

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

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| <p>NGKEKLAU CLAN, <i>Appellant,</i></p> <p style="text-align:center">v.</p> <p>AIRAI STATE PUBLIC LANDS AUTHORITY, <i>Appellee.</i></p> |
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Cite as: 2018 Palau 24
Civil Appeal No. 18-008
Appeal from LC/N 09-00196

Decided: November 16, 2018

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| Counsel for Appellant | Pro Se |
| Counsel for Appellee | Mariano W. Carlos |

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
JOHN K. RECHUCHER, Associate Justice
R. BARRIE MICHELSEN, Associate Justice

Appeal from the Land Court, the Honorable C. Quay Polloi, Senior Judge, presiding.

ORDER DISMISSING APPEAL

PER CURIAM:

[¶ 1] Appellant filed its notice of appeal and designation of records in this matter on February 27, 2018. Thereafter, on March 9, 2018, Appellant notified the Court, pursuant to ROP Rule of Appellate Procedure 10(b), that it ordered a transcript of the audio recording in the lower court matter. The transcript was filed June 27, 2018, giving the Appellants until August 13, 2018, to file an opening brief or seek an enlargement of time to do so.

[¶ 2] The Appellant has not filed an opening brief or an enlargement motion. The Court acknowledges that Appellant’s counsel, J. Roman Bedor, was ill and subsequently passed away on September 8, 2018. At the time of his illness and death, Mr. Bedor represented litigants in other cases before

this Court and the Trial Division. In many of those cases, replacement counsel has appeared on behalf of the litigants. *See, e.g., In re Petition to Quiet Title to Lease of Cadastral Lot No. 022 M 01*, Civil Action No. 17-023 (appearance of new counsel to replace Mr. Bedor filed September 21, 2018); *Ngetecheuang Lineage v. Cordino Soalablai*, Civil Action No. 17-217 (same filed September 18, 2018); *Yobech v. Ililau*, Civil Action No. 17-219 (filed as co-counsel on July 13, 2018 until Mr. Bedor was to withdraw appearance). In other cases, litigants have requested enlargements of time to file pleadings, indicating that they are actively seeking replacement counsel because of Mr. Bedor's passing. *See, e.g., Ngermeu Clan v. Smengesong Lineage of Eloksumch Clan*, Civil Appeal No. 18-002 (filed motion for enlargement to file response brief on September 11, 2018, because "Appellees just learned that . . . their lawyer passed away . . . [and] Appellees must find new counsel to represent them on this appeal.").

[¶ 3] Rule of Appellate Procedure 31(c) provides: "If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal, or the Appellate Division may so dismiss on its own motion." ROP R. App. P. 31(c); *see Estate of Masang v. Marsil*, 13 ROP 1, 2 (2005) ("[W]e take this opportunity to warn all appellants and their counsel, and we direct the Clerk of Courts to provide a copy of this Order to all active members of the Palau Bar, that while we will continue to consider timely and reasonable requests for extensions of time, any failure to timely file an appeal or opening brief . . . will result in the dismissal of the appeal without further notice and that such dismissal will not be undone absent truly extraordinary and unanticipated circumstances.").

[¶ 4] Accordingly, this appeal is **DISMISSED** for Appellant's failure to comply with Rule 31. *See Ysaol v. Ysaol*, 2016 Palau 15 ¶¶ 3-4; *see also Estate of Masang*, 13 ROP at 2 and *Palau Red Cross v. Chin*, 20 ROP 40, 41 (2012) (for lack of prosecution).