

FIL-ESTATE PROPERTIES, INC. AND FAIRWAYS AND BLUE-WATERS RESORT AND COUNTRY CLUB, INC., PETITIONERS, VS. HON. MARIETTA J. HOMENA-VALENCIA, IN HER CAPACITY AS PRESIDING JUDGE OF ...

G.R. No. 173942. June 25, 2008

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TINGA, J.:

For resolution is a Motion for Reconsideration[1] dated 19 November 2007 filed by petitioners Fil-Estate Properties, Inc. and Blue-waters Resort and Country Club, seeking reconsideration of the Decision[2] of this Court dated 15 October 2007 which denied their petition.

A brief recapitulation of the relevant facts, even though they have already been narrated in the Decision, is in order.

In 1998, private respondent Sullian Sy Naval filed a complaint[3] against petitioners, seeking the recovery of a parcel of land which petitioners had allegedly taken possession of by constructing a golf course within the vicinity of her property. Counsel for petitioners failed to attend the pre-trial, and only private respondent presented evidence before the Regional Trial Court (RTC) of Aklan which heard the complaint. The RTC rendered a decision[4] in favor of private respondent of which petitioners moved for reconsideration.

The crux of the present matter lies with the facts surrounding the motion for reconsideration. The motion was filed on 10 May 2000,[5] thirteen (13) days after petitioners received their copy of the RTC's decision. On 26 July 2000, the RTC issued an order[6] of even date denying the motion. Petitioners alleged in their petition that they received the order denying the motion for reconsideration on 9 August 2000. They filed a Notice of Appeal on 11 August 2000,[7] but the postal money orders purchased and obtained to pay the filing fee were posted

only on 25 August 2000, or beyond the reglementary period to perfect the appeal. Consequently, the RTC denied the appeal[8] and such denial was sustained by the Court of Appeals after petitioners filed a special civil action for certiorari[9] assailing the RTC's refusal to give due course to the appeal.

The Petition[10] before this Court relied on a rather idiosyncratic theory that only upon the adoption of the amendments to Section 13, Rule 41 of the Rules of Civil Procedure effective 1 May 2000 did it become obligatory on the part of trial courts to dismiss appeals on account of the failure to pay the full docket fees. The Court, in its 15 October 2007 Decision,[11] rejected this theory and reaffirmed the rule ordaining the disallowance of the appeal or notice of appeal when the docket fee is not paid in full within the period for taking the appeal.

The present Motion for Reconsideration[12] centers on a different line of argument: that following our 2005 decision in *Neypes v. Court of Appeals*,[13] their Notice of Appeal was perfected on time as the full docket fees were paid within fifteen (15) days from their receipt of the RTC's order denying their motion for reconsideration. *Neypes* has established a new rule whereby an appellant is granted a fresh 15-day period, reckoned from receipt of the order denying the motion for reconsideration, within which to perfect the appeal.

Petitioners clarify that they received the RTC's order denying their motion for reconsideration on 11 August 2005,[14] a fact which is confirmed by the case records even though the petition had misstated that said order was received on 9 August 2005. Petitioners argue that following Neypes, they were entitled to a new 15-day period, i.e., until 26 August 2005 or one (1) day after they had posted the full appellate docket fees, to perfect the appeal.

Most vitally, petitioners point out that on 10 October 2007, or just five (5) days before the promulgation of the assailed Decision, the Court through the Third Division rendered a decision in *Sps. De los Santos v. Vda. De Mangubat*[15] declaring that the Neypes ruling indeed can be retroactively applied to prior instances.

Private respondent filed her Comment[16] on the Motion for Reconsideration. She insists that Neypes should not be retroactively applied, but she fails to cite any authority on that argument or otherwise contend with the ruling in *Sps. De los Santos*.

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.[17] 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.[18]

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.[19]

Notably, the subject incidents in *Sps. De los Santos* occurred in August 2000, at the same month as the relevant incidents at bar. There is no reason to adopt herein a rule that is divergent from that in *Sps. De los Santos*.

We have reexamined the petition to ascertain whether there is any other impediment to granting favorable relief to petitioners based on the retroactive application of the Neypes doctrine.

Private respondent does argue in her comment on the petition[20] and on the motion for reconsideration[21] that petitioners' special civil action for certiorari before the Court of Appeals was not timely lodged. This argument is premised on petitioners' requested relief that direct that proceedings de novo be had starting from pre-trial, by annulling the RTC's decision and the court's ruling on the motion for reconsideration, which was filed by

petitioners beyond the 60-day period mandated by Section 4, Rule 65 of the Rules of Court for filing a special civil action for certiorari.

Petitioners, in their Reply,[22] argue that the certiorari action was timely filed since the RTC had disallowed the notice of appeal in its 13 September 2000 Order, a copy of which was received by petitioners on 22 September 2000 or within the 60-day period prior to the filing of their certiorari petition.

Certainly, the RTC's order denying the notice of appeal was timely assailed by petitioners via a special civil action filed with the Court of Appeals. Granting positive relief on that point would have the effect of giving due course to the notice of appeal. But is there basis for this Court to take the extra step as requested by petitioners and go as far as to annul the RTC's rulings that granted the complaint filed by private respondent?

We deem the challenges raised by petitioners against the correctness of the RTC's decision and its subsequent resolution on the motion for reconsideration as inappropriate for this Court to decide. Such issues may very well be tackled in petitioners' appeal before the Court of Appeals. After all, as is now conceded, the appeal was timely filed and the existence of such appeal would, per Section 1, Rule 65, bar the certiorari action from correcting errors which may be reversed on appeal. Besides, the resolution of such issues requires a certain level of factual determination, especially as to the circumstances surrounding the resignation of the counsel who had initially appeared in behalf of the petitioners, the service of the order resetting the pre-trial and all subsequent notices of trial to petitioners after private respondent had been allowed to present evidence ex parte. Unlike the Court of Appeals, this Court is not a trier of facts.[23]

WHEREFORE, the motion for reconsideration is GRANTED and the instant petition is GRANTED IN PART. The assailed rulings of the Court of Appeals and the RTC Order dated 13 September 2000 are SET ASIDE. The Court of Appeals is DIRECTED to give due course to petitioners' appeal in Civil Case No. 5626, and to hear and decide such appeal with deliberate dispatch. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., concur.

[1] Rollo, pp. 424-436.

[2] Id. at 406-423.

[3] Id. at 72-77.

[4] Id. at 99-108.

[5] Id. at 109-111.

[6] Id. at 118-121.

[7] Id. at 122-123.

[8] Id. at 124-125.

[9] Id. at 126-153.

[10] Id. at 10-56.

[11] Supra note 2.

[12] Supra note 1.

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

[14] Rollo, pp. 432-433. Petitioners support this assertion by attaching to their Motion for Reconsideration a copy of the registry receipt which indicated that its then counsel, Atty. Uytiepo, received the order on "8/11/00." See id. at 438.

[15] G.R. No. 149508, 10 October 2007, 535 SCRA 411.

[16] Rollo, pp. 446-455.

[17] Pfizer, Inc. v. Galan, 410 Phil. 483, 491 (2001).

[18] Id.

[19] De los Santos v. Vda. De Mangubat, supra note 15, at 422-423.

[20] Rollo, pp. 337-353.

[21] Id. at 446-456.

[22] Id. at 358-373.

[23] See, e.g., Naguiat v. Court of Appeals, 459 Phil. 237, 241-242 (2003).

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