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EDITOR'S NOTE

Welcome to this 2024 Online Issue of *The UST Law Journal*, where we continue our commitment to providing thoughtful and rigorous analysis of the most pressing legal questions of our time. In this edition, we explore a diverse range of topics that reflect the ever-evolving landscape of law, from emerging constitutional debates to the latest developments in judicial reform governance and international human rights.

As we publish this issue, our field is at a critical juncture. Legal practitioners, policymakers, and scholars are grappling with complex challenges—from the intersection of law and critical legal philosophies to the shifting dynamics of ethics, judicial reform, and economic implications in an increasingly globalized world. This journal aims to serve as a forum for cutting-edge research, fostering dialogue among those who seek to understand, shape, and respond to these challenges.

We are particularly excited to feature a series of articles that delve into topics of great contemporary relevance, such as strengthening Filipino's cultural heritage, the governance structure of the criminal justice system and judicial reforms, the evolving narrative on constitutional change, legal-philosophical norms of public morality, and the notion of justice. These contributions advance academic discourse and provide valuable insights for legal practitioners, academe, and jurists navigating the practical realities of law in today's fast-paced, interconnected society.

As always, we are grateful to our contributors for their expertise and dedication and to our Editorial Board for their tireless efforts in bringing this issue to fruition. Through their hard work and commitment, we can continue to produce a journal that meets the highest standards of scholarship and impact.

With its foundational commitment to encouraging broader discussions through diverse legal perspectives, this issue aims to foster deeper insights for the Philippine legal community. We hope this issue sparks thoughtful reflection and inspires new avenues for inquiry in the legal profession. Thank you for your continued readership and support.

Sincerely,

IRENE D. VALONES, DCL, DPA
Editor-in-Chief
December 5, 2024

A PERSPECTIVE ON THE RECKONING PERIOD TO APPEAL JUDGMENT OF CONVICTION

By:

Justice RONALD B. MORENO[1]
Sandiganbayan

I. INTRODUCTION

The right to appeal is not among those provided for in the Bill of Rights. It is a mere statutory grant.[2] Nonetheless, this right is an essential part of our judicial system and must, as much as possible, be afforded to every party. The right to appeal assumes utmost importance in criminal cases where the life and liberty of a person are at stake.

The appeal in criminal cases, if promptly and properly exercised, could be an effective avenue to correct errors or prevent a miscarriage of justice, considering that it opens the entire case for review: the reviewing tribunal could correct, cite, and appreciate errors in the appealed judgment whether they are assigned or unassigned. Moreover, the appeal also confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, modify the penalty, and cite the proper provision of the penal law.[3] Given the unique nature of an appeal in a criminal case, an examination of the entire records of the case may be explored for the purpose of arriving at a correct conclusion as the law and justice dictate.[4]

In *Hilario v. People*,[5] the Honorable Supreme Court expounded on the right to appeal as follows:

> In all criminal prosecutions, the accused shall have the right to appeal in the manner prescribed by law. The importance and real purpose of the remedy of appeal has been emphasized in *Castro v. Court of Appeals* where we ruled that an appeal is an essential part of our judicial system and trial courts are advised to proceed with caution so as not to deprive a party of the right to appeal and instructed that every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities. While this right is statutory, once it is granted by law, however, its suppression would be a

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2 Jopillo v. People, G.R. No. 136727, May 6, 2005.

3 People v. Miranda, G.R. No. 229671, January 31, 2018.

4 People v. Paz, G.R. No. 233466, August 7, 2019.

5 574 Phil. 348 (2008)

violation of due process, a right guaranteed by the Constitution.

