

### Title: Makati Insurance Co., Inc. vs. Hon. Wilfredo D. Reyes et al.

### Facts:

The root of this legal contention began when Makati Insurance Co., Inc. (the petitioner) lodged a complaint against Rubills International, Inc., Tong Woon Shipping PTE LTD, and Asian Terminals, Inc. (the respondents), arguing for damages due to an alleged breach of contract of carriage. The petitioner contended that respondents, as the carrier and arrastre operator, exhibited gross negligence resulting in the damage of a shipment, for which the petitioner compensated the consignee, thereby subrogating into the latter's rights.

After tribunal processes, a failure by the petitioner's counsel to attend the pre-trial conference led to the Regional Trial Court (RTC) of Manila, presided over by Judge Wilfredo D. Reyes, dismissing the case without prejudice. The petitioner's motion for reconsideration was denied, prompting a notice of appeal which was contested by the respondents for being out of time. The RTC, later affirming its stance, dismissed the notice of appeal for exceeding the reglementary period. Upon elevating the matter to the Court of Appeals via a Petition for Certiorari and subsequently getting denied, the petitioner sought redress from the Supreme Court.

### Issues:

1. Whether the Notice of Appeal filed by the petitioner was out of time.
2. The propriety of the remedy sought by the petitioner in appealing the RTC's decision.
3. Whether the "Fresh Period Rule" can be applied retroactively to the petitioner's case.

### Court's Decision:

The Supreme Court denied the petition. It established that according to the "Fresh Period Rule" promulgated in *Neypes v. Court of Appeals*, the petitioner had a new 15-day period to file a notice of appeal from the receipt of the order denying its motion for reconsideration, which was timely filed. However, the Supreme Court also noted that an appeal was not the proper remedy against an order dismissing an action without prejudice, as stated in Rule 41, Section 1(h) of the 1997 Rules of Civil Procedure. The Court explained that such orders could be subject to a special civil action for certiorari under Rule 65, not an ordinary appeal. Furthermore, even if treated as a petition for certiorari under Rule 65, the petition lacked merit since no grave abuse of discretion was attributable to the trial court's dismissal of the case.

### Doctrine:

The “Fresh Period Rule” states that a party has a new period of 15 days to file a notice of appeal from the receipt of the order denying a motion for new trial or motion for reconsideration. Rules of procedural character may be given retroactive effect to actions pending and undetermined at the time of their passage without violating any right of a person adversely affected, as procedural rules are designed to facilitate the attainment of justice.

**### Class Notes:**

- **\*\*Key Concepts:\*\*** Understanding the “Fresh Period Rule”, difference between special civil actions (certiorari under Rule 65) and ordinary appeals, the effect of procedural rules on pending actions.
- **\*\*Relevant Legal Statutes:\*\***
  - Rule 41, Section 3 of the 1997 Rules of Civil Procedure concerning periods of ordinary appeal.
  - The “Fresh Period Rule” as established in *Neypes v. Court of Appeals*.
  - Rule 41, Section 1(h) of the 1997 Rules of Civil Procedure, stipulating instances where there can be no appeal.

**### Historical Background:**

The landmark case *Neypes v. Court of Appeals*, which established the “Fresh Period Rule”, plays a significant role in this decision by providing a standard in computing the appeal period, thus affecting pending cases at the time of its promulgation. The case encapsulates the Supreme Court’s commitment to ensuring justice is not sacrificed at the altar of technicalities.