

**JUDITH YU, PETITIONER, VS. HON. ROSA SAMSON-TATAD,
PRESIDING JUDGE, REGIONAL TRIAL COURT, QUEZON CITY,
BRANCH 105, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

G.R. No. 170979. February 09, 2011

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for prohibition filed by petitioner Judith Yu to enjoin respondent Judge Rosa Samson-Tatad of the Regional Trial Court (RTC), Branch 105, Quezon City, from taking further proceedings in Criminal Case No. Q-01-105698, entitled "People of the Philippines v. Judith Yu, et al." [1]

The Factual Antecedents

The facts of the case, gathered from the parties' pleadings, are briefly summarized below.

Based on the complaint of Spouses Sergio and Cristina Casaclang, an information for estafa against the petitioner was filed with the RTC.

In a May 26, 2005 decision, the RTC convicted the petitioner as charged. It imposed on her a penalty of three (3) months of imprisonment (arresto mayor), a fine of P3,800,000.00 with subsidiary imprisonment, and the payment of an indemnity to the Spouses Casaclang in the same amount as the fine. [2]

Fourteen (14) days later, or on June 9, 2005, the petitioner filed a motion for new trial with the RTC, alleging that she discovered new and material evidence that would exculpate her of the crime for which she was convicted. [3]

In an October 17, 2005 order, respondent Judge denied the petitioner's motion for new trial for lack of merit. [4]

On November 16, 2005, the petitioner filed a notice of appeal with the RTC, alleging that pursuant to our ruling in *Neypes v. Court of Appeals*, [5] she had a "fresh period" of 15 days from November 3, 2005, the receipt of the denial of her motion for new trial, or up to November 18, 2005, within which to file a notice of appeal. [6]

On November 24, 2005, the respondent Judge ordered the petitioner to submit a copy of *Neypes* for his guidance. [7]

On December 8, 2005, the prosecution filed a motion to dismiss the appeal for being filed 10 days late, arguing that *Neypes* is inapplicable to appeals in criminal cases. [8]

On January 4, 2006, the prosecution filed a motion for execution of the decision. [9]

On January 20, 2006, the RTC considered the twin motions submitted for resolution.

On January 26, 2006, the petitioner filed the present petition for prohibition with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction to enjoin the RTC from acting on the prosecution's motions to dismiss the appeal and for the execution of the decision. [10]

The Petition

The petitioner argues that the RTC lost jurisdiction to act on the prosecution's motions when she filed her notice of appeal within the 15-day reglementary period provided by the Rules of Court, applying the "fresh period rule" enunciated in *Neypes*.

The Case for the Respondents

The respondent People of the Philippines, through the Office of the Solicitor General (OSG), filed a manifestation in lieu of comment, stating that *Neypes* applies to criminal actions since the evident intention of the "fresh period rule" was to set a uniform appeal period provided in the Rules.[11]

In view of the OSG's manifestation, we required the Spouses Casaclang to comment on the petition.[12]

In their comment, the Spouses Casaclang aver that the petitioner cannot seek refuge in *Neypes* to extend the "fresh period rule" to criminal cases because *Neypes* involved a civil case, and the pronouncement of "standardization of the appeal periods in the Rules" referred to the interpretation of the appeal periods in civil cases, i.e., Rules 40, 41, 42 and 45, of the 1997 Rules of Civil Procedure among others; nowhere in *Neypes* was the period to appeal in criminal cases, Section 6 of Rule 122 of the Revised Rules of Criminal Procedure, mentioned.[13]

Issue

The core issue boils down to whether the "fresh period rule" enunciated in *Neypes* applies to appeals in criminal cases.

The Court's Ruling

We find merit in the petition.

The right to appeal is not a constitutional, natural or inherent right -- it is a statutory privilege and of statutory origin and, therefore, available only if granted or as provided by statutes. It may be exercised only in the manner prescribed by the provisions of the law.[14] The period to appeal is specifically governed by Section 39 of *Batas Pambansa Blg. 129* (BP 129),[15] as amended, Section 3 of Rule 41 of the 1997 Rules of Civil Procedure, and Section 6 of Rule 122 of the Revised Rules of Criminal Procedure.

Section 39 of BP 129, as amended, provides:

SEC. 39. Appeals. - The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from: Provided, however, That in habeas corpus cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appealed from.

Section 3, Rule 41 of the 1997 Rules of Civil Procedure states:

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.

Section 6, Rule 122 of the Revised Rules of Criminal Procedure reads:

SEC. 6. When appeal to be taken. -- An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run.

In *Neypes*, the Court modified the rule in civil cases on the counting of the 15-day period within which to appeal. The Court categorically set a fresh period of 15 days from a denial of a motion for reconsideration within which to appeal, thus:

The Supreme Court may promulgate procedural rules in all courts. It has the sole prerogative to amend, repeal or even establish new rules for a more simplified and inexpensive process, and the speedy disposition of cases. In the rules governing appeals to it and to the Court of Appeals, particularly Rules 42, 43 and 45, the Court allows extensions of time, based on justifiable and compelling reasons, for parties to file their appeals. These extensions may consist of 15 days or more.

To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.

Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals and Rule 45 governing appeals by certiorari to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.[16]

The Court also reiterated its ruling that it is the denial of the motion for reconsideration that constituted the final order which finally disposed of the issues involved in the case.

The *raison d'être* for the "fresh period rule" is to standardize the appeal period provided in the Rules and do away with the confusion as to when the 15-day appeal period should be counted. Thus, the 15-day period to appeal is no longer interrupted by the filing of a motion for new trial or motion for reconsideration; litigants today need not concern themselves with counting the balance of the 15-day period to appeal since the 15-day period is now counted from receipt of the order dismissing a motion for new trial or motion for reconsideration or any final order or resolution.

