

Airai State Pub. Lands Auth. v. Aimeliik State Gov't, 11 ROP 39 (2003)
AIRAI STATE PUBLIC LANDS AUTHORITY,
Appellant,

v.

AIMELIIK STATE GOVERNMENT, AIMELIIK STATE PUBLIC LANDS AUTHORITY,
HENARO ANTONIO, ANDRES MADRAISAU, and
ULAI TELTULL,
Appellees.

CIVIL APPEAL NO. 02-043
Civil Action No. 98-357

Supreme Court, Appellate Division
Republic of Palau

Argued: November 10, 2003

Decided: December 4, 2003

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Counsel for Appellant: John K. Rechucher

Counsel for Antonio: Oldiais Ngiraikelau

Counsel for Aimeliik State Government and Aimeliik State Public Lands Authority: J. Roman Bedor, T.C.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; R. BARRIE MICHELSEN, Associate Justice; ROSE MARY SKEBONG, Associate Justice Pro Tem.

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

MICHELSEN, Justice:

This appeal concerns a disputed boundary between Airai State and Aimeliik State. The boundary line described in the 1958 Aimeliik Municipal Charter overlaps with an area within the boundary line described in the 1963 Airai Municipal Charter. The trial court granted Appellant's pretrial partial summary judgment motion, and trial was held on the remaining issues. As part of the court's subsequent written findings of fact and conclusions of law, it vacated the partial summary judgment order in favor of Airai and entered judgment in favor of Aimeliik. Because the partial summary judgment order was vacated without giving Airai notice and an opportunity to be heard, we remand for further proceedings.

BACKGROUND

Airai State Pub. Lands Auth. v. Aimeliik State Gov't, 11 ROP 39 (2003)

Appellant Airai State Public Lands Authority (“Airai”) filed a trespass action against Appellees Aimeliik State Government and Aimeliik State Public Lands Authority (“Aimeliik”) and their lessees, Henaro Antonio, Ulai Teltull, and Andres Madraisau (“lessees”), asserting that they leased, occupied, and used public lands within the boundaries of Airai State without any authority and without Airai’s consent. Airai filed a pretrial motion for partial summary judgment on the issue of whether parcels of land occupied by the lessees were located within the boundary of Airai State. The trial court ruled in favor of Airai, holding that the boundaries of Aimeliik State were confined to the boundaries of the former Aimeliik Municipality as described in its municipal charter, and that the parcels occupied by the lessees were located within Airai State. Aimeliik subsequently filed a motion under Rule 60(b) for relief from the court’s partial summary judgment ruling based on its submission of a new map of the Aimeliik charter boundaries. The court denied the motion.

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Notwithstanding the entry of partial summary judgment, and over Airai’s repeated objections, the court allowed trial testimony to establish a boundary within the area that had been determined to belong to Airai in the pretrial order. Airai was not expecting to litigate at trial the location of the boundary line outside of the area that remained in dispute after the entry of partial summary judgment. After the parties rested, the court, in its findings of fact and conclusions of law, *sua sponte* reconsidered and vacated its partial summary judgment order in favor of Airai to enter judgment in favor of Aimeliik. The trial court held that the land that had been determined to be within the boundaries of Airai in the partial summary judgment order was found to be part of Aimeliik, and the parcels occupied by the lessees were located within Aimeliik State.

DISCUSSION

Airai raises two issues on appeal. First, Airai argues that the trial court’s *sua sponte* reconsideration of its Order granting partial summary judgment in favor of Airai without giving Airai notice and an opportunity to be heard was a violation of Airai’s due process rights. Second, Airai contends that the trial court erred in holding that the boundary between the two states was the boundary as described in the Aimeliik Municipal Charter rather than the Airai Municipal Charter. Airai requests a remand to permit it to introduce additional evidence to prove that the lands occupied by the lessees are located within Airai State. We believe a remand is required.

