

JULIETA PANOLINO, PETITIONER, VS. JOSEPHINE L. TAJALA, RESPONDENT.

G.R. No. 183616. June 29, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The Department of Environment and Natural Resources (DENR) Regional Executive Director Jim O. Sampulna (RD Sampulna), by Decision[2] of June 19, 2007, (1) denied for lack merit the application[3] of Julieta Panolino (petitioner), which was opposed by herein respondent Josephine L. Tajala, for a free patent over a parcel of land located in Kinayao, Bagumbayan, Sultan Kudarat, (2) directed petitioner to vacate the contested property and remove at her expense whatever improvements she may have introduced thereon, and (3) advised respondent to file her free patent application over the contested property within sixty days.[4]

Petitioner received a copy of the decision on June 27, 2007, of which she filed a motion for reconsideration on July 11, 2007. Her motion was denied by Order[5] of September 6, 2007, copy of which she received on September 12, 2007.

On September 19, 2007, petitioner filed a Notice of Appeal[6] before the Office of RD Sampulna, stating that she was appealing the decision and order to the Office of the DENR Secretary. By Order[7] of October 16, 2007, RD Sampulna denied the notice of appeal, holding that it was filed beyond the reglementary period. The RD explained that petitioner should have filed her appeal on September 13, 2007 as she had only one day left of the 15-day reglementary period for the purpose, pursuant to DENR Administrative Order No. 87, Series of 1990,[8] the pertinent portions of which provide:

SECTION 1. Perfection of Appeals.

(a) Unless otherwise provided by law or executive order, appeals from the decisions/orders of the DENR Regional Offices shall be perfected within fifteen (15) days after receipt of a copy of the decision/order complained of by the party adversely affected, by filing with the Regional Office which adjudicated the case a notice of appeal, serving copies thereof upon the prevailing party and the Office of the Secretary, and paying the required fees.

(b) If a motion for reconsideration of the decision/order of the Regional Office is filed and such motion for reconsideration is denied, the movant shall have the right to perfect his appeal during the remainder of the period for appeal, reckoned from receipt of the resolution of denial. If the decision is reversed on reconsideration, the aggrieved party shall have fifteen (15) days from receipt of the resolution of reversal within which to perfect his appeal.

(c) The Regional office shall, upon perfection of the appeal, transmit the records of the case to the Office of the Secretary with each page numbered consecutively and initialed by the custodian of the records.

x x x x

SECTION 6. Applicability of the Rules of Court. - The Rules of Court shall apply when not inconsistent with the provisions hereof. (emphasis and underscoring supplied)

Invoking the rule enunciated by this Court in the 2005 case of *Neypes, et al. v. Court of Appeals, et al.*,^[9] petitioner argued in her motion for reconsideration of RD Sampulna's October 16, 2007 Order that she still had a fresh period of fifteen days from her receipt on September 12, 2007 of copy of the September 6, 2007 Order denying her motion for reconsideration of the June 19, 2007 Decision of the RD or until September 27, 2007. Her motion was denied by Order^[10] of November 28, 2007.

Petitioner elevated the matter via certiorari before the Court of Appeals which, by Resolution^[11] of January 25, 2008, dismissed it on the ground that petitioner failed to exhaust administrative remedies, she having bypassed the Office of the DENR Secretary and the Office of the President before resorting to judicial action.

Petitioner moved for reconsideration, arguing that her petition for certiorari raised a purely legal issue. By Resolution of June 25, 2008, the appellate court, holding that "the issue raised is clearly a question of fact,"^[12] denied petitioner's motion. Hence, the present petition for review on certiorari.

The issue before the Court of Appeals was whether the "fresh period rule" laid down in *Neypes* applies to petitioner's case, i.e., that he had a fresh period of 15 days to appeal RD Sampulna's October 16, 2007 Order to the DENR Secretary, counted from her notice on September 12, 2007 of the RD's Order of September 6, 2007 denying her motion for reconsideration of the decision.

The "fresh period rule" in *Neypes* declares:

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,^[13] 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.

x x x. This pronouncement is not inconsistent with Rule 41,^[14] Section 3 of the Rules which states that the appeal shall be taken within 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 in 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 notice of judgment or within 15 days from notice of the "final order," which we already determined to refer to the x x x order denying the motion for a new trial or reconsideration.

