

RODRIGO SUMIRAN, PETITIONER, VS. SPOUSES GENEROSO DAMASO AND EVA DAMASO, RESPONDENTS.

G.R. No. 162518. August 19, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves the Petition for Review on Certiorari under Rule 45 of the Rules of Court, praying that the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 80267, dated December 22, 2003, and the Resolution[2] dated February 20, 2004, denying petitioner's motion for reconsideration, be reversed and set aside.

The antecedent facts are as follows.

Petitioner filed a complaint for sum of money and damages with prayer for preliminary attachment (Civil Case No. 93-2588) against respondents before the Regional Trial Court (RTC) of Antipolo City, Branch 73. Petitioner is also the private complainant in Criminal Case Nos. 92-8157 and 92-8158 for violation of Batas Pambansa Blg. 22 with respondent Generoso Damaso as accused. Upon motion of respondents, said civil and criminal cases were consolidated and jointly tried.

On February 21, 2003, the RTC promulgated its Decision[3] dated January 16, 2003, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, accused GENEROSO DAMASO is hereby ACQUITTED in Criminal Case Nos. 92-8157 and 92-8158 on grounds of insufficiency of evidence.

As for Civil Case No. 93-2588, in the interest justice and equity, judgment is hereby rendered against the plaintiff Rodrigo Sumiran and in favor of the defendants Damaso. The plaintiff is further ordered to pay to the defendants the following:

- a. P50,000.00 as moral damages
- b. P20,000.00 as exemplary damages, and
- c. the cost of suit.

SO ORDERED.[4]

On March 6, 2003, petitioner filed a motion for reconsideration dated March 4, 2003, stating that he received a duplicate original copy of the decision on February 21, 2003. Respondents opposed said motion. On May 9, 2003, the RTC issued an Order denying petitioner's motion for reconsideration. Thereafter, on May 29, 2003, petitioner filed a Notice of Appeal dated May 28, 2003, stating instead that he received a copy of the decision dated January 16, 2003 only on March 8, 2003 and of the Order dated May 9, 2003 denying his motion for reconsideration on May 19, 2003.

On June 2, 2003, the RTC issued an Order denying due course to the notice of appeal for having been filed out of time, emphasizing that the decision was promulgated on February 21, 2003 in the presence of both parties and

their counsels. Considering counsel for petitioner to have received a copy of the decision on said date of promulgation, the RTC ruled that since petitioner had filed a motion for reconsideration on the 13[th] day (March 6, 2003), he had belatedly filed the notice of appeal when he filed it ten (10) days after allegedly receiving the Order of May 9, 2003 on May 19, 2003. A motion for reconsideration was filed by petitioner on June 20, 2003, but the same was denied by the RTC on October 1, 2003.

Petitioner then filed a petition for certiorari with the CA. However, the CA found the petition unmeritorious and dismissed the same in its Decision dated December 22, 2003. Ruling that petitioner was bound by his judicial admission that he received the Decision of the RTC when it was promulgated on February 21, 2003, the CA held that petitioner's period within which to file an appeal had lapsed by the time the Notice of Appeal was filed on May 29, 2003. Petitioner's motion for reconsideration of the CA Decision was denied per Resolution dated February 20, 2004.

Hence, this petition where it is alleged that the CA erred in ruling that petitioner's period to appeal had lapsed, as such ruling was premised on misapprehension of facts and contradicted by evidence on record. The CA also allegedly failed to state in its decision and resolution the particular evidence upon which the same was based; and there were supposedly some facts that, if properly noticed and considered, would justify a different conclusion.

The petition deserves some consideration.

As early as 2005, the Court categorically declared in *Neypes v. Court of Appeals*[5] that by virtue of the power of the Supreme Court to amend, repeal and create new procedural rules in all courts, the Court is allowing a fresh period of 15 days within which to file a notice of appeal in the RTC, counted from receipt of the order dismissing or denying a motion for new trial or motion for reconsideration. This would standardize the appeal periods provided in the Rules and do away with the confusion as to when the 15-day appeal period should be counted. Thus, the Court stated:

To recapitulate, a party-litigant may either file his notice of appeal within 15 days from receipt of the Regional Trial Court's decision or file it within 15 days from receipt of the order (the "final order") denying his motion for new trial or motion for reconsideration. Obviously, the new 15-day period may be availed of only if either motion is filed; otherwise, the decision becomes final and executory after the lapse of the original appeal period provided in Rule 41, Section 3.[6]

The foregoing ruling of the Court was reiterated in *Makati Insurance Co., Inc. v. Reyes*,[7] to wit:

Propitious to petitioner is *Neypes v. Court of Appeals*, promulgated on 14 September 2005 while the present Petition was already pending before us. x x x

x x x x

With the advent of the "fresh period rule," parties who availed themselves of the remedy of motion for reconsideration are now allowed to file a notice of appeal within fifteen days from the denial of that motion.

The "fresh period rule" is not inconsistent with Rule 41, Section 3 of the Revised Rules of Court which states that the appeal shall be taken "within fifteen (15) days from notice of judgment or final order appealed from." The use of the disjunctive word "or" signifies disassociation and independence of one thing from another. It should, as a rule, be construed in the sense which it ordinarily implies. Hence, the use of "or" in the above provision supposes that the notice of appeal may be filed within 15 days from the notice of judgment or within 15 days from notice of the "final order," x x x.

x x x x

The "fresh period rule" finally eradicates the confusion as to when the 15-day appeal period should be counted

- from receipt of notice of judgment or from receipt of notice of "final order" appealed from.