II. WHEN APPEAL TO BE TAKEN

As a general rule, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional. Thus, one who seeks to avail of the right must *strictly* comply with the statute or rules on appeal. Failure to do so often leads to the loss of the right to appeal. While the dismissal of an appeal on purely technical grounds is concededly frowned upon, it bears emphasizing that the procedural requirements of the rules on appeal are not harmless and trivial technicalities that litigants can just discard and disregard at will. Neither being a natural right nor a part of due process, the rule is settled that the right to appeal is merely a statutory privilege that may be exercised only in the manner and in accordance with the provisions of the law.[6] As explained by the Supreme Court in *Macapagal v. People*:[7]

> It should be stressed that the right to appeal is neither a natural right nor a part of due process. It is merely a procedural remedy of statutory origin and may be exercised only in the manner prescribed by the provisions of law authorizing its exercise. The requirements of the rules on appeal cannot be considered as merely harmless and trivial technicalities that can be discarded at whim. In these times when court dockets are clogged with numerous litigations, parties have to abide by these rules with greater fidelity in order to facilitate the orderly and expeditious disposition of cases.

Accordingly, Section 6, Rule 122 of the Revised Rules of Criminal Procedure provides for the period when an appeal from a judgment or final order in a criminal case should be taken, as follows:

> Section 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 motions has been served upon the accused or his counsel at which time the balance of the period begins to run.

The Rules of Court, therefore, mandate that an appeal should be filed within fifteen (15) days from promulgation of the judgment or from notice of the final order appealed. At first glance, the plain import of the words used under Section 6 seems clear-cut and straightforward. In reality,

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6 Swire Realty Development Corporation v. Jane Yu, G.R. No. 207133, March 9, 2015.

7 G.R. No. 193217, February 26, 2014.

however, there existed a real confusion and/or disagreement on the reckoning period within which to file an appeal in criminal cases. To my mind, the source of this confusion is the use of the conjunction "or". Does it indicate alternative situations such that the appealing party *could choose* when to appeal to reckon an appeal (i.e., either 15 from the promulgation of the judgment or from notice of the final order appealed from)? As will be explained below, the reckoning period to appeal a judgment of conviction would *depend* on whether the challenged ruling had been issued by the court in the exercise of its **original** or its **appellate** jurisdiction.

In the early case of *Landicho v. Tan*,[8] the Supreme Court held that one who desires a review of a criminal case must appeal within fifteen days from the date the decision or judgment was announced in open court in the presence of the accused, or was promulgated in the manner set forth in Section 6 of Rule 116 (now Section 6 of Rule 120) of the Rules of Court. Notably, this ruling was reiterated in *People v. Tamani*[9] in which the Court has further clarified that the word promulgation in the old provision should be construed as referring to "judgment;" and notice, to "order", thus:

> The assumption that the fifteen-day period should be counted from February 25, 1963, when a copy of the decision was allegedly served on appellant's counsel by registered mail is not well-taken. The word 'promulgation' in section 6 should be construed as referring to 'judgment', while the word 'notice' should be construed as referring to 'order'.

In *Neplum, Inc. v. Orbeso*,[10] the issue presented to the Court was whether the period within which a private offended party may appeal from, or move for a reconsideration of, or otherwise challenge, the civil aspect of a judgment in a criminal action should be reckoned from the date of promulgation or from the date of such party's actual receipt of a copy of such judgment.

It is recalled that in *Neplum*, the trial court promulgated its judgment on October 29, 1999, where it acquitted the accused of the crime of estafa on the ground that the prosecution failed to prove the guilt of the accused beyond reasonable doubt. The accused and her counsel, as well as the public and private prosecutors, were present during such promulgation. The petitioner (who was the private offended party), represented by the private prosecutor, moved to reconsider the judgment of acquittal, but the trial court denied this motion. The petitioner filed a Notice of Appeal from the

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8 87 Phil. 601, 605, November 16, 1950.
9 55 SCRA 153, January 21, 1974.
10 G.R. No. 141968, July 11, 2002.

Judgment, but the RTC refused to give due course to petitioner's Notice of Appeal and Amended Notice of Appeal. The RTC essentially ruled that the Judgment from which the appeal was being taken had become final, because the Notice of Appeal and the Amended Notice of Appeal were filed beyond the reglementary period. Significantly, the RTC counted the 15-day period from the promulgation of the Decision sought to be reviewed.

