

## THIRD DIVISION

[ G.R. No. 137571, September 21, 2000 ]

**TUNG CHIN HUI, PETITIONER, VS. RUFUS B. RODRIGUEZ,  
COMMISSIONER OF IMMIGRATION; AND THE BOARD OF  
COMMISSIONERS, BUREAU OF IMMIGRATION AND  
DEPORTATION, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

Provisions that were not reproduced in the 1997 Rules of Civil Procedure are deemed repealed. Hence, having been omitted from the 1997 Rules, deemed already repealed is Section 18, Rule 41 of the pre-1997 Rules of Court, which had theretofore provided for a 48-hour reglementary period within which to appeal habeas corpus cases. Accordingly, the period for perfecting appeals in said cases and ordinary civil actions is now uniform -- 15 days from notice of the judgment or order.

### The Case

Before us is a Petition for Certiorari under Rule 65 of the Rules of Court, assailing the March 2, 1999 Order<sup>[1]</sup> of the Regional Trial Court (RTC) of Manila (Branch 26) in Special Proceedings No. 98-92014. The challenged Order reads in full as follows:  
<sup>[2]</sup>

"For resolution is a Motion For Reconsideration filed by petitioner thru counsel with comment/opposition thereto filed by respondents thru counsel.

"After careful consideration of the grounds relied upon by both parties, this Court finds for the respondents. The Notice of Appeal filed by the respondents is actually fo[r] the Court Decision dated January 7, 1999 and not for [the] Court Order dated January 29, 1999.

"In view of the foregoing, the Motion for Reconsideration filed by petitioner is hereby DENIED for lack of merit.

"Meanwhile, the Branch Clerk of Court is hereby ordered to immediately transmit the record of the instant case to the Honorable Court of Appeals within ten (10) days from today."

### The Facts

From the records and the pleadings of the parties, the following facts appear undisputed.

After obtaining a visa at the Philippine Embassy in Singapore, petitioner, a "Taiwanese citizen,"<sup>[3]</sup> arrived in this country on November 5, 1998.

On November 15, 1998, he was arrested by several policemen, who subsequently turned him over to the Bureau of Immigration and Deportation (BID). Thereafter, on November 25, 1998, the BID Board of Commissioners, after finding him guilty of possessing a tampered passport earlier canceled by Taiwanese authorities, ordered his summary deportation.

On December 11, 1998, petitioner filed before the RTC of Manila a Petition for Habeas Corpus on the ground that his detention was illegal. After respondents filed a Return of Writ controverting his claim, the trial court issued a Decision dated January 7, 1999, granting his Petition and ordering his release from custody.

On January 11, 1999, respondents filed a Motion for Reconsideration, which was denied by the trial court in an Order dated January 29, 1999.

Respondents then filed a "[N]otice of [A]ppeal from the judgment of the Honorable Court in the above-stated case, dated January 29, 1999, a copy of which was received by the Bureau on February 11, 1999 and was received by the undersigned counsel on February 15, 1999 x x x."<sup>[4]</sup> Dated February 15, 1999, it was received by the RTC on February 16, 1999 at 9:45 a.m.

Petitioner filed an "Opposition," claiming that the Notice had been filed beyond the 48-hour reglementary period for filing appeals in habeas corpus cases as prescribed by the pre-1997 Rules of Court. Although respondents alleged that they had received the said Order on February 15, 1999, petitioner contended that they had in fact received it on February 11, 1999, "as evidenced by the receipt of the service thereof and by the Sheriff's Return."<sup>[5]</sup>

In an Order dated February 18, 1999, the RTC rejected petitioner's contention and granted due course to the Notice of Appeal.

Petitioner then filed a Motion for Reconsideration, arguing this time that the Notice should be rejected because it had referred not to the RTC Decision but to the January 29, 1999 Order denying reconsideration. In its assailed March 2, 1999 Order, the trial court denied his Motion.

Hence, this Petition raising pure questions of law.<sup>[6]</sup> In a Resolution dated March 22, 1999, this Court issued a Temporary Restraining Order "directing the respondents to cease and desist from deporting the petitioner x x x until further orders."<sup>[7]</sup>

### **The Issues**

Petitioner submits the following issues for our consideration:<sup>[8]</sup>

"(a) Is the reglementary period to appeal [a] habeas corpus [case] now 15 days from notice of judgment as contended by [the] lower court?

"(b) Is the reglementary period to appeal [a] habeas corpus [case] still

48 hours from notice of judgment as provided for in Section 18, Rule 41 of the Revised Rules of Court? or

“(c) Is the provision of Sec. 1, sub-paragraph (a) of Rule 41 of the 1997 Rules of Civil Procedure -- prohibiting appeal from an Order denying a motion for reconsideration - mandatory or merely discretionary on the part of the lower courts?

“(d) Are petitions for writs of habeas corpus already brought down to the level of ordinary cases despite the fact that in habeas corpus the liberty of persons illegally detained is involved?”

In the main, the Court will resolve whether the Notice of Appeal was seasonably filed. In the process, it will determine the applicable reglementary period for filing an appeal in habeas corpus cases.

### **The Court's Ruling**

The Petition is not meritorious.

### **Main Issue:** **Reglementary Period for Appealing** **Habeas Corpus Cases**

Petitioner contends that the Notice of Appeal was late because respondents filed it only on February 16, 1999, five days after they had received the Order denying the Motion for Reconsideration on February 11, 1999.<sup>[9]</sup> He argues that the reglementary period for filing an appeal is 48 hours, as prescribed in Section 18 of Rule 41 of the pre-1997 Rules of Court, which reads as follows:

“SEC. 18. *Appeal in habeas corpus cases, how taken.* - An appeal in habeas corpus cases shall be perfected by filing with the clerk of court or the judge who rendered the judgment, within forty-eight (48) hours from notice of such judgment, a statement that the person making it appeals therefrom.”

The argument is devoid of merit, because the foregoing provision was omitted from and thereby repealed by the 1997 Revised Rules of Court, which completely replaced Rules 1 to 71. The well-settled rule of statutory construction is that provisions of an old law that were not reproduced in the revision thereof covering the same subject are deemed repealed and discarded.<sup>[10]</sup> The omission shows the intention of the rule-making body, the Supreme Court in this case,<sup>[11]</sup> “to abrogate those provisions of the old laws that are not reproduced in the revised statute or code.”<sup>[12]</sup>

Clearly then, the reglementary period for filing an appeal in a habeas corpus case is now similar to that in ordinary civil actions<sup>[13]</sup> and is governed by Section 3, Rule 41 of the 1997 Rules of Court, which provides:

“SEC. 3. *Period of ordinary appeal.* -- The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a