Taking our bearings from *Neypes*, in *Sumaway v. Urban Bank, Inc.*, we set aside the denial of a notice of appeal which was purportedly filed five days late. With the fresh period rule, the 15-day period within which to file the notice of appeal was counted from notice of the denial of the therein petitioner's motion for reconsideration.

We followed suit in *Elbiña v. Ceniza*, wherein we applied the principle granting a fresh period of 15 days within which to file the notice of appeal, counted from receipt of the order dismissing a motion for new trial or motion for reconsideration or any final order or resolution.

Thereafter, in *First Aqua Sugar Traders, Inc. v. Bank of the Philippine Islands*, we held that a party-litigant may now file his notice of appeal either within fifteen days from receipt of the original decision or within fifteen days from the receipt of the order denying the motion for reconsideration.

In *De los Santos v. Vda. de Mangubat*, we applied the same principle of "fresh period rule," expostulating that procedural law refers to the adjective law which prescribes rules and forms of procedure in order that courts may be able to administer justice. Procedural laws do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes. The "fresh period rule" is irrefragably procedural, prescribing the manner in which the appropriate period for appeal is to be computed or determined and, therefore, can be made applicable to actions pending upon its effectivity, such as the present case, without danger of violating anyone else's rights. (Emphasis supplied)

The retroactivity of the *Neypes* rule in cases where the period for appeal had lapsed prior to the date of promulgation of *Neypes* on September 14, 2005, was clearly explained by the Court in *Fil-Estate Properties, Inc. v. Homena-Valencia*,^[8] stating thus:

The determinative issue is whether the "fresh period" rule announced in *Neypes* could retroactively apply in cases where the period for appeal had lapsed prior to 14 September 2005 when *Neypes* was promulgated. That question may be answered with the guidance of the general rule that procedural laws may be given retroactive effect to actions pending and undetermined at the time of their passage, there being no vested rights in the rules of procedure. Amendments to procedural rules are procedural or remedial in character as they do not create new or remove vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing.

Sps. De los Santos reaffirms these principles and categorically warrants that *Neypes* bears the quested retroactive effect, to wit:

Procedural law refers to the adjective law which prescribes rules and forms of procedure in order that courts may be able to administer justice. Procedural laws do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes – they may be given retroactive effect on actions pending and undetermined at the time of their passage and this will not violate any right of a person who may feel that he is adversely affected, inasmuch as there are no vested rights in rules of procedure.

The "fresh period rule" is a procedural law as it prescribes a fresh period of 15 days within which an appeal may be made in the event that the motion for reconsideration is denied by the lower court. Following the rule on retroactivity of procedural laws, the "fresh period rule" should be applied to pending actions, such as the present case.

Also, to deny herein petitioners the benefit of the "fresh period rule" will amount to injustice, if not absurdity, since the subject notice of judgment and final order were issued two years later or in the year 2000, as compared to the notice of judgment and final order in *Neypes* which were issued in 1998. It will be incongruous and illogical that parties receiving notices of judgment and final orders issued in the year 1998 will enjoy the benefit of the "fresh period rule" while those later rulings of the lower courts such as in the

instant case, will not.[9]

Since this case was already pending in this Court at the time of promulgation of Neypes, then, ineluctably, the Court must also apply the foregoing rulings to the present case. Petitioner is entitled to a "fresh period" of 15 days – counted from May 19, 2003, the date of petitioner's receipt of the Order denying his motion for reconsideration of the RTC Decision – within which to file his notice of appeal. Therefore, when he filed said notice on May 29, 2003, or only ten (10) days after receipt of the Order denying his motion for reconsideration, his period to appeal had not yet lapsed.

IN VIEW OF THE FOREGOING, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 80267, dated December 22, 2003, and the Resolution dated February 20, 2004, are hereby REVERSED and SET ASIDE. The Order of the Regional Trial Court of Antipolo City, Branch 73, dated June 2, 2003 in Civil Case No. 93-2588, and its Order dated October 1, 2003, reiterating the June 2, 2003 Order, are hereby declared NULL and VOID. The Regional Trial Court of Antipolo City, Branch 73, is DIRECTED to give due course to petitioner's Notice of Appeal dated May 28, 2003. No costs.

SO ORDERED.

Carpio Morales, J.,[*] Chico-Nazario, Acting Chairperson,**] Velasco, Jr., and Nachura, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Consuelo Ynares-Santiago, per Special Order No. 679 dated August 3, 2009.

[**] Per Special Order No. 678 dated August 3, 2009.

[1] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Mario L. Guariña III and Jose C. Reyes, Jr., concurring; rollo, pp. 70-74.

[2] Id. at 83.

[3] Rollo, pp. 21-28.

[4] Id. at 28.

[5] G.R. No. 141524, September 14, 2005, 469 SCRA 633.

[6] Id. at 646. (Emphasis supplied.)

[7] G.R. No. 167403, August 6, 2008.

[8] G.R. No. 173942, June 25, 2008, 555 SCRA 345.

[9] Id. at 349-350. (Emphasis supplied.)

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