While the issue to be resolved in *Neplum* was the period within which the private offended parties may appeal the civil aspect of a judgment acquitting the accused based on reasonable doubt, the Supreme Court nonetheless found an opportunity to reiterate its previous pronouncements in the cases of *Landicho* and *Tamani*, thus:

> It is petitioner's assertion that "the parties would always need a written reference or a copy of the judgment x x x to intelligently examine and consider the judgment from which an appeal will be taken." Thus, it concludes that the 15-day period for filing a notice of appeal must be counted from the time the losing party actually receives a copy of the decision or order. Petitioner ratiocinates that it "could not be expected to capture or memorize all the material details of the judgment during the promulgation thereof." It likewise poses the question: "Why require all proceedings in court to be recorded in writing if the parties thereto would not be allowed the benefit of utilizing these written [documents]?" We clarify. Had it been the accused who appealed, we could have easily ruled that the reckoning period for filing an appeal be counted from the promulgation of the judgment.[11]

The Court further added that "the situations covered by this Rule (Section 6, Rule 122) are limited to appeals of judgments rendered by regional trial and inferior courts. In higher courts, there is no promulgation in the concept of Section 6 Rule 122 of the 2000 Rules on Criminal Procedure. In the Supreme Court and the Court of Appeals, a decision is promulgated when the signed copy thereof is filed with the clerk of court, who then causes copies to be served upon the parties or their counsels. Hence, the presence of either party during promulgation is not required."[12]

Prescinding the foregoing considerations, I submit that the reckoning point within which to file the appeal would be fifteen (15) days from promulgation of judgment if the judgment were issued by the trial court in the exercise of its *original* jurisdiction and 15 days from notice of the final order appealed from in cases where the order had been issued by the court in the exercise of its *appellate* jurisdiction.

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11 Supra, note 7.

12 Id.

This analysis, to me, is a legally sound and sensible interpretation of Section 6, Rule 122, especially when we consider and take into account the following: *first*, the concept of promulgation of judgment, that is, an official proclamation or announcement of the decision of the court; and, *second*, the manner by which a judgment is promulgated, i.e., by reading it in the presence of the accused and any judge of the court in which it was rendered.

III. PROMULGATION UNDER SECTION 6 OF RULE 120

Promulgation of judgment is specifically provided for under Section 6 of Rule 120, which reads:

> **Section 6.** *Promulgation of judgment*. — The judgment is promulgated by reading it in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside of the province or city, the judgment may be promulgated by the clerk of court.
>
> If the accused is confined or detained in another province or city, the judgment may be promulgated by the executive judge of the Regional Trial Court having jurisdiction over the place of confinement or detention upon request of the court which rendered the judgment. The court promulgating the judgment shall have authority to accept the notice of appeal and to approve the bail bond pending appeal; *provided*, that if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application for bail can only be filed and resolved by the appellate court.
>
> The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. If the accused tried *in absentia* because he jumped bail or escaped from prison, the notice to him shall be served at his last known address.
>
> In case the accused fails to appear at the scheduled date of promulgation of judgment despite notice, the promulgation shall be made by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel.
>
> If the judgment is for conviction and the failure of the accused to appear was without justifiable cause, he shall lose the remedies available in these rules against the judgment and the court shall order his arrest. Within fifteen (15) days from promulgation of judgment, however, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state the

> reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within fifteen (15) days from notice.

Under this Section, judgment is promulgated in the following manner: (1) by reading it in the presence of the accused and any judge of the court in which it was rendered; (b) the judgment may be pronounced in the presence of accused's counsel of representative if the conviction is for a light offense; and, (3) when the judge is absent or outside the province or city, the judgment may be promulgated by the clerk of court.[13]

IV. REQUIREMENT OF PRIOR NOTICE TO THE ACCUSED, AND THE LATTER'S PERSONAL APPEARANCE EXCEPT CONVICTIONS FOR LIGHT OFFENSES

Under the first paragraph of this Rule, the presence in person of the accused at the promulgation of judgment is mandatory in all cases except where the conviction is for a light offense, in which case the accused may appear through counsel or representative.[14] Simply put, the accused is required to be present at the scheduled date of promulgation of judgment except when the conviction is for a light offense, in which case the judgment may be pronounced in the presence of the counsel for the accused or the latter's representative.[15] Personal appearance is vital in order to satisfy the requirement of reading the judgment in the presence of the accused and the judge of the court that rendered it. Notably, the personal appearance of the accused is mandatory whether the judgment is one for conviction or acquittal.

Based on the third paragraph of Section 6 of the Rule, all the accused, regardless of the gravity of the offense charged against them, must be given notice of the promulgation of judgment and the requirement of their presence. They must appear in person or in case of those facing a conviction for a light offense through counsel or a representative.

If the accused had thus been duly notified of the date of promulgation and actually appears therein, then it presupposes that the latter could be given a copy of the decision. As such, there is no reason why the appeal should not be reckoned from the date of the promulgation of the judgment.

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13 Tan, Ferdinand, Criminal Procedure: A Comprehensive Approach for the Bench and the Bar (2015), p. 1312.

14 Florendo v. Court of Appeals, G.R. No. 110886, December 20, 1994.

15 Jaylo v. Sandiganbayan. G.R. Nos. 183152-54, January 21, 2015.

V. FAILURE TO APPEAR DURING PROMULGATION DESPITE NOTICE

On the other hand, if the accused - despite notice - fails to appear at the scheduled date of his promulgation, then the promulgation will still push through and will be done in the manner provided for under the fourth paragraph of Section 6, that is, by recording the judgment in the criminal docket and serving him a copy thereof at his last known address or thru his counsel. As aptly explained by the Supreme Court in *Javier v. Gonzales*:[16]

> If the accused has been notified of the date of promulgation, but does not appear, the promulgation of judgment *in absentia* is warranted. This rule is intended to obviate a repetition of the situation in the past when the judicial process could be subverted by the accused by jumping bail to frustrate the promulgation of judgment. The only essential elements for its validity are as follows: (a) the judgment was recorded in the criminal docket; and (b) a copy thereof was served upon the accused or counsel.

There is thus no dispute that promulgation *in absentia* is allowed under the Rules of Court, provided the two conditions (i.e., recording of judgment in the docket and service of copy on the accused or counsel) are met. Under this situation, considering that the decision is promulgated after the same is entered in the criminal docket, then the appeal should still be reckoned from the date of the promulgation of the judgment.

For a better perspective on the recording of the judgment, the Supreme Court's discussion in *Pascua v. Hon. Court of Appeals*[17] is particularly instructive, thus:

> What is the significance of the recording of the judgment with the criminal docket of the court? By analogy, let us apply the principles of civil law on registration.
>
> To register is to record or annotate. American and Spanish authorities are unanimous on the meaning of the term "to register" as "to enter in a register; to record formally and distinctly; to enroll; to enter in a list" *x x x* In general, registration refers to any entry made in the books of the registry, including both registration in its ordinary and strict sense, and cancellation, annotation, and even the marginal notes. In strict acceptation, it pertains to the entry made in the registry which records solemnly and permanently the right of ownership and other real rights *(Ibid.)*. Simply

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16 G.R. No. 193150, January 23, 2017

17 G.R. No.140243, December 14, 2000.

stated, registration is made for the purpose of **notification** *x x x*

Registration is a mere ministerial act by which a deed, contract, or instrument is sought to be inscribed in the records of the Office of the Register of Deeds and annotated at the back of the certificate of title covering the land subject of the deed, contract, or instrument. Being a ministerial act, it must be performed in any case and, if it is not done, it may be ordered performed by a court of justice *(Cruz,* The Law of Public Officers, 1997 ed., p. 102). In fact, the public officer having this ministerial duty has no choice but to perform the specific action which is the particular duty imposed by law. **Its purpose is to give notice thereof to all persons**. It operates as a notice of the deed, contract, or instrument to others, but neither adds to its validity nor converts an invalid instrument into a valid one between the parties. If the purpose of registration is merely to give notice, then questions regarding the effects or invalidity of instruments are expected to be decided after, not before, registration. It must follow as a necessary consequence that registration must first be allowed, and validity or effect of the instruments litigated afterwards x x x x

Applying the above-mentioned principles to the instant case, we are prompted to further examine the provisions on promulgation *in absentia.*

As held in *Florendo vs. Court of Appeals,* the rules allow promulgation of judgment *in absentia* to obviate the situation where juridical process could be subverted by the accused jumping bail. But the Rules also provide measures to make promulgation *in absentia* a formal and solemn act so that the absent accused, wherever he may be, can be notified of the judgment rendered against him.

As discussed earlier, the sentence imposed by the trial court cannot be served in the absence of the accused. Hence, all means of notification must be done to let the absent accused know of the judgment of the court. The means provided by the Rules are (1) the act of giving notice to all persons or the act of recording or registering the judgment in the criminal docket (which Section 6 incidentally mentions first, showing its importance; and (2) the act of serving a copy thereof upon the accused (at his last known address) or his counsel. In a scenario where the whereabouts of the accused are unknown (as when he is at large), the recording satisfies the requirement of notifying the accused of the decision wherever he may be.[18]

Consequently, since the reckoning point within which to file the appeal would be fifteen (15) days from promulgation of judgment if the

[18] Id. [citations omitted; emphasis in the original]

judgment were issued by the trial court in the exercise of its *original* jurisdiction, it follows then that appeals from the decisions of the first-level courts (i.e., Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts) should be taken from the date of promulgation of judgment, taking into account the fact that these courts do not have appellate jurisdiction.

VI. FAILURE TO APPEAR UPON CONVICTION

In cases where the accused was convicted and the accused failed to appear without justifiable cause, the fifth paragraph of Section 6, Rule 120 is clear on the matter: the accused shall lose the remedies available in the Rules against the judgment, and the court shall order the latter's arrest.

The justification for this was explained by the Supreme Court in *Jaylo v. Sandiganbayan*[19] as follows:

> If the judgment is for conviction and the failure to appear was without justifiable cause, the accused shall lose the remedies available in the Rules of Court against the judgment. Thus, it is incumbent upon the accused to appear on the scheduled date of promulgation, because it determines the availability of their possible remedies against the judgment of conviction. When the accused fail to present themselves at the promulgation of the judgment of conviction, they lose the remedies of filing a motion for a new trial or reconsideration (Rule 121) and an appeal from the judgment of conviction (Rule 122).
>
> The reason is simple. When the accused on bail fail to present themselves at the promulgation of a judgment of conviction, they are considered to have lost their standing in court. Without any standing in court, the accused cannot invoke its jurisdiction to seek relief.

The same paragraph, nonetheless, provides a remedy to the non-appearing accused: he may surrender and file a motion for leave of court to avail of the available remedies *within 15 days from the promulgation of judgment*. The Rules mandate the accused to state the reasons for his absence, and only when he proves that his absence was for a justifiable cause will he or she be allowed to avail of the remedies within 15 days from notice.

Simply put, the accused who failed to appear during the promulgation may reverse the forfeiture of the remedies available to them and against the judgment of conviction (and regain their standing in court), provided that he or she: (1) surrenders, and (2) files a motion for leave of court to avail of

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[19] G.R. No. 183152-54, January 21, 2015.

the remedies, stating the reasons for the absence. Both the act of surrendering and filing a motion for leave must be done within 15 days from the date of the promulgation of judgment.

