

**TUNG CHIN HUI, PETITIONER, VS. RUFUS B. RODRIGUEZ,
COMMISSIONER OF IMMIGRATION; AND THE BOARD OF
COMMISSIONERS, BUREAU OF IMMIGRATION AND DEPORTATION,
RESPONDENTS.**

G.R. No. 137571. September 21, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Provisions that were not reproduced in the 1997 Rules of Civil Procedure are deemed repealed. Hence, having been omitted from the 1997 Rules, deemed already repealed is Section 18, Rule 41 of the pre-1997 Rules of Court, which had theretofore provided for a 48-hour reglementary period within which to appeal habeas corpus cases. Accordingly, the period for perfecting appeals in said cases and ordinary civil actions is now uniform -- 15 days from notice of the judgment or order.

The Case

Before us is a Petition for Certiorari under Rule 65 of the Rules of Court, assailing the March 2, 1999 Order[1] of the Regional Trial Court (RTC) of Manila (Branch 26) in Special Proceedings No. 98-92014. The challenged Order reads in full as follows:[2]

“For resolution is a Motion For Reconsideration filed by petitioner thru counsel with comment/opposition thereto filed by respondents thru counsel.

“After careful consideration of the grounds relied upon by both parties, this Court finds for the respondents. The Notice of Appeal filed by the respondents is actually fo[r] the Court Decision dated January 7, 1999 and not for [the] Court Order dated January 29, 1999.

“In view of the foregoing, the Motion for Reconsideration filed by petitioner is hereby DENIED for lack of merit.

“Meanwhile, the Branch Clerk of Court is hereby ordered to immediately transmit the record of the instant case to the Honorable Court of Appeals within ten (10) days from today.”

The Facts

From the records and the pleadings of the parties, the following facts appear undisputed.

After obtaining a visa at the Philippine Embassy in Singapore, petitioner, a “Taiwanese citizen,”[3] arrived in this country on November 5, 1998.

On November 15, 1998, he was arrested by several policemen, who subsequently turned him over to the Bureau of Immigration and Deportation (BID). Thereafter, on November 25, 1998, the BID Board of Commissioners, after finding him guilty of possessing a tampered passport earlier canceled by Taiwanese authorities, ordered his

summary deportation.

On December 11, 1998, petitioner filed before the RTC of Manila a Petition for Habeas Corpus on the ground that his detention was illegal. After respondents filed a Return of Writ controverting his claim, the trial court issued a Decision dated January 7, 1999, granting his Petition and ordering his release from custody.

On January 11, 1999, respondents filed a Motion for Reconsideration, which was denied by the trial court in an Order dated January 29, 1999.

Respondents then filed a “[N]otice of [A]ppeal from the judgment of the Honorable Court in the above-stated case, dated January 29, 1999, a copy of which was received by the Bureau on February 11, 1999 and was received by the undersigned counsel on February 15, 1999 x x x.”[4] Dated February 15, 1999, it was received by the RTC on February 16, 1999 at 9:45 a.m.

Petitioner filed an “Opposition,” claiming that the Notice had been filed beyond the 48-hour reglementary period for filing appeals in habeas corpus cases as prescribed by the pre-1997 Rules of Court. Although respondents alleged that they had received the said Order on February 15, 1999, petitioner contended that they had in fact received it on February 11, 1999, “as evidenced by the receipt of the service thereof and by the Sheriff’s Return.”[5]

In an Order dated February 18, 1999, the RTC rejected petitioner’s contention and granted due course to the Notice of Appeal.

Petitioner then filed a Motion for Reconsideration, arguing this time that the Notice should be rejected because it had referred not to the RTC Decision but to the January 29, 1999 Order denying reconsideration. In its assailed March 2, 1999 Order, the trial court denied his Motion.

Hence, this Petition raising pure questions of law.[6] In a Resolution dated March 22, 1999, this Court issued a Temporary Restraining Order “directing the respondents to cease and desist from deporting the petitioner x x x until further orders.”[7]

The Issues

Petitioner submits the following issues for our consideration:[8]

“(a) Is the reglementary period to appeal [a] habeas corpus [case] now 15 days from notice of judgment as contended by [the] lower court?

“(b) Is the reglementary period to appeal [a] habeas corpus [case] still 48 hours from notice of judgment as provided for in Section 18, Rule 41 of the Revised Rules of Court? or

“(c) Is the provision of Sec. 1, sub-paragraph (a) of Rule 41 of the 1997 Rules of Civil Procedure -- prohibiting appeal from an Order denying a motion for reconsideration - mandatory or merely discretionary on the part of the lower courts?

