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IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

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BILUNG GLORIA G. SALII,
Appellant,
v.
REMUSEI MARIUR/EARNEST ONGIDOBEL,
Appellee.

SUPREME COURT
OF THE
REPUBLIC OF PALAU

Cite as: 2024 Palau 18
Civil Appeal No. 23-028
Appeal from Case No. LC/B 15-00117

Decided: June 17, 2024

Counsel for Appellant Lalii Chin Sakuma
Counsel for Appellee Raynold B. Oilouch

BEFORE: OLDIAIS NGIRAIKELAU, Chief Justice, presiding
FRED M. ISAACS, Associate Justice
KATHERINE A. MARAMAN, Associate Justice

Appeal from the Land Court, the Honorable Rosemary Skebong, Senior Judge, presiding.

ORDER DISMISSING APPEAL

PER CURIAM:

[¶ 1] This appeal arises from the Land Court’s Adjudication and Determination granting ownership of Lots K-153 and K-153A to Earnest Ongidobel. Because Appellant Salii’s Notice of Appeal was untimely, we **DISMISS** the appeal.

[¶ 2] In the underlying Land Court case, the parties disputed the ownership of Lots K-153 and K153-A,¹ located in Koror, bordering the main road, just east of the Etpison Museum. On July 4, 2023, the Land Court filed its Adjudication and Determination, finding that Remusei Mariur owned the

¹ Also known as Tochi Daicho Lot 760 and Sechedui.

aforementioned lots, and she conveyed her interest to Earnest Ongidobel. On July 5, 2023, the Determinations of Ownership were recorded, stating that “claimant(s) . . . may appeal directly to the Appellate Division of the Supreme Court within thirty (30) days after service of the determination. Appeals are governed by the ROP Rules of Appellate Procedure.” Appellant Salii’s counsel was served on July 10, 2023. On August 9, 2023, Appellant Salii filed her Notice of Appeal. On September 1, 2023, the Land Court granted Appellant Salii’s motion for an extension of time to file a notice of appeal by September 2, 2023. Appellant Salii did not file an appeal by September 2, 2023. On June 4, 2024, Appellant Salii was given the opportunity to show cause why her case should not be dismissed as untimely. The Court did not receive a response by the June 14, 2024 deadline.

[¶ 3] 35 PNC § 1313 states that “[a] determination of ownership by the Land Court shall be subject to appeal . . . in the manner provided in the Rules of Appellate Procedure.” Rule 4(a) of the Rules of Appellate Procedure states, “[t]he notice of appeal must be filed within 30 days after . . . entry of judgment or order appealed from a civil case, unless otherwise provided by law.” Rule 4(e) allows the trial court to extend the time to file a notice of appeal “for a period not to exceed 30 days from the expiration of the time otherwise prescribed” and “upon a showing of excusable neglect or good cause.” The Court cannot accept an appeal filed after the deadline has passed unless an extension was granted under Rule 4(e). Once an extension is granted, an appellant may then file a notice of appeal within the limits of the rule and the trial court’s extension.

[¶ 4] Failing to timely file has previously been labeled a jurisdictional issue in both Palau and the U.S., *see, e.g., Bechab v. Anastacio*, 20 ROP 56 (2013), but we subsequently clarified that in Palau it is a claim-processing issue governed by the Rules of Appellate Procedure. *Henry v. Shizushi*, 21 ROP 52, 55 (2014). This grants some flexibility versus if it were an issue of jurisdiction, as Rule 2 allows for the suspension of the Rules of Appellate Procedure. However, this Court has kept to the principle that deviating from the Rules “should be prudentially limited to extraordinary circumstances” and a trial court error does not rise to that level. *Id.* at 56.

[¶ 5] In the Notice of Appeal, Appellant Salii identifies that the Land Court’s Determination of Ownership was filed on July 5, 2023, while the Notice of Appeal was filed on August 9, 2023. This is beyond the 30 days required by Rule 4(a). While the Land Court’s Determination of Ownership provided Appellant Salii with the opportunity to “appeal directly to the Appellate Division of the Supreme Court within thirty (30) days after service of the determination,” this conflicts with Rule 4(a).² Under Rule 4(e), the Land Court could have granted an extension upon “showing of excusable neglect or good cause,” but no extension was granted when the appeal was filed, making it untimely.

[¶ 6] While the Land Court’s Determination may have contributed to the untimely appeal, the Court has strictly enforced the deadline to file when no valid extensions have been granted. However, even if the Court could find a legitimate basis for overcoming the hurdle posed by the procedural bar of an untimely appeal, our review of the facts in this case and controlling law fail to disclose any grounds warranting reversal of the Land Court’s Determination.

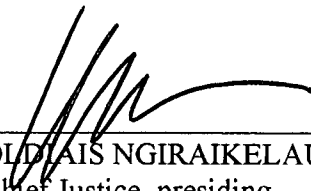
[¶ 7] We lament that the untimeliness of the appeal was not recognized earlier, and the Court is sympathetic to the parties and their counsel who invested time and resources into the appellate process. Nonetheless, both parties should have recognized the issue when Appellee filed the Motion to Dismiss Appeal on August 24, 2023. Had Appellee not wavered but instead continued to assert that the notice was untimely filed, we would not have come this far before dismissing the appeal. The Court takes this opportunity to warn all appellants and their counsel that only the Appellate Division can modify the Rules of Appellate Procedure and counsel should be thoroughly familiar with the Rules.

CONCLUSION

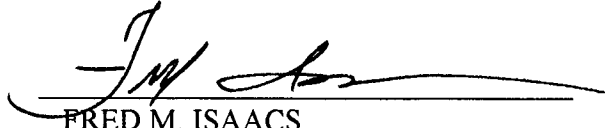
[¶ 8] Therefore, we **DISMISS** the appeal as untimely.

² The Land Court has since revised the language in the Determination of Ownership so that it is consistent with the language of Rule 4(a). The language now reads in part: “Any claimant aggrieved by this determination . . . may appeal directly to the Appellate Division of the Supreme Court within thirty (30) days of issuance of the determination.” (emphasis added).


SO ORDERED, this 17th day of June 2024.



OLDIAIS NGIRAIKELAU
Chief Justice, presiding



FRED M. ISAACS
Associate Justice



KATHERINE A. MARAMAN
Associate Justice