

SECOND DIVISION

[G.R. No. 152150, December 10, 2008]

SPS. REYNALDO O. PADUA AND IRENE C. PADUA AND GLADYS C. PADUA, PETITIONERS, VS. HONORABLE COURT OF APPEALS AND UNIBANCARD CORPORATION, RESPONDENTS.

DECISION

QUISUMBING, J.:

This petition for certiorari seeks to reverse and set aside the Resolutions dated November 20, 2001^[1] and January 23, 2002^[2] of the Court of Appeals in CA-G.R. CV No. 68216. The appellate court had denied petitioners' Motion to Dismiss Appeal^[3] and motion for reconsideration.^[4]

The facts as borne by the records are as follows:

Unibancard Corporation (Unibancard) was engaged in the business of extending credit accommodations to cardholders by allowing them to make purchases from member establishments. Reynaldo O. Padua availed of a credit card membership with Unibancard. He named Gladys C. Padua as co-obligor.

On February 17, 1999, Unibancard instituted a collection suit^[5] against Reynaldo and Gladys to recover P553,770.09. This amount allegedly represents their obligation to Unibancard in the principal amount of P297,091.74 plus P95,663.54 interest and penalty charges of P161,014.81. Irene C. Padua, Reynaldo's wife, was impleaded as a formal party to the case. The complaint was docketed as Civil Case No. 99-381 and raffled to Branch 60 of the Regional Trial Court (RTC), Makati City.

At the pre-trial, petitioners questioned the sufficiency of the Special Power of Attorney^[6] (SPA) executed by Unibancard to authorize Atty. Noel Mingo to appear in its behalf. Petitioners filed a motion to declare Unibancard non-suited which the RTC granted in its Order^[7] dated October 25, 1999. In dismissing the case, the trial court held that the SPA empowered Atty. Mingo to compromise and make admissions on behalf of Unibancard but not to represent it on pre-trial. Unibancard's motion for reconsideration was denied in an Order^[8] dated December 17, 1999. It received notice of the order on January 21, 2000.

On February 4, 2000 Unibancard filed a Notice of Appeal *Ad Cautelam*^[9] with the Court of Appeals. The appellate court then required it to file an appellant's brief within 45 days from notice^[10] of its Order dated October 26, 2000. However, it was not until January 11, 2001 that Unibancard was able to submit a brief.^[11]

On April 11, 2001, petitioners filed a Motion to Dismiss Appeal on the ground that the Notice of Appeal was filed beyond the 15-day reglementary period to appeal

under Rule 45 of the Rules of Court. The Court of Appeals denied said motion in the assailed Resolution dated November 20, 2001. The decretal portion reads:

Acting on the **Motion to Dismiss Appeal** dated April 6, 2001 filed by the defendants-appellees, thru counsel, and considering the dictum of the Supreme Court in the case of Ginete vs. Court of Appeals, 296 SCRA 38, that the prerogative to relax procedural rules of the most mandatory character in terms of compliance, such as the period to appeal has been invoked and granted in a considerable number of cases and in order to afford every party litigant the amplest opportunity to ventilate his case in court without giving much premium to technicalities, the same is hereby **DENIED**.

SO ORDERED.^[12]

Petitioners filed a motion for reconsideration. On January 23, 2002, the appellate court issued the second assailed Resolution which decreed:

Finding no merit [i]n the **Motion for Reconsideration** dated December 7, 2001, filed by appellees, thru counsel, considering that the grounds alleged therein have already been amply addressed by the Court in the assailed resolution, the same is hereby **DENIED**.

Accordingly, the period within which to file appellees' brief shall again commence to run from notice.

SO ORDERED.^[13]

Hence, this petition which proffers the sole issue:

THE RESPONDENT HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED THE PETITIONERS' MOTION TO DISMISS APPEAL AND MOTION FOR RECONSIDERATION CONTRARY TO THE RULES AND THE JURISPRUDENTIAL PRECEPTS LAID DOWN BY THIS HONORABLE TRIBUNAL^[14]

Did the appellate court commit grave abuse of discretion when it allowed respondent's appeal?

Unibancard obtained notice of the October 25, 1999 RTC Order on December 6, 1999. On December 15, 1999, it filed a Motion for Reconsideration.^[15] Then, on January 21, 2000, respondent's counsel was notified of the Order dated December 17, 1999 which denied said motion for reconsideration.

Petitioners submit that Unibancard had only until January 28, 2000 to perfect its appeal. They explain that since eight days^[16] had elapsed when Unibancard sought reconsideration, it had only the remaining 7 days of the 15-day reglementary period within which to appeal from notice of the denial of its motion for reconsideration. Since Unibancard filed a notice of appeal on February 4, 2000, petitioners contend that its appeal had been filed out of time. Hence, the appellate court did not acquire jurisdiction over the case.

In its Memorandum,^[17] Unibancard admits having filed its appeal and appellant's brief beyond the period allowed by the Rules. It explains, however, that a computer virus plagued all the computers of its counsel's law firm and rendered the file containing its appellant's brief inaccessible. It purportedly took Unibancard's counsel 10 days to reconstruct the same. Unibancard agrees with the Court of Appeals that the ruling in *Ginete v. Court of Appeals*^[18] applies squarely to its case.

After a careful consideration of the facts of this case, the Court resolves to dismiss the instant petition.

Section 3, Rule 41 of the Rules of Court expressly provides the period for ordinary appeals:

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 appellants shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order. However, on appeal in *habeas corpus* cases shall be taken within forty-eight (48) hours from notice of the judgment or final order appealed from.

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.

In the case of *Neypes v. Court of Appeals*,^[19] the Court had occasion to settle the uncertainty as regards the reckoning point of the 15-day period to appeal. We held that:

... [A] party litigant may file his notice of appeal within 15 days from receipt of the Regional Trial Court's decision or file it within 15 days from receipt of the order (the "final order") denying his motion for new trial or motion for reconsideration....^[20]

In order to standardize the appeal periods provided in the Rules and to afford litigants a fair opportunity to appeal their cases, the Court deemed it practical to allow a fresh period of 15 days within which to file the notice of appeal in the RTC. Said period is to be counted from receipt of the order dismissing the motion for new trial or motion for reconsideration.^[21]

Here, Unibancard received the RTC Order denying its motion for reconsideration on January 21, 2000. Fourteen days later, on February 4, 2000, Unibancard filed a notice of appeal. Clearly, Unibancard had seasonably appealed.

The fresh 15-day period rule applies to the present case as it was pending and undecided when the ruling in *Neypes v. Court of Appeals* was promulgated. We have consistently held that rules of procedure may be given retroactive effect on actions pending and undetermined at the time of their passage without violating the right of a party-litigant since there is no vested right in rules of procedure.^[22]

Consequently, the Court of Appeals also correctly applied the dictum in *Ginete v. Court of Appeals* to the case at bar. In *Ginete*, as in this case, the appellate court