Although the trial court’s partial summary judgment ruling was not an appealable final order, it was final in the context of the trial. A partial summary judgment order is “a pretrial adjudication that certain issues are established for trial of the case.” *F.D.I.C. v. Massingill*, 24 F.3d 768, 774 (5th Cir. 1994).¹ It specifies the facts that appear to be without substantial controversy, and at trial the facts so specified are deemed established, and trial is conducted accordingly. *See* ROP R. Civ. P. 56(d). If a party can successfully demonstrate that there is no genuine issue of material fact as to a particular claim, the court’s summary judgment ruling effectively removes that issue from the litigation. *See Leddy v. Standard Drywall, Inc.*, 875 F.2d

¹Our rules of civil procedure follow the format of the Rules of Civil Procedure for the United States District Courts and, therefore, it is appropriate to consider pertinent case law of the United States Federal Courts when construing our rules. ROP R. Civ. P. 1 cmt. at 1; *The Senate v. Nakamura*, 8 ROP Intrm. 190, 192 (2000); *Gotina v. ROP*, 8 ROP Intrm. 65, 65 (1999).

Airai State Pub. Lands Auth. v. Aimeliik State Gov't, 11 ROP 39 (2003) 383, 386 (2d Cir. 1989). Because the trial court determined in its partial summary judgment that the lessees' property was located in Airai, the Appellant was entitled to rely on that determination in preparing its case for trial and in presenting its evidence regarding the location of the boundary. *See id.* A partial summary judgment would be meaningless if the prevailing party was required to introduce evidence at trial to prove again the issues previously decided.

This is not to say that a trial court is barred from reexamining a partial summary judgment decision. Such rulings are interlocutory in nature, and a court may reconsider a partial summary judgment ruling, but the parties are entitled to notice that the court is rethinking its prior decision as well as an opportunity to present evidence on the issue. *See Millar v. Houghton*, 115 F.3d 348, 351 (5th Cir. 1997); *Leddy*, 875 F.2d at 386. 142 Similarly, Palau cases recognize the due process requirement that the parties be given notice and an opportunity to be heard before the court may, *sua sponte*, dismiss a case or amend its judgment. *See BMC Corp. v. PPLA*, 4 ROP Intrm. 172, 173 (1994) (citing *Maidasil v. Besebes*, 2 ROP Intrm. 189, 193 (1991)); *Silmai v. LCHO*, 3 ROP Intrm. 225, 227 (1992); *Klai Clan v. Bedechal Clan*, 2 ROP Intrm. 84, 86 (1990).

Sua sponte orders are not a favorite of the law. For example, *sua sponte* dismissals are generally disapproved in United States federal courts for three reasons:

(1) they often conflict with the traditional adversarial precepts of our system of justice by tending to make the district court seem like a proponent of one side as opposed to a neutral decision-maker; (2) they may prejudice plaintiffs by depriving them of the opportunity to amend their complaint or to argue against dismissal; and (3) they tend to defeat the very purpose they are designed to serve—judicial efficiency.

So. Ill. Riverboat Casino Cruises v. Triangle, 302 F.3d 667, 678 (7th Cir. 2002) (citations omitted). These dangers inherent in *sua sponte* dismissals are also present in this case. Just as notice and an opportunity to present evidence are required before a court may dismiss a case *sua sponte*, notice must also be required before a court may vacate its partial summary judgment ruling *sua sponte* and enter judgment for the opposing party.

Here, the trial court gave the parties no notice and no reason to believe that it would vacate its partial summary judgment ruling. In fact, the trial court denied Appellees' Rule 60(b) motion for relief from that judgment, which was based on much of the same evidence later presented by Appellees at trial. We hold that while the trial court is entitled to, upon reflection, vacate its partial summary judgment order, it must first give notice to the parties of its intention to vacate the order and allow the parties an opportunity to present additional evidence. Accordingly, we will not reach the merits of the boundary dispute at this time, but remand the matter so that the trial court has an opportunity to hear further evidence in light of its decision to deny partial summary judgment to Airai.