“(d) Are petitions for writs of habeas corpus already brought down to the level of ordinary cases despite the fact that in habeas corpus the liberty of persons illegally detained is involved?”

In the main, the Court will resolve whether the Notice of Appeal was seasonably filed. In the process, it will determine the applicable reglementary period for filing an appeal in habeas corpus cases.

The Court’s Ruling

The Petition is not meritorious.

Main Issue:

Reglementary Period for Appealing

Habeas Corpus Cases

Petitioner contends that the Notice of Appeal was late because respondents filed it only on February 16, 1999, five days after they had received the Order denying the Motion for Reconsideration on February 11, 1999.[9] He argues that the reglementary period for filing an appeal is 48 hours, as prescribed in Section 18 of Rule 41 of the pre-1997 Rules of Court, which reads as follows:

“SEC. 18. Appeal in habeas corpus cases, how taken. - An appeal in habeas corpus cases shall be perfected by filing with the clerk of court or the judge who rendered the judgment, within forty-eight (48) hours from notice of such judgment, a statement that the person making it appeals therefrom.”

The argument is devoid of merit, because the foregoing provision was omitted from and thereby repealed by the 1997 Revised Rules of Court, which completely replaced Rules 1 to 71. The well-settled rule of statutory construction is that provisions of an old law that were not reproduced in the revision thereof covering the same subject are deemed repealed and discarded.[10] The omission shows the intention of the rule-making body, the Supreme Court in this case,[11] “to abrogate those provisions of the old laws that are not reproduced in the revised statute or code.”[12]

Clearly then, the reglementary period for filing an appeal in a habeas corpus case is now similar to that in ordinary civil actions[13] and is governed by Section 3, Rule 41 of the 1997 Rules of Court, which provides:

“SEC. 3. Period of ordinary appeal. -- The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

“The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.”

In this light, the appeal was seasonably filed within the 15-day reglementary period.

Stare Decisis

Petitioner insists, however, that the “application of Section 18, Rule 41 under the Revised Rules of Court must be maintained under the doctrine of stare decisis.”[14] , Thus he urges the Court to apply precedents that held that the 48-hour period for perfecting an appeal was mandatory and jurisdictional. He specifically cites *Saulo v. Cruz*,[15] *Garcia v. Echiverri*[16] and *Elepante v. Madayag*. [17]

The principle cited by petitioner is an abbreviated form of the maxim “Stare decisis, et non quieta movere.”[18] That is, “When the court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases where the facts are substantially the same.”[19] This principle assures certainty and stability in our legal system.[20]

It should be stressed that stare decisis presupposes that the facts of the precedent and the case to which it is applied are substantially the same. In this case, there is one crucial difference. All the incidents of the present controversy occurred when the 1997 Revised Rules of Court was already in effect. On the other hand, all the cited precedents had been resolved under the pre-1997 Rules. Accordingly, stare decisis cannot compel this Court to apply to the present case the alleged precedents decided during the regime of the pre-1997 Rules. The cited cases applied a specific provision of the Rules in effect at the time. But because that provision had already been repealed when the facts under present consideration occurred, the Court can no longer rely on those cases. Indeed, to rule otherwise is to bar the effectivity of the 1997 amendments, which conflict with jurisprudence decided

under an old and repealed rule. Verily, petitioner's contention effectively precludes changes and freezes our procedural rules.

Subject of the Notice of Appeal

As earlier observed, the Notice of Appeal referred to the "judgment of the Honorable Court in the above-stated case, dated January 29, 1999." Petitioner now argues that the Notice was improper because it referred to the Order denying respondents' Motion for Reconsideration, not the Decision itself which was dated January 7, 1999. He cites Section 1 of Rule 41 of the 1997 Rules, which provides that an order denying a motion for a new trial or a reconsideration may not be appealed.[21]

Respondents, on the other hand, claim that because the Notice of Appeal contained the word "judgment," their clear intent was to appeal the Decision.

