

FIRST DIVISION

[G.R. No. 154034, February 05, 2007]

FIRST AQUA SUGAR TRADERS, INC. AND CBN INTERNATIONAL (HK) CORPORATION, PETITIONERS, VS. BANK OF THE PHILIPPINE ISLANDS,[1] RESPONDENT.

D E C I S I O N

CORONA, J.:

Petitioners First Aqua Sugar Traders, Inc. and CBN International Corporation were the plaintiffs in Civil Case No. 99-930^[2] filed in the Regional Trial Court of Makati, Branch 57.^[3] Respondent Bank of the Philippine Islands was the defendant in that case.

On October 16, 2000, the trial court rendered a summary judgment dismissing the complaint.^[4] Petitioners received a copy of the judgment on October 27, 2000. Hence, they had fifteen days to file a notice of appeal.^[5] Instead, on November 6, 2000, or 10 days after, they opted to file a motion for reconsideration which was denied in the order dated January 30, 2001.^[6]

Petitioners claim they received a copy of the January 30, 2001 order on *February 16, 2001* and that they filed a notice of appeal^[7] on the same day.

On February 19, 2001, the trial court gave due course to the notice of appeal on the premise that the same was filed within the prescribed period.^[8]

Respondent, on the other hand, filed a motion to declare the October 16, 2000 judgment final alleging that petitioners' notice of appeal was filed out of time. According to respondent, the January 30, 2001 order was sent to the address of petitioners' counsel and was received there by a certain Lenie Quilatan on *February 9, 2001*. Hence, petitioners had only five days^[9] left to file the notice of appeal counted from February 9, 2001, or until February 14, 2001. Thus, the February 16, 2001 filing was out of time.^[10]

Petitioners disputed respondent's allegation and maintained their position that the reckoning point of the remaining 5-day period should be the date of their actual receipt which was February 16, 2001.^[11] They claimed that Quilatan, who allegedly received the January 30, 2001 order on February 9, 2001, was not in any way connected to them or their counsel.

On March 30, 2001, the trial court ruled for the respondents.

... the Registered Letter No. B-341 sent by the Court to R.Z. Francisco and Associates was duly delivered and received by Lenie Quilatan, an authorized representative, on February 9, 2001. It is therefore not true that the receipt of the Order denying the motion for reconsideration [was] on February 16, 2001 but rather it was on February 9, 2001, thus making the appeal interposed to have been filed out of time.^[12]

On certiorari, the Court of Appeals sustained the trial court's finding and dismissed the petition.^[13] The motion for reconsideration was denied.^[14] Hence this recourse.

The only issue before us is whether the notice of appeal was filed on time.

The actual date of receipt of the notice of denial of the motion for reconsideration dated January 30, 2001 is a factual issue which the trial court and the Court of Appeals have already ruled on. Accordingly, this Court, not being a trier of facts^[15] and having no reason to reverse the said finding, holds that the date of receipt of the January 30, 2001 order was February 9, 2001.

However, we disagree with the lower courts' finding that the notice of appeal was filed late. In the recent case of *Neypes v. Court of Appeals*,^[16] we stated that:

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.** (emphasis ours)

In the light of this decision, a party litigant may now file his notice of appeal either within fifteen days from receipt of the original decision or *within fifteen days from the receipt of the order denying the motion for reconsideration.*^[17] Being procedural in nature, *Neypes* is deemed to be applicable to actions pending and undetermined at the time of its effectivity and is thus retroactive in that sense and to that extent.^[18]

Petitioners' notice of appeal filed on February 16, 2001 was therefore well-within the fresh period of fifteen days from the date of their receipt of the January 30, 2001 order on February 9, 2001.

WHEREFORE, the petition is hereby **GRANTED.** The decision of the Court of Appeals dated April 25, 2002 in CA-G.R. SP No. 64230 is **SET ASIDE.** Accordingly, let the records of this case be remanded to the Court of Appeals for further proceedings.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.