|  |  |
| --- | --- |
| **THE JUDGES' COUNCIL OF THE SUPREME PEOPLE'S COURT-------** | **SOCIALIST REPUBLIC OF VIET NAMIndependence - Freedom - Happiness------------** |
| No: 02/2012/NQ-HDTP | *Hanoi, December 03, 2012* |

**RESOLUTION**

**GUIDING ON THE IMPLEMENTATION OF SOME PROVISIONS OF THE RESOLUTION NO. 60/2011/QH12 DATED MARCH 29, 2011 OF NATIONAL ASSEMBLY, ON THE EXECUTION OF THE LAW AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE CIVIL PROCEDURE CODE**

**THE JUDGES' COUNCIL OF THE SUPREME PEOPLE'S COURT**

*Pursuant to Law on organization of the People’s Courts;*

*In order to correctly and uniformly implement provisions of the Resolution No. 60/2011/QH12 dated March 29, 2011 of National Assembly, on the execution of the Law amending and supplementing a number of articles of the Civil Procedure Code (hereinafter abbreviated to the Resolution No. 60);*

*After obtaining the consents of the Chairman of the Supreme People’s Procuracy and the Minister of Justice,*

**RESOLVES:**

**Article 1. The time limit for making a protest according to cassation procedures, reopening procedures against the civil, marriage and family, business, trading and labor court's legally effective judgments or decisions**

1. The time limit for making a protest according to cassation procedures, reopening procedures against the civil, marriage and family, business, trading or labor court's judgments or decisions that have taken legal effect before April 08, 2011 (day of announcing the Law amending and supplementing a number of articles of the Civil procedure code) shall comply with provisions in Article 288 and Article 308 of the 2004 Civil procedure code (hereinafter abbreviated to the 2004 CPC); specified as follows:

a) The time limit for making a protest according to cassation procedures will be 03 years, as from the day the civil, marriage and family, business, trading or labor court's judgments or decisions take legal effect;

b) The time limit for making a protest according to reopening procedures will be 01 year, as from the day the persons competent to protest acquire grounds for protest according to reopening procedures prescribed in Article 305 of the 2004 CPC.

2. The time limit for making a protest according to cassation procedures, reopening procedures against the civil, marriage and family, business, trading or labor court's judgments or decisions that have taken legal effect from April 08, 2011 to January 01, 2012 (the effective day of the Law amending and supplementing a number of articles of the Civil procedure code) shall comply with provisions in Article 288 and Article 308 of the the Civil procedure code amended and supplemented according to the Law amending and supplementing a number of articles of the Civil procedure code (hereinafter abbreviated to the CPC); specified as follows:

a) The time limit for making a protest according to cassation procedures will be 03 years, as from the day the civil, marriage and family, business, trading or labor court's judgments or decisions take legal effect if involved parties have no application for protest according to cassation procedures within 01 year, as from the day the the civil, marriage and family, business, trading or labor court's judgments or decisions take legal effect.

b) The time limit for making a protest will be extended for two more years, as from the expiry of protest time limit as prescribed in clause 1 Article 288 of the CPC when having full the following conditions:

b1) The involved parties has had the requesting application as prescribed in clause 1 Article 284 of CPC and after expiry of time limit for making a protest specified in clause 1 Article 288 of theCPC, the involved parties still continue having the requesting application;

b2) The civil, marriage and family, business, trading or labor court's legally effective judgments or decisions have violations as prescribed in Article 253 of the CPC, infringed seriously the lawfull rights and benefits of involved parties, the third party, infringed State’s benefits and must protest to remedy mistakes in that legal effective judgments or decisions.

c) The time limit for making a protest according to reopening procedures will be 01 year, as from the day the persons competent to protest acquire grounds for protest according to reopening procedures prescribed in Article 305 of the CPC.

3. In order to have grounds for calculating the time limit for making a protest as prescribed in point a and point b clause 1 Article 2 of the Resolution No. 60 and guides at clause 2 of this Article, Courts competent to conduct cassation review must comply with provisions in Chapter XVIII “Cassation procedures” of the CPC and documents guiding implementation.

**Article 2. Application of law on civil procedures for making a protest according to cassation procedures, reopening procedures against the civil, marriage and family, business, trading and labor court's judgments or decisions that have taken legal effect before January 01, 2012**

1. For the civil, marriage and family, business, trading and labor court's judgments or decisions that have taken legal effect before April 08, 2011 and not yet had protest of competent persons, procedures for making a protest according to cassation procedures, reopening procedures shall comply with provisions of the 2004 CPC.

2. For the civil, marriage and family, business, trading and labor court's judgments or decisions that have taken legal effect from April 08, 2011 and before January 01, 2012, involved parties had application requesting for cassation, reopening in duration from April 08, 2011 to before January 01, 2012 but not yet had protest of competent persons, procedures for making a protest according to cassation procedures, reopening procedures shall comply with provisions of the CPC.

3. For the civil, marriage and family, business, trading and labor court's judgments or decisions that have taken legal effect from April 08, 2011 to before January 01, 2012, and involved parties had no application requesting for making a protest in duration from April 08, 2011 to before January 01, 2012, but detecting violations in the court’s legal effective judgments and not yet had protest of competent persons, procedures for making a protest according to cassation procedures, reopening procedures shall comply with provisions of the 2004 CPC.

**Article 3. Application of law on civil procedures to settle civil cases that are accepted for settlement before January 01, 2012**

Civil cases that are accepted for settlement according to first-instance trial, appellate trial, cassation trial and reopenning procedures before January 01, 2012 but they have been settled just from January 01, 2012, procedures shall be comply with the corresponding provisions of the CPC.

**Article 4. Effect**

This Resolution is adopted by the Judges' Council of the Supreme People's Court on December 03, 2012 and takes effect on July 01, 2013.

|  |  |
| --- | --- |
|   | **ON BEHALF OF THE JUDGES’ COUNCIL OF THE SUPREME PEOPLE’S COURTCHIEF JUDGE****Truong Hoa Binh** |