Neither does this new rule run counter to the spirit of Section 39 of BP 129^[15] which shortened the appeal period from 30 days to 15 days to hasten the disposition of cases. The original period of appeal x x x remains and the requirement for strict compliance still applies. The fresh period of 15 days becomes significant only when a party opts to file a motion for reconsideration. In this manner, the trial court which rendered the assailed decision is given another opportunity to review the case and, in the process, minimize and/or rectify any error of judgment. While we aim to resolve cases with dispatch and to have judgments of courts become final at some definite time, we likewise aspire to deliver justice fairly.

In this case, the new period of 15 days eradicates the confusion as to when the 15-day appeal period should be

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

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.[16] (emphasis and underscoring supplied; italics in the original)

The issue raised by petitioner before the appellate court is one of law because it can be resolved by merely determining what the law is under the undisputed facts.[17] The appellate court's ruling that such issue raises a question of fact which "entails an examination of the probative value of the evidence presented by the parties"[18] is thus erroneous.

Instead, however, of remanding this case to the Court of Appeals for it to resolve the legal issue of whether the "fresh period rule" in Neypes is applicable to petitioner's case, the Court opts to resolve it to obviate further delay.

As reflected in the above-quoted portion of the decision in Neypes, the "fresh period rule" shall apply to Rule 40 (appeals from the Municipal Trial Courts to the Regional Trial Courts); Rule 41 (appeals from the Regional Trial Courts to the Court of Appeals or Supreme Court); Rule 42 (appeals from the Regional Trial Courts to the Court of Appeals); Rule 43 (appeals from quasi-judicial agencies to the Court of Appeals); and Rule 45 (appeals by certiorari to the Supreme Court). Obviously, these Rules cover judicial proceedings under the 1997 Rules of Civil Procedure.

Petitioner's present case is administrative in nature involving an appeal from the decision or order of the DENR regional office to the DENR Secretary. Such appeal is indeed governed by Section 1 of Administrative Order No. 87, Series of 1990. As earlier quoted, Section 1 clearly provides that if the motion for reconsideration is denied, the movant shall perfect his appeal "during the remainder of the period of appeal, reckoned from receipt of the resolution of denial;" whereas if the decision is reversed, the adverse party has a fresh 15-day period to perfect his appeal.

Rule 41, Section 3 of the Rules of Court, as clarified in Neypes, being inconsistent with Section 1 of Administrative Order No. 87, Series of 1990, it may not apply to the case of petitioner whose motion for reconsideration was denied.

WHEREFORE, the assailed issuances of the Court of Appeals are AFFIRMED, not on the ground advanced therein but on the ground reflected in the foregoing discussion. No costs.

SO ORDERED.

Brion, Bersamin, Abad,[*]and Villarama, Jr., JJ., concur.

[1] The other respondents named in the petition, namely, Regional Executive Director Jim O. Sampulna, DENR Region XII, Koronadal City, and the Court of Appeals, are deleted pursuant to Rule 45, Section 4(a) of the 1997 Rules of Civil Procedure, as amended.

[*] Additional member per Special Order No. 843 dated May 17, 2010.

[2] Rollo, pp. 63-66.

[3] Docketed as RED Claim No. 002-07, CENRO Case No. XII-5A-003.

[4] Id. at 65-66.

[5] Id. at 75-76.

[6] Id. at 77-79.

[7] Id. at 83-84.

[8] "Regulations Governing Appeals to the Office of the [DENR] Secretary from the Decisions/Orders of the Regional Offices."

[9] G.R. No. 141524, September 14, 2005, 469 SCRA 633, 644-646.

[10] Id. at 88-89. Rollo, pp. 88-89.

[11] Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Edgardo A. Camello and Elihu A. Ybanez; id. at 90-91.

[12] Id. at 98.

[13] Referring to Rule 41 of the 1997 Rules of Civil Procedure; supra note 9 at 639.

[14] Appeal from the Regional Trial Courts (RTC) through (1) ordinary appeal to the Court of Appeals (CA) in cases decided by the RTC in the exercise of its original jurisdiction [Section 2(a), Rule 41]; (2) petition for review to the CA in cases decided by the RTC in the exercise of its appellate jurisdiction, in accordance with Rule 42 [Section 2(b), id.]; and (3) appeal by certiorari to the Supreme Court in cases where only questions of law are raised, in accordance with Rule 45 [Section 2(c), id.].

[15] The Judiciary Reorganization Act of 1980.

[16] Supra note 9 at 644-646.

[17] Ericsson Telecommunications, Inc. v. City of Pasig, G.R. No. 176667, November 22, 2007, 538 SCRA 99, 108-109.

[18] Resolution dated June 25, 2008, rollo, p. 98.

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