

Pac. Call Invs., Inc. v. Palau Marine Indus. Corp., 16 ROP 89 (2008)
PACIFIC CALL INVESTMENTS, INC.,
Appellant,

v.

PALAU MARINE INDUSTRIES CORP., TAI CHIN LONG AND KOROR STