

**IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION**

KATEY O. GIRAKED,
Appellant,
v.
KOROR STATE PUBLIC LANDS AUTHORITY,
Appellee.

Cite as: 2017 Palau 9
Civil Appeal No. 16-007
Appeal from LC/B 08-296

Decided: February 22, 2017

Counsel for Appellant Y. Dengokl
Counsel for Appellee R. Dimitruk

BEFORE: JOHN K. RECHUCHER, Associate Justice
R. BARRIE MICHELSEN, Associate Justice
DANIEL R. FOLEY, Associate Justice

Appeal from the Land Court, the Honorable Rose Mary Skebong, Associate Judge, presiding.

ORDER TO SHOW CAUSE

[¶ 1] By separate Opinion issued today, this Court ruled against Appellant and affirmed the decision of the lower court. This was Appellant’s second appeal in this matter. In the first appeal, we rejected all of Appellant’s factual challenges. Characterizing them as “dubious” arguments that “border[ed] on the frivolous,” we made clear that “we [would] not be inclined to hear further argument attempting to re-litigate factual issues already decided.” *See Kebekol v. KSPLA*, 22 ROP 38, 45-46 (2015) (“*Giraked I*”). Immediately after this statement, we reminded Appellant and her counsel of ROP R. App. P. 38, which provides: “If the Appellate Division determines that an appeal is frivolous, it may award just damages, including attorney’s fees, to the Appellee.” *Id.* at 46 n.8 (quoting Rule 38).

[¶ 2] Despite that guidance and admonition, Appellant then petitioned for rehearing. *See Kebekol v. KSPLA*, 22 ROP 74 (2015). We again rejected these same arguments. We stated that pressing the original factual arguments

was “questionable at best,” and that “bringing a motion to reconsider lacking any substantive distinction from the initial argument after being told that such dubious factual challenges and legal arguments . . . border on frivolous all but invites sanction from this Court.” *Id.* at 76.

[¶ 3] Appellant’s second appeal presses arguments lacking any substantive distinction from the first appeal and the rehearing petition. Appellant’s brief is signed by counsel. This Court has twice told Appellant and counsel that these arguments border on the frivolous. In making these arguments a third time, we can only conclude they are an invitation of sanction.

[¶ 4] Rule 38 provides that we may award just damages if we determine that an appeal is frivolous. Counsel for Appellant is ordered to show cause no later than March 3, 2017, why this appeal was not frivolous in light of our opinion in *Giraked I* and our order denying rehearing.

SO ORDERED, this 22nd day of February, 2017.