We agree with respondents. In referring to the trial court's "judgment," respondents were clearly appealing the January 7, 1999 Decision. Had they thought otherwise, they would have referred to the "Order." Indeed, "judgment" is normally synonymous with "decision." [22] Furthermore, the wrong date of the appealed judgment may be attributed merely to inadvertence. Such error should not, by itself, deprive respondents of their right to appeal. Time and time again, it has been held that courts should proceed with caution so as not to deprive a party of this right.[23] They are encouraged to hear the merits of appealed cases; hence, the dismissal of an appeal on grounds of technicality is generally frowned upon.[24] Indeed, the postulates of justice and fairness demand that all litigants be afforded the opportunity for a full disposition of their disputes, free as much as legally possible from the constraints of technicalities.[25] To rule otherwise is to let technicality triumph over substantial justice. Indeed, "the real essence of justice does not emanate from quibblings over patchwork legal technicality." [26]

Other Matters

Petitioner insists that the Order deporting him is invalid, as he was not given notice or hearing.[27] We reject this argument because it properly pertains to the appeal before the CA, not in these proceedings instituted merely to determine the timeliness of the Notice of Appeal.

Likewise, we reject the submission of the Office of the Solicitor General that the promulgation of the CA Decision resolving the appeal rendered the present case moot and academic.[28] It should be stressed that the validity of the proceedings before the appellate court ultimately hinges on the issue before us: whether the Notice of Appeal was seasonably filed.

WHEREFORE, the Petition is DENIED and the assailed Order AFFIRMED. The Temporary Restraining Order issued by the Court is hereby immediately LIFTED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Written by Judge Guillermo L. Loja Sr.

[2] Rollo, p. 17.

[3] Quoted from Petition, p. 2; rollo, p. 4.

[4] Rollo, p. 52.

[5] Opposition to the Notice of Appeal, p. 2; rollo, p. 54.

[6] The case was deemed submitted for resolution on August 21, 2000, upon receipt by this Court of the petitioner's Reply signed by Atty. Marciano J. Cagatan. Respondents' Comment was signed by Assistant Solicitor General Carlos N. Ortega, Assistant Solicitor General Magdangal M. de Leon and Solicitor Procolo M. Olaivar. The Court resolved to give due course to this case without requiring the submission of memoranda.

[7] Rollo, p. 74.

[8] Petition, p. 10; rollo, p. 12.

[9] Petition, p. 6; rollo, p. 8. See also Reply, pp. 3-4; rollo, pp. 155-156.

[10] *People v. Binuya*, 61 Phil. 208, February 27, 1935; *Joaquin v. Navarro*, 81 Phil. 373, August 4, 1948.

[11] § 5 (5), Article Binuya, VIII of the Constitution, provides that the Supreme Court has the power to "[p]romulgate rules concerning x x x pleadings, practice, and procedure in all courts x x x."

[12] Agpalo, *Statutory Construction*, 1990 ed., p. 284. See also 73 Am Jur 2d, *Statutes*, § 411; 82 C.J.S. *Statutes*, § 293.

[13] Regalado, *Remedial Law Compendium*, 7[th] revised ed. (1999), p. 514.

[14] Petition, p. 8; rollo, p. 10.

[15] 109 Phil. 379, August 31, 1960.

[16] 132 SCRA 631, October 23, 1984.

[17] 196 SCRA 399, April 26, 1991.

[18] "It is best to adhere to decisions and not to disturb questions put at rest." R.S. Vasan, *Latin Words and Phrases for Lawyers*, p. 227.

[19] *Republic v. Sandiganbayan*, 269 SCRA 316, March 7, 1997, per Panganiban, J. See also *Alura v. CA*, 305 SCRA 303, March 25, 1999; *Tala Realty Services Corporation v. Banco Filipino Savings and Mortgage Bank*, GR No. 137980, June 20, 2000.

[20] See *Negros Navigation v. CA*, 281 SCRA 534, November 7, 1997.

[21] Petition, pp. 6-7; rollo, pp. 8-9.

[22] Moreno, *Philippine Law Dictionary*, 2[nd] ed., pp. 325-326.

[23] *Growth Link v. CA*, 273 SCRA 419, June 13, 1997. See also *Ramos v. CA*, 275 SCRA 167, July 7, 1997.

[24] See *Magsaysay Lines et al. v. CA*, 260 SCRA 513, August 12, 1996; *Director of Lands v. Romamban*, 131 SCRA 431, August 28, 1984; *Olangco v. CFI*, 121 SCRA 338, March 28, 1983.²⁴

[25] *Delgado vda. Dela Rosa v. CA*, 280 SCRA 444, October 10, 1997.

[26] *Frivaldo v. Comelec*, 257 SCRA 727, June 28, 1996, per Panganiban, J.

[27] Reply, p. 5; rollo, p. 157.

[28] Respondents' Manifestation and Motion, pp. 1-2; rollo, pp. 111-112. Petitioner avers that he filed a Motion for Reconsideration to the CA Decision. (Petitioner's Comment/Opposition to the Manifestation and Motion, pp. 1-3; rollo, pp. 126-128.)

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