



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 MAR 28 2016

THIRD DIVISION

MILAGROSA JOCSON,
 Petitioner,

G.R. No. 206941

Present:

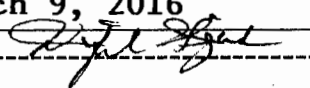
VELASCO, JR., J.,
Chairperson,
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

- versus -

Promulgated:

NELSON SAN MIGUEL,
 Respondent.

March 9, 2016

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DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² dated October 29, 2012 and Resolution³ dated April 16, 2013 issued by the Court of Appeals (CA) in CA-G.R. SP No. 122007, which allowed the application of the “fresh-period rule” in the filing of a Notice of Appeal to the Department of Agrarian Reform Adjudication Board (DARAB), Office of the Provincial Agrarian Reform Adjudicator (PARAD).

¹ *Rollo*, pp. 9-26.

² Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Jane Aurora C. Lantion and Victoria Isabel A. Paredes concurring; *id.* at 27-38.

³ *Id.* at 39-41.

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Facts of the Case

On September 10, 2008, Milagrosa C. Jocson (Jocson) filed with the DARAB-PARAD, Region III of San Fernando City, Pampanga, a Complaint⁴ for ejectment with damages against respondent Nelson San Miguel (San Miguel) and all persons claiming rights under him. The case was docketed as DARAB Case No. 6291-P'08.

In the Complaint, Jocson alleged that she is the registered owner of a parcel of agricultural land with an area of 60,241 square meters, located in Magalang, Pampanga covered by Transfer Certificate of Title No. 473856-R. She asserted that 56,000 sq m thereof became the subject of an Agricultural Leasehold Contract⁵ (Contract) between her and San Miguel, with the latter as tenant-lessee. As part of the contract, they agreed that the subject landholding shall be devoted to sugar and rice production.⁶

According to Jocson, San Miguel, however, occupied the entire landholding and refused to vacate the portion not covered by their Contract despite repeated demands.⁷

On December 15, 2009, Jocson filed a Supplemental Complaint⁸ alleging that, during the pendency of the present suit, San Miguel commenced to plant corn on the subject landholding which violated their Contract.⁹

In his Answer,¹⁰ San Miguel maintained that he had religiously complied with all the terms and conditions of their Contract and that Jocson has no valid ground to eject him from the disputed landholding.¹¹

PARAD Decision

On January 26, 2011, PARAD Provincial Adjudicator Vicente Aselo S. Sicat (PA Sicat) rendered a Decision,¹² the decretal portion of which reads:

⁴ Id. at 64-68.
⁵ Id. at 264-266.
⁶ Id. at 64-65, 264.
⁷ Id. at 29.
⁸ Id. at 284-287.
⁹ Id. at 284-285.
¹⁰ Id. at 288-290.
¹¹ Id.
¹² Id. at 90-92.



WHEREFORE, premises considered, judgment is hereby rendered:

1. TERMINATING the existing leasehold contract of the parties as well as their tenancy relationship;
2. ORDERING [San Miguel] and all persons claiming rights under him to peacefully vacate and surrender the land to [Jocson];
3. DISMISSING all other claims for want of evidence.

No costs.

SO ORDERED.¹³

San Miguel filed a Motion for Reconsideration¹⁴ (MR) dated February 10, 2011 but it was denied in an Order¹⁵ dated May 31, 2011.

On June 15, 2011,¹⁶ San Miguel filed his Notice of Appeal.¹⁷

Thereafter, on June 28, 2011, Jocson filed an Omnibus Motion to: (i) expunge the Notice of Appeal from the records of the present case; (ii) dismiss the said appeal; and (iii) issue a writ of execution.¹⁸ She alleged that the Notice of Appeal filed by San Miguel was filed not in accordance with the 2003 DARAB Rules of Procedure, specifically the non-payment of appeal fee and the failure to attach therein a Certification against Non-Forum Shopping pursuant to Section 2, Rule IV of the Rules.¹⁹

On July 27, 2011, PA Sicat issued an Order²⁰ denying due course to San Miguel's Notice of Appeal and thereafter declared the case final and executory. Aside from failure to pay the required appeal fee and to attach the required certification, the PARAD held that the Notice of Appeal was likewise filed out of time.²¹

The PARAD held that under Section 12, Rule X of the 2003 DARAB Rules of Procedure, "[t]he filing of the Motion for Reconsideration shall interrupt the period to perfect an appeal. If the motion is denied, the aggrieved party shall have the remaining period within which to perfect his

¹³ Id. at 91-92.