While *Neypes* involved the period to appeal in civil cases, the Court's pronouncement of a "fresh period" to appeal should equally apply to the period for appeal in criminal cases under Section 6 of Rule 122 of the Revised Rules of Criminal Procedure, for the following reasons:

First, BP 129, as amended, the substantive law on which the Rules of Court is based, makes no distinction between the periods to appeal in a civil case and in a criminal case. Section 39 of BP 129 categorically states that "[t]he period for appeal from final orders, resolutions, awards, judgments, or decisions of any court in all cases shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from." *Ubi lex non distinguit nec nos distinguere debemos*. When the law makes no distinction, we (this Court) also ought not to recognize any distinction.[17]

Second, the provisions of Section 3 of Rule 41 of the 1997 Rules of Civil Procedure and Section 6 of Rule 122 of the Revised Rules of Criminal Procedure, though differently worded, mean exactly the same. There is no

substantial difference between the two provisions insofar as legal results are concerned - the appeal period stops running upon the filing of a motion for new trial or reconsideration and starts to run again upon receipt of the order denying said motion for new trial or reconsideration. It was this situation that Neypes addressed in civil cases. No reason exists why this situation in criminal cases cannot be similarly addressed.

Third, while the Court did not consider in Neypes the ordinary appeal period in criminal cases under Section 6, Rule 122 of the Revised Rules of Criminal Procedure since it involved a purely civil case, it did include Rule 42 of the 1997 Rules of Civil Procedure on petitions for review from the RTCs to the Court of Appeals (CA), and Rule 45 of the 1997 Rules of Civil Procedure governing appeals by certiorari to this Court, both of which also apply to appeals in criminal cases, as provided by Section 3 of Rule 122 of the Revised Rules of Criminal Procedure, thus:

SEC. 3. How appeal taken. -- x x x x

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.

x x x x

Except as provided in the last paragraph of section 13, Rule 124, all other appeals to the Supreme Court shall be by petition for review on certiorari under Rule 45.

Clearly, if the modes of appeal to the CA (in cases where the RTC exercised its appellate jurisdiction) and to this Court in civil and criminal cases are the same, no cogent reason exists why the periods to appeal from the RTC (in the exercise of its original jurisdiction) to the CA in civil and criminal cases under Section 3 of Rule 41 of the 1997 Rules of Civil Procedure and Section 6 of Rule 122 of the Revised Rules of Criminal Procedure should be treated differently.

Were we to strictly interpret the "fresh period rule" in Neypes and make it applicable only to the period to appeal in civil cases, we shall effectively foster and encourage an absurd situation where a litigant in a civil case will have a better right to appeal than an accused in a criminal case - a situation that gives undue favor to civil litigants and unjustly discriminates against the accused-appellants. It suggests a double standard of treatment when we favor a situation where property interests are at stake, as against a situation where liberty stands to be prejudiced. We must emphatically reject this double and unequal standard for being contrary to reason. Over time, courts have recognized with almost pedantic adherence that what is contrary to reason is not allowed in law - *Quod est inconveniens, aut contra rationem non permissum est in lege*.^[18]

Thus, we agree with the OSG's view that if a delay in the filing of an appeal may be excused on grounds of substantial justice in civil actions, with more reason should the same treatment be accorded to the accused in seeking the review on appeal of a criminal case where no less than the liberty of the accused is at stake. The concern and the protection we must extend to matters of liberty cannot be overstated.

In light of these legal realities, we hold that the petitioner seasonably filed her notice of appeal on November 16, 2005, within the fresh period of 15 days, counted from November 3, 2005, the date of receipt of notice denying her motion for new trial.

WHEREFORE, the petition for prohibition is hereby GRANTED. Respondent Judge Rosa Samson-Tatad is DIRECTED to CEASE and DESIST from further exercising jurisdiction over the prosecution's motions to dismiss appeal and for execution of the decision. The respondent Judge is also DIRECTED to give due course to the petitioner's appeal in Criminal Case No. Q-01-105698, and to elevate the records of the case to the Court of Appeals for review of the appealed decision on the merits.

No pronouncement as to costs.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Pursuant to Rule 65 of the Rules of Court; rollo, pp. 3-23.

[2] Penned by Pairing Judge Thelma A. Ponferrada; id. at 24-40.

[3] Id. at 41-45.

[4] Id. at 53-57.

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

[6] Rollo, pp. 58-60.

[7] Id. at 63.

[8] Id. at 64-71.

[9] Id. at 85-92.

[10] Supra note 1.

[11] Id. at 118-129.

[12] Per the Court's July 26, 2006 resolution; id. at 131-134.

[13] Id. at 150-163.

[14] Phillips Seafood (Philippines) Corporation v. Board of Investments, G.R. No. 175787, February 4, 2009, 578 SCRA 69, 76; de La Cruz v. Ramiscal, G.R. No. 137882, February 4, 2005, 450 SCRA 449, 457.

[15] Otherwise Known as the "Judiciary Reorganization Act of 1980."

[16] Supra note 5 at 643-645.

[17] BAYAN (Bagong Alyansang Makabayan) v. Exec. Sec. Zamora, G.R. No. 138570, October 10, 2000, 342 SCRA 449, 484; Pilar v. Commission on Elections, G.R. No. 115245, July 11, 1995, 245 SCRA 759, 763; Commissioner of Internal Revenue v. Commission on Audit, G.R. No. 101976, January 29, 1993, 218 SCRA 203, 214-215.

[18] Republic of the Philippines, represented by the Commissioner of Customs v. Unimex Micro-Electronics GMBH, G.R. Nos. 166309-10, March 9, 2007, 518 SCRA 19, 33; Republic v. Court of Appeals, G.R. No. 108926, July 12, 1996, 258 SCRA 712, 723.

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