The term "surrender" contemplates the act by the convicted accused of physically and voluntarily submitting themselves to the jurisdiction of the court to suffer the consequences of the judgment against them. Upon surrender, the accused must request permission from the court to avail of the remedies by making clear the reasons for their failure to attend the promulgation of the judgment of conviction.[20]

Only upon a finding by the court that the reason given by the accused to justify his absence was meritorious could the latter avail of the remedies under the Rules. It bears noting that the remedies contemplated include a motion for reconsideration. Like an appeal, the right to file a motion for reconsideration is a statutory grant or privilege. As a statutory right, the filing of a motion for reconsideration is to be exercised in accordance with and in the manner provided by law. Thus, a party filing a motion for reconsideration must strictly comply with the requisites laid down in the Rules of Court.[21]

Notably, Section 6, Rule 120, of the Rules of Court does not take away *per se* the right of the convicted accused to avail of the remedies under the Rules. It is the failure of the accused to appear without justifiable cause on the scheduled date of promulgation of the judgment of conviction that forfeits their right to avail themselves of the remedies against the judgment.[22]

VII. APPEALS WHERE THE ORDER HAD BEEN ISSUED BY THE COURT IN THE EXERCISE OF ITS APPELLATE JURISDICTION.

It is important to emphasize that in the Supreme Court, Court of Appeals, and the Regional Trial Court, *in the exercise of their respective appellate jurisdictions*, there is no promulgation of judgment in the manner set forth under Section 6 of Rule 120. A decision is promulgated when the signed copy thereof is filed with the clerk of court, who then causes copies to be served upon the parties or their counsels. The reckoning period to appeal a judgment of conviction under these situations is **from the notice of the final order appealed from or specifically from receipt of the party or the latter's counsel.**

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[20] Villena v. People, G.R. No. 184091, 31 January 2011, 641 SCRA 127.

[21] Mejillano v. Lucillo, 607 Phil. 660 (2009).

[22] Estipona v. Lobrigo, G.R. No. 226679, August 15, 2017, citing Jaylo, et al. v. Sandiganbayan, 751 Phil. 123, 141-142 (2015).

To illustrate, there is no dispute that the Regional Trial Courts have exclusive appellate jurisdiction in criminal cases on all cases decided by lower courts in their respective territorial jurisdictions. When the RTC promulgates a judgment originally cognizable by the first-level courts, there is no more reading of the decision in the presence of the accused. Instead, a copy of the signed decision will be given to the clerk of court who, in turn, will cause the service of the decision to the parties. Once the parties receive a copy of the decision, then it is the only time when the 15-day period within which to appeal would run.

In like manner, it is settled that the Court of Appeals exercises exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of, among others, Regional Trial Courts. When a case from the RTC is appealed to the CA, and the latter promulgates a judgment, the personal appearance of the accused is no longer required for the reading of the judgment. Instead, the clerk of court, upon receipt of the signed decision, will furnish the parties of a copy of the decision.

In the case of *Almuete v. People*,[23] the Supreme Court explained the reason for discontinuing the practice of requiring the accused to appear before the trial court for promulgation of judgment of the appellate court, as follows:

x x x x

> Administrative Circular No. 16-93, issued on September 9, 1993, provides that:
>
> **TO**: ALL JUDGES OF THE REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS
>
> **RE**: PROCEDURE AFTER AFFIRMANCE OR MODIFICATION BY SUPREME COURT OR COURT OF APPEALS OF JUDGMENTS OF CONVICTION IN CRIMINAL CASES
>
> To ensure uniformity in the procedure to be observed by the trial courts in criminal cases after their judgments of conviction shall have been affirmed or modified by the Supreme Court or the Court of Appeals, attention is invited to the decisional and statutory guidelines set out hereunder.
>
> 1. The procedure for the promulgation of judgments in the trial courts in criminal cases, differs from that

[23] G.R. No. 179611, March 12, 2013.

prescribed for the Supreme Court and the Court of Appeals where promulgation is effected by filing the signed copy of the judgment with the Clerk of Court who causes true copies thereof to be served upon the parties. The procedural consequence of this distinction was reiterated in *Jesus Alvarado, etc. vs. The Director of Prisons,* to wit:

By sections 8 and 9 of Rule 53 (now Sections 10 and 11 of Rule 51) in relation to section 17 of Rule 120 (now Section 17 of Rule 124), a judgment is entered 15 days after its promulgation, and 10 days thereafter, the records are remanded to the court below including a certified copy of the judgment for execution.

