

THIRD DIVISION

[G.R. No. 170979, February 09, 2011]

**JUDITH YU, PETITIONER, VS. HON. ROSA SAMSON-TATAD,
PRESIDING JUDGE, REGIONAL TRIAL COURT, QUEZON CITY,
BRANCH 105, AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

BRION, J.:

We resolve the petition for prohibition filed by petitioner Judith Yu to enjoin respondent Judge Rosa Samson-Tatad of the Regional Trial Court (RTC), Branch 105, Quezon City, from taking further proceedings in Criminal Case No. Q-01-105698, entitled "*People of the Philippines v. Judith Yu, et al.*"^[1]

The Factual Antecedents

The facts of the case, gathered from the parties' pleadings, are briefly summarized below.

Based on the complaint of Spouses Sergio and Cristina Casaclang, an information for estafa against the petitioner was filed with the RTC.

In a May 26, 2005 decision, the RTC convicted the petitioner as charged. It imposed on her a penalty of three (3) months of imprisonment (*arresto mayor*), a fine of P3,800,000.00 with subsidiary imprisonment, and the payment of an indemnity to the Spouses Casaclang in the same amount as the fine.^[2]

Fourteen (14) days later, or on June 9, 2005, the petitioner filed a motion for new trial with the RTC, alleging that she discovered new and material evidence that would exculpate her of the crime for which she was convicted.^[3]

In an October 17, 2005 order, respondent Judge denied the petitioner's motion for new trial for lack of merit.^[4]

On November 16, 2005, the petitioner filed a notice of appeal with the RTC, alleging that pursuant to our ruling in *Neypes v. Court of Appeals*,^[5] she had a "fresh period" of 15 days from November 3, 2005, the receipt of the denial of her motion for new trial, or up to November 18, 2005, within which to file a notice of appeal.^[6]

On November 24, 2005, the respondent Judge ordered the petitioner to submit a copy of *Neypes* for his guidance.^[7]

On December 8, 2005, the prosecution filed a motion to dismiss the appeal for being

filed 10 days late, arguing that *Neypes* is inapplicable to appeals in criminal cases.^[8]

On January 4, 2006, the prosecution filed a motion for execution of the decision.^[9]

On January 20, 2006, the RTC considered the twin motions submitted for resolution.

On January 26, 2006, the petitioner filed the present petition for prohibition with prayer for the issuance of a temporary restraining order and a writ of preliminary injunction to enjoin the RTC from acting on the prosecution's motions to dismiss the appeal and for the execution of the decision.^[10]

The Petition

The petitioner argues that the RTC lost jurisdiction to act on the prosecution's motions when she filed her notice of appeal within the 15-day reglementary period provided by the Rules of Court, applying the "fresh period rule" enunciated in *Neypes*.

The Case for the Respondents

The respondent People of the Philippines, through the Office of the Solicitor General (OSG), filed a manifestation in lieu of comment, stating that *Neypes* applies to criminal actions since the evident intention of the "fresh period rule" was to set a uniform appeal period provided in the Rules.^[11]

In view of the OSG's manifestation, we required the Spouses Casaclang to comment on the petition.^[12]

In their comment, the Spouses Casaclang aver that the petitioner cannot seek refuge in *Neypes* to extend the "fresh period rule" to criminal cases because *Neypes* involved a civil case, and the pronouncement of "standardization of the appeal periods in the Rules" referred to the interpretation of the appeal periods in civil cases, *i.e.*, Rules 40, 41, 42 and 45, of the 1997 Rules of Civil Procedure among others; nowhere in *Neypes* was the period to appeal in criminal cases, Section 6 of Rule 122 of the Revised Rules of Criminal Procedure, mentioned.^[13]

Issue

The core issue boils down to whether the "fresh period rule" enunciated in *Neypes* applies to appeals in criminal cases.

The Court's Ruling

We find merit in the petition.

The right to appeal is not a constitutional, natural or inherent right -- it is a statutory privilege and of statutory origin and, therefore, available only if granted or as provided by statutes. It may be exercised only in the manner prescribed by the provisions of the law.^[14] The period to appeal is specifically governed by Section 39

of *Batas Pambansa Blg. 129 (BP 129)*,^[15] as amended, Section 3 of Rule 41 of the 1997 Rules of Civil Procedure, and Section 6 of Rule 122 of the Revised Rules of Criminal Procedure.

Section 39 of BP 129, as amended, provides:

SEC. 39. *Appeals*. - The period for appeal from final orders, resolutions, awards, judgments, or decisions of any court **in all cases** shall be fifteen (15) days counted from the notice of the final order, resolution, award, judgment, or decision appealed from: *Provided, however*, That in *habeas corpus* cases, the period for appeal shall be forty-eight (48) hours from the notice of the judgment appealed from.

Section 3, Rule 41 of the 1997 Rules of Civil Procedure states:

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 notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

Section 6, Rule 122 of the Revised Rules of Criminal Procedure reads:

SEC. 6. *When appeal to be taken*. -- An appeal must be taken within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed from. **This period for perfecting an appeal shall be suspended from the time a motion for new trial or reconsideration is filed until notice of the order overruling the motion has been served upon the accused or his counsel at which time the balance of the period begins to run.**

In *Neypes*, the Court modified the rule in civil cases on the counting of the 15-day period within which to appeal. The Court categorically set a **fresh period of 15 days from a denial of a motion for reconsideration within which to appeal**, thus:

The Supreme Court may promulgate procedural rules in all courts. It has the sole prerogative to amend, repeal or even establish new rules for a more simplified and inexpensive process, and the speedy disposition of cases. In the rules governing appeals to it and to the Court of Appeals, particularly Rules 42, 43 and 45, the Court allows extensions of time, based on justifiable and compelling reasons, for parties to file their appeals. These extensions may consist of 15 days or more.