¹⁴ Id. at 93-96.

¹⁵ Id. at 106-107.

¹⁶ Id. at 123.

¹⁷ Id. at 108-109.

¹⁸ Id. at 118-122.

¹⁹ Id. at 118-120.

²⁰ Id. at 123-125.

²¹ Id. at 123-124.

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appeal. Said period shall not be less than five (5) days in any event, reckoned from the receipt of the notice of denial.”²²

The PARAD found that San Miguel, through his counsel, received his copy of Decision dated January 26, 2011 on February 3, 2011 and thereafter filed his MR on February 15, 2011, thus, he could have only three (3) days within which to file his Notice of Appeal upon its denial. The MR was denied on May 31, 2011 and San Miguel, through his counsel, received his copy of the Order on June 2, 2011 and he filed his Notice of Appeal on June 15, 2011 or after twelve (12) days, which, following the rules abovementioned, is already beyond the period allowed.²³

San Miguel filed his MR²⁴ but the same was denied in an Order²⁵ dated October 18, 2011, which likewise directed the issuance of a writ of execution to enforce the decision rendered by the PARAD.

Undaunted, San Miguel filed a Petition for *Certiorari*²⁶ (with a Prayer for a Temporary Restraining Order and Application for Preliminary Mandatory Injunction) with the CA.

San Miguel argued that the 2009 DARAB Rules of Procedure adopted the “fresh period rule” enunciated by this Court in *Neypes v. CA*²⁷ to the effect that it allows litigants a fresh period of 15 days within which to file a notice of appeal, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration as provided for under Section 1, Rule IV of the 2009 DARAB Rules of Procedure.²⁸

Ruling of the CA

On October 29, 2012, the CA issued a Decision²⁹ granting San Miguel’s petition and remanding the case to the DARAB-PARAD for further proceedings. The CA held that the “fresh period rule” enunciated in *Neypes* should be applied in the instant case. The CA decision reads in part:

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

²² Id. at 123.
²³ Id. at 124.
²⁴ Id. at 126-129.
²⁵ Id. at 130-131.
²⁶ Id. at 134-157.
²⁷ 506 Phil. 613 (2005).
²⁸ *Rollo*, p. 150.
²⁹ Id. at 27-38.

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applied to pending actions, such as the case at bar. The *raison d'être* for the “fresh period rule” is to standardize the appeal period provided in the Rules of Court 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.³⁰ (Citation omitted and emphasis in the original)

Jocson filed her MR but it was denied in a Resolution³¹ dated April 16, 2013.

Hence, the present petition.

Issues

Jocson argued that the CA committed grave abuse and substantial error of judgment amounting to errors of law:

- I. IN REJECTING THE APPLICATION OF THE 2003 DARAB RULES OF PROCEDURE TO THE NOTICE OF APPEAL FILED BY SAN MIGUEL AND UPHOLDING THE APPLICATION OF THE “FRESH PERIOD RULE” PROVIDED UNDER THE NEW 2009 DARAB RULES OF PROCEDURE WHICH TOOK EFFECT DURING THE PENDENCY OF THIS SUIT BEFORE THE PARAD, IN THE CASE AT BAR.
- II. IN APPLYING THE *NEYPES* RULING IN THE INSTANT CASE INSTEAD OF THE RULING IN *PANOLINO V. TAJALA*³² DESPITE THE FACT THAT THE ASSAILED ORDERS WERE NOT ISSUED BY A COURT.³³

Ruling of the Court

This Court finds the petition to be meritorious.

³⁰ Id. at 36.
³¹ Id. at 39-41.
³² 636 Phil. 313 (2010).
³³ *Rollo*, p. 17.

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Application of the 2003 DARAB Rules of Procedure

San Miguel alleged that due to the effectivity of the 2009 DARAB Rules of Procedure, its provisions should be applied instead of the 2003 DARAB Rules of Procedure.

This Court rules in the negative.