In the case of *People vs. Sumilang* (44 Off. Gaz., 881, 883; 77 Phil. 764), it was explained that "the certified copy of the judgment is sent by the clerk of the appellate court to the lower court under section 9 of rule 53, not for the promulgation or reading thereof to the defendant, but for the execution of the judgment against him," it "not being necessary to promulgate or read it to the defendant, because it is to be presumed that accused or his attorney had already been notified thereof in accordance with sections 7 and 8, as amended, of the same Rules 53 (now sections 9 and 10 of Rule 51)," and that the duty of the court of first instance in respect to such judgment is merely to see that it is duly executed when in their nature the intervention of the court of first instance is necessary to that end.

2. The practice of requiring the convict to appear before the trial court for "promulgation" of the judgment of the appellate court should, therefore, be immediately discontinued. It is not only an unauthorized surplusage entailing unnecessary expense, but it could also create security problems where the convict was already under detention during the pendency of the appeal, and the place of confinement is at some distance from the station of the court. Upon receipt of the certified copy of the judgment of the appellate court if the convict is under detention, the trial court should issue forthwith the corresponding mittimus or commitment order so that the prisoner may be considered remitted or may be transferred to the corresponding prison facility for confinement and service of sentence. When the convict is

> out on bail, the trial court shall immediately order the bondsman to surrender the convict to it within ten (10) days from notice and thereafter issue the corresponding mittimus. In both cases, the trial court shall submit to this Court proof of the execution of judgment within fifteen (15) days from date of such execution. (Emphasis supplied) x x x x[24]

The Court made it clear therein that the practice of requiring convicts to appear before the trial courts for promulgation of the affirmance or modification by this Court or the CA of judgments of conviction in criminal cases is no longer allowed.[25]

The exclusive original and exclusive appellate jurisdiction of the Sandiganbayan is also instructive to illustrate the proper application of Section 6 of Rule 122. Section 4 of Presidential Decree (P.D.) 1606, as amended by RA 10660, provides:

> SEC. 4. *Jurisdiction*. - The Sandiganbayan shall exercise **exclusive original jurisdiction** in all cases involving:
>
> a. Violations of Republic Act No. 3019**,** a**s** amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
>
> x x x x
>
> *Provided*, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00).
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> x x x x

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24 Id. [emphasis in the original]

25 Id.

> In cases where none of the accused are occupying positions corresponding to Salary Grade "27" or higher, as prescribe in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.
>
> The Sandiganbayan shall **exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts** whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. [*Emphasis supplied*]

I submit that for decisions or resolutions issued by the Sandiganbayan in the exercise of its original jurisdiction, the reckoning period within which to file the appeal would be fifteen (15) days from the promulgation of the judgment. However, the reckoning point would be 15 days from notice of the final order appealed in cases where the order had been issued by the Anti-Graft Court in the exercise of its appellate jurisdiction.

It is also worth pointing out that the 2018 Revised Internal Rules of the Sandiganbayan provides for different periods for promulgation of judgment in a criminal case, that is, ninety (90) days for those rendered in the exercise of its original jurisdiction and twelve (12) months for those rendered in the exercise of its appellate jurisdiction, from the time the case was submitted for decision, in accordance with Section 6, Rule 120 of the Revised Rules on Criminal Procedure.[26]

For private practitioners, particularly those who appear before the Sandiganbayan, it is likewise vital to distinguish not only the proper modes of appeal but also the proper reckoning period to appeal a judgment of conviction. The 2018 Revised Internal Rules of the Sandiganbayan[27] provides two modes of appeal, *viz*:

PART III
MODES OF APPEAL TO THE SANDIGANBAYAN

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[26] SECTION 5. Promulgation of Judgment. — A judgment in a criminal case by a Division shall be promulgated within ninety (90) days for those rendered in the exercise of its original jurisdiction, and twelve (12) months for those rendered in the exercise of its appellate jurisdiction, from the time the case was submitted for decision, in accordance with Section 6, Rule 120 of the Revised Rules of Criminal Procedure.

