case being subject of a counterproductive ping-pong to and from the appellate court as often as a trial court is perceived to have made an error in any of its interlocutory rulings. x x x.

The rule is founded on considerations of orderly procedure, to forestall useless appeals and avoid undue inconvenience to the appealing party by having to assail orders as they are promulgated by the court, when all such orders may be contested in a single appeal.[28]

WHEREFORE, the instant petition is DENIED. The Decision of the Court of Appeals dated 30 September 2004 and its Resolution dated 17 May 2007 are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Nachura, JJ., concur.

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[1] Penned by Associate Justice Rebecca de Guia-Salvador with Associate Justices Portia Aliño-Hormachuelos and Aurora Santiago-Lagman, concurring; rollo, pp. 173-186.

[2] Penned by Judge Jose R. Hernandez, pp. 166-169.

[3] Rollo, pp. 212-213.

[4]CA rollo, p. 27.

[5]In its Complaint (CA rollo, p. 33), petitioner also alleged that defendants also transacted business with PeopleSoft USA using the name of petitioner.

[6] CA rollo, p. 83.

[7] Rollo, pp. 168-169.

[8] CA rollo, pp. 144-145.

[9] Rollo, p. 282.

[10] Id. at 184.

[11] Rollo, pp. 291-292.

[12] Id. at 293.

[13]The following provisions of the Revised Rules of Court are hereby quoted:

Rule 23
DEPOSITIONS PENDING ACTION

SECTION 1. Depositions pending action, when may be taken. – By leave of court after jurisdiction has been obtained over any defendant or over property which is the subject of [13] the action, or without such leave after an answer has been served, the testimony of any peson, whether a party or not, may be taken, at the instance of any party, by deposition upon oral examination or written interrogatories. The attendance of witnesses may be compelled by the use of a subpoena as provided in Rule 21. Depositions shall be taken only in accordance with these Rules. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

Rule 24
DEPOSITIONS BEFORE ACTION OR
PENDING APPEAL

SECTION 1. Depositions before action; petition. – A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any court of the Philippines, may file a verified petition in the court of the place of the residence of any expected adverse party.

Rule 25
INTERROGATORIES TO PARTIES

SECTION 1. Interrogatories to parties; service thereof. – Under the same conditions specified in section 1 of Rule 23, any party desiring to elicit material and relevant facts from any adverse parties shall file and serve upon the latter written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer thereof competent to testify in its behalf.

Rule 26
ADMISSION BY ADVERSE PARTY

SECTION 1. Request for admission. – At any time after issues have been joined, a party may file and serve upon any other party a written request for the admission by the latter of the genuineness of any material and relevant document described in and exhibited with the request or of the truth of any material and relevant matter of fact set forth in the request. Copies of the documents shall be delivered with the request unless copies have already been furnished.

[14] G.R. No. 108119, 19 January 1994, 229 SCRA 355, 377.

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[15] CA rollo, pp. 91-92.

[16] Id. at 84.

[17] Penned by Presiding Judge Maria Rowena Modesto-San Pedro.

[18] Rollo, p. 340.

[19] The RTC Order states:

The Notice of Appeal filed by the plaintiff on 06 February 2007 is hereby denied considering that under A.M. No. 04-9-07-SC, all decisions in cases falling under the Interim Rules of Procedure Governing Intra-Corporate Controversies shall be appealable to the Court of Appeals through a Petition for Review under Rule 43 of the Rules of Court. (Rollo, p. 376.)

The specific provision under A.M. No. 04-9-07 SC reads:

- All decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court. (A.M. No. 04-9-07-SC, 20 September 2004.)

[20]Rollo, p. 286.

[21]Vda. de Dabao v. Court of Appeals, G.R. No.116526, 23 March 2004, 426 SCRA 91, 97.

[22] Rollo, p. 374.

[23] Id. at 284.

[24] II Herrera, REMEDIAL LAW (2000 Ed.), p. 527.

[25]Black's Law Dictionary (Fifth Ed.), p. 731.

[26]G.R. No. L-60036, 27 June 1987, 147 SCRA 334, 339-341; Rudecon Management Corporation v. Singson. G.R. No. 150798, 31 March 2005, 454 SCRA 612, 628.

[27] G.R. No. 128954, 8 October 1998, 297 SCRA 574, 581-582.

[28] II Herrera, REMEDIAL LAW (2000 Ed.), p. 527.

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