

Mesubed v. Ninth Kelulul a Kiuluul, 10 ROP 104 (2003)

**ELMIS MESUBED, MOSES SAM, GREGORIO DECHERONG, ELLENDER
NGIRAMEKETII, FRANCISCO MELAITAU, DENNIS MAD, INACIO SADANG,
ISMAEL RENGUUL, SICHANG MELTEL, DECK NGOTEL, RUSSELL MASAYOS, and
LAZARUS INACIO,
Appellants,**

v.

**NINTH KELULUL A KIULUUL, BENJAMIN TEMOL, AGUSTO RENGUUL, JOSEPH
TIOBECH, UONG ITO UDUI, MISECH SUSANA MATSUOKA, IROMEL ANGEL
UDUI, DANNY ONGELUNGEL, NGIRNGESECHEI HILARIA LAKOBONG,
NGIRNGETKEBUI SILIL MELTEL, and BENDIX LAKOBONG,
Appellees.**

CIVIL APPEAL NO. 02-13
Civil Action No. 01-282

Supreme Court, Trial Division
Republic of Palau

Decided: April 30, 2003

Counsel for Appellants: Johnson Toribiong

Counsel for Appellees: Raynold B. Oilouch

BEFORE: LARRY W. MILLER, Associate Justice; R. BARRIE MICHELSEN, Associate
Justice; J. UDUCH SENIOR, Associate Justice Pro Tem.

Appeal from Supreme Court, Trial Division, the Honorable KATHLEEN M. SALII, Associate
Justice, presiding.

PER CURIAM:

Appellants have filed a motion requesting this Court “to remand the action to the Trial Division with an instruction to dismiss the Complaint with prejudice for mootness.” The action before the Trial Division concerned the validity of Ngiwal State’s budget for fiscal year 2002-03. Plaintiffs, Appellees herein, contended that the legislative session during which the bill was passed lacked a quorum necessary to pass legislation. The trial court agreed and held that as a result of the lack of a quorum any action taken at the session, including the passage of the budget, was null and void.

Defendants appealed. However, they now assert that the case has become moot because the 10th Kelulul a Kiuluul has enacted NSPL No. 10-3 which approves all expenditures made pursuant to the budget act found null and void by the trial court. Thus, Appellants maintain, the

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case should be remanded to the trial court with instructions to dismiss Plaintiffs' complaint with prejudice. Appellees have essentially agreed with this analysis, stating that "[i]n light of the recent passage of NSPL No. 10-3 . . . Appellees submit that the Judgment rendered by the Trial Division may be moot."

¶105 If events subsequent to the filing of an appeal moot the issues presented in a case, no justiciable controversy is presented. *Allard v. DeLorean*, 884 F.2d 464, 466 (9th Cir. 1989). When an appeal is dismissed as moot, the general practice is for the appellate court to reverse or vacate the judgment below and dismiss the case. *Id.* (citing *United States v. Munsingwear, Inc.*, 71 S.Ct. 104, 106-07 (1950)).

Appellants contend that a subsequent ratification of the expenditures made pursuant to the invalid bill have made the validity of that bill irrelevant. Under the circumstances, we believe that the appropriate resolution of Appellants' motion is to remand the matter to the trial court to determine whether, because of the alleged subsequent ratification, its partial summary judgment should be vacated. If the trial court reaffirms its previous judgment, the Appellants may institute another appeal.