The Division which rendered the judgment may request in writing another Division conducting hearings outside of its principal office, to promulgate the judgment and resolve all incidents during the promulgation therein, and such promulgation and any order issued relative thereto shall be valid and binding as if done by the Division which rendered the decision.

In civil cases, the decision shall be rendered in accordance with Rule 36 of the 1997 Rules of Civil Procedure.

[27] A.M. No. 13-7-05-SB, October 09, 2018.

RULE XII
APPEAL AND PETITION FOR REVIEW

> ***Section 1. Ordinary Appeal.*** — Appeal to the Sandiganbayan from a decision rendered by a Regional Trial Court in the exercise of its original jurisdiction shall be by ordinary appeal under Rules 41 and 44 of the 1997 Rules of Civil Procedure, or Rules 122 and 124 of the Revised Rules of Criminal Procedure, as the case may be.
>
> ***Sec. 2. Petition for Review.*** — Appeal to the Sandiganbayan from a decision of the Regional Trial Court in the exercise of its appellate jurisdiction shall be by Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure.

Accordingly, appeals under Section 1 of Rule XII must be taken within fifteen (15) days from promulgation of the judgment, while appeal under Section 2 must be taken within 15 days from notice of the final order appealed from.

An appeal filed beyond these prescribed time frames merits denial. After all, the right to appeal is not a natural right or a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the remedy of appeal must comply with the requirements of the rules; otherwise, the appeal is lost. Rules of procedure are required to be followed, except only when, for the most persuasive of reasons, they may be relaxed to relieve the litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[28]

VIII. INTERRUPTION OF THE PERIOD UNDER SECTION 6 OF RULE 122

It is additionally pointed out that the period under Section 6 of Rule 122 is interrupted by the filing of a new trial or a motion for reconsideration of the judgment or of the final order being appealed. It may be recalled that in *Neypes v. Court of Appeals*,[29] the Supreme Court deemed 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 in order to standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases. Although *Neypes* was silent on the applicability of the so-called "fresh period rule" to criminal cases, *Yu v.*

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28 *Kumar v. People*, G.R. No. 247661, June 15, 2020.

29 G.R. No. 241524, April 14, 2005, 469 SCRA 633.

Tatad,[30] expanded the scope of this doctrine to criminal cases in appeals of conviction under Section 6, Rule 122 of the Revised Rules of Criminal Procedure. The Supreme Court justified its ruling in the following manner:

> Were we to strictly interpret the "fresh period rule" in *Neypes* and make it applicable only to the period to appeal in civil cases, we shall effectively foster and encourage an absurd situation where a litigant in a civil case will have a better right to appeal than an accused in a criminal case - a situation that gives undue favor to civil litigants and unjustly discriminates against the accused-appellants. It suggests a double standard of treatment when we favor a situation where property interests are at stake, as against a situation where liberty stands to be prejudiced. We must emphatically reject this double and unequal standard for being contrary to reason. Over time, courts have recognized with almost pedantic adherence that what is contrary to reason is not allowed in law - *Quod est inconveniens, aut contra rationem non permissum est in lege*.
>
> Thus, we agree with the OSG's view that if a delay in the filing of an appeal may be excused on grounds of substantial justice in civil actions, with more reason should the same treatment be accorded to the accused in seeking the review on appeal of a criminal case where no less than the liberty of the accused is at stake. The concern and the protection we must extend to matters of liberty cannot be overstated.

As it now stands, the fresh period rule is applicable in criminal cases where the accused files a motion for a new trial or reconsideration from a judgment of conviction, which is denied by the trial court. The accused will have a fresh 15-day period counted from receipt of such denial within which to file his or her notice of appeal.[31]

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30 G.R. No. 170979, February 9, 2011, 642 SCRA 421.

31 *Rodriguez v. People of the Philippines*, G.R. No. 192799, October 24, 2012.

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