

Ngirchechol v. Triple J Enters., 11 ROP 58 (2004)
APOLONIA NGIRCHECHOL,
d/b/a Palau Automotive,
Appellant,

v.

TRIPLE J ENTERPRISES, INC., and TRIPLE J SAIPAN, INC.,
Appellees.

CIVIL APPEAL NO. 02-053
Civil Action No. 00-39

Supreme Court, Appellate Division
Republic of Palau

Decided: January 27, 2004

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Counsel for Appellant: Carlos Salii

Counsel for Appellees: Kevin Kirk

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from the Supreme Court, Trial Division, the Honorable R. BARRIE MICHELSEN,
Associate Justice, presiding.

PER CURIAM:

Apolonia Ngirchechol d/b/a Palau Automotive (Appellant) filed the underlying action against Triple J Enterprises, Inc., and Triple J Saipan, Inc., (Appellees) seeking to enforce provisions of the Foreign Investment Act (28 PNC § 101 *et seq.*) and the Unfair Business Practices Act (11 PNC § 101 *et seq.*). Appellant sued for declaratory relief, sanctions pursuant to the Foreign Investment Act, general and punitive damages, attorney's fees, and costs. As a supplement to the pre-trial statements, the parties filed memoranda addressing the legal basis for awarding general and punitive damages to a prevailing party under the Foreign Investment Act. In its Order Regarding Scope of Available Relief Pursuant to 28 PNC § 120 ("Order"), the trial court determined that general and punitive damages were not available under the Foreign Investment Act. Unhappy with the trial court's disposition of that issue, Appellant obtained an entry of partial judgment pursuant to ROP R. Civ. P. 54(b) and filed this appeal.¹ **L60** Appellees,

¹Rule 54(b) reads:

Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, crossclaim, or third-party claim, or when multiple parties are involved, the court may direct the entry of

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in turn, assert that the appeal should be dismissed as interlocutory because it does not satisfy the final judgment rule. We find that consideration of this issue would be premature at this time and, accordingly, dismiss the appeal.

“[W]e have long adhered to the premise that the proper time to consider appeals is after final judgment.” *ROP v. Black Micro Corp.*, 7 ROP Intrm. 46, 47 (1998); *see also In re Ngirausui*, 6 ROP Intrm. 216 (1997). “Piecemeal appeals disrupt the trial process, extend the time required to litigate a case, and burden appellate courts. It is far better to consolidate all alleged trial court errors in one appeal.” *Black Micro Corp.*, 7 ROP Intrm. at 47 (citations omitted); *see also Rengulbai v. Rengiil*, 6 ROP Intrm. 197 (1997). Rule 54(b) provides a limited exception to this principle and is designed to facilitate the entry of judgments upon one or more but fewer than all claims or as to one or more but fewer than all parties in an action involving more than one claim or party.² 10 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2654 (2d ed. 1983). The basic purpose of Rule 54(b) is to avoid the possible injustice of a delay in entering judgment on a distinctly separate claim or as to fewer than all of the parties until the final adjudication of the entire case by making an immediate appeal available. *Allis-Chalmers Corp. v. Philadelphia Elec. Co.*, 521 F.2d 360, 363 (3d Cir. 1975). A lower court’s order certifying a judgment pursuant to Rule 54(b) is subject to reversal for an abuse of discretion. *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 100 S. Ct. 1460 (1980).

The trial court’s Order provided that “no damages, compensatory or punitive, can be awarded to a prevailing Plaintiff suing as a private attorney general pursuant to the [Foreign Investment] Act.” However, the Order did not adjudicate the merits of plaintiff’s claims and still leaves open the possibility for other relief as requested in the complaint, including declaratory judgment, statutory penalties and sanctions, and attorney’s fees. For a final judgment to be entered on any one claim in a multiclaim suit, all damages stemming from that claim must have been fixed. *Int’l Controls Corp. v. Vesco*, 535 F.2d 742, 748 (2d Cir. 1976). A court’s rejection of one of several requests for relief arising from a single wrong does not establish appellate jurisdiction under Rule 54(b). *Gen. Acquisition, Inc. v. GenCorp, Inc.*, 23 F.3d 1022, 1028 (6th Cir. 1994); *see also Monument Mgmt. Ltd. P’ship I v. City of Pearl*, 952 F.2d 883, 885 (5th Cir. 1992) (concluding that no appeal is permitted from dismissal of consequential damages claim where inverse condemnation claim remained in district court); *Ariz. State Carpenters Pension Trust Fund v. Miller*, 938 F.2d 1038, 1040 (9th Cir. 1991) (disallowing an appeal from dismissal of punitive damages claim where compensatory damages claim remained in district court); *Marino v. Nevitt*, 311 F.2d 406 (3d Cir. 1963) (holding that a decision which had the effect of eliminating two of several elements of damage stated in single claim as not provable as a matter

a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

²For purposes of this analysis, ROP R. Civ. P. 54(b) is identical to Fed. R. Civ. P. 54(b).

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of law was partial adjudication and lacked finality prerequisite to right of appeal under Rule 54(b)). By its own words, the trial court's Order merely limits the range of damages ¶61 available to a prevailing party but does not adjudicate liability between the parties nor fix damages for any specific claim. The ruling on damages—with no ruling on liability—was not a “final” judgment conferring jurisdiction on this Court. *GenCorp*, 23 F.3d at 1028.

This Court must also consider that the need for review might be mooted by future developments in the trial court. *See Thompson v. Trent Maritime Co.*, 343 F.2d 200 (3d Cir. 1965); *Luckenbach S.S. Co. v. H. Muehlstein & Co.*, 280 F.2d 755 (2d Cir. 1960); *Panicella v. Pa. R.R. Co.*, 252 F.2d 452 (3d Cir. 1958). Because liability for plaintiff's claims has not been established, this Court would accomplish little by appellate review except rendering an advisory opinion on a question of law. Should defendants prevail in the underlying action, any discussion as to the extent of damages allowed would be moot.

CONCLUSION

For the reasons stated above, we conclude that the trial court's Order was not properly certified under Rule 54(b) and does not fall into any other exception to the final judgment rule. Accordingly, this appeal will be dismissed, and the action will be remanded to the trial court with directions to vacate the Order Granting Entry of Partial Summary Judgment Pursuant to ROP R. Civ. P. 54(b).