

SPECIAL SECOND DIVISION

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

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 BRANCH 1, REGIONAL TRIAL COURT, KALIBO, AKLAN, AND SULLIAN SY NAVAL, RESPONDENTS.

R E S O L U T I O N

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