

THIRD DIVISION

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

**JULIETA PANOLINO, PETITIONER, VS. JOSEPHINE L. TAJALA,
RESPONDENT.^[1]**

D E C I S I O N

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