It must be noted that Section 1, Rule XXIV of the 2009 DARAB Rules of Procedure explicitly states that:

Sec. 1. Transitory Provisions. These Rules shall govern all cases filed on or after its effectivity. **All cases pending with the Board and the Adjudicators, prior to the date of effectivity of these Rules, shall be governed by the DARAB Rules prevailing at the time of their filing.** (Emphasis ours)

In the present case, the Complaint was filed on September 10, 2008 prior to the date of effectivity of the 2009 DARAB Rules of Procedure on September 1, 2009. Thus, pursuant to the above-cited rule, the applicable rule in the counting of the period for filing a Notice of Appeal with the Board is governed by Section 12, Rule X of the 2003 DARAB Rules of Procedure, which states that:

The filing of the Motion for Reconsideration shall interrupt the period to perfect an appeal. If the motion is denied, the aggrieved party shall have the remaining period within which to perfect his appeal. Said period shall not be less than five (5) days in any event, reckoned from the receipt of the notice of denial.

Application of the “fresh period rule” enunciated in the *Neypes* ruling

This Court likewise finds no merit to San Miguel’s contention that the “fresh period rule” laid down in *Neypes* is applicable in the instant case.

In *Panolino*, this Court held that the “fresh period rule” only covers judicial proceedings under the 1997 Rules of Civil Procedure, to wit:

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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, 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 [CA]; Rule 43 on appeals from quasi-judicial agencies to the [CA]; 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 x

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 [CA] or Supreme Court); Rule 42 (appeals from the Regional Trial Courts to the [CA]); Rule 43 (appeals from quasi-judicial agencies to the [CA]); 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.³⁴ (Citation omitted and emphasis ours)

The same principle was applied in the recent case of *San Lorenzo Ruiz Builders and Developers Group, Inc. and Oscar Violago v. Ma. Cristina F. Bayang*,³⁵ wherein this Court reiterated that the “fresh period rule” in *Neypes* applies only to judicial appeals and not to administrative appeals.

³⁴ *Panolino v. Tajala*, supra note 32, at 317-319.

³⁵ G.R. No. 194702, April 20, 2015.

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In the present case, the appeal from a decision of the Provincial Adjudicator to the DARAB as provided for under Section 1, Rule XIV of the 2003 DARAB Rules of Procedure, is not judicial but administrative in nature. As such, the “fresh period rule” in *Neypes* finds no application therein.

As correctly observed by PA Sicat, San Miguel should perfect his appeal during the remainder of the period of appeal, but not less than five (5) days, reckoned from receipt of the resolution of denial of his MR or until June 7, 2011.

As a final note, it is worthy to emphasize that the right to appeal is not a natural right or a part of due process, but is merely a statutory privilege that may be exercised only in the manner prescribed by law. The right is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed. In addition, the liberal application of rules of procedure for perfecting appeals is still the exception, and not the rule; and it is only allowed in exceptional circumstances to better serve the interest of justice.³⁶ This exceptional situation, however, does not obtain in this case.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is hereby **GRANTED**. The Decision dated October 29, 2012 and Resolution dated April 16, 2013 of the Court of Appeals in CA-G.R. SP No. 122007 are hereby **REVERSED** and **SET ASIDE**. The Orders dated July 27, 2011 and October 18, 2011 of the Provincial Agrarian Reform Adjudicator are hereby **REINSTATED**.

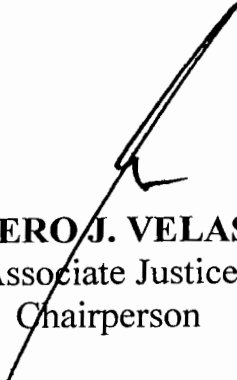
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

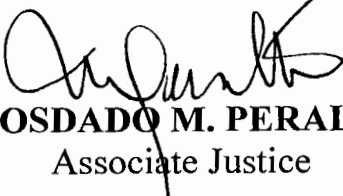
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Cadena v. Civil Service Commission, 679 Phil. 165, 176-177 (2012).

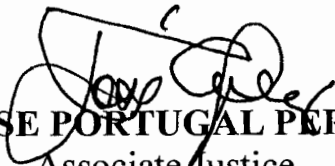
WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

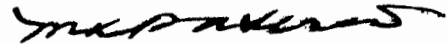


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

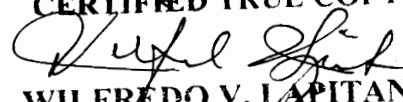
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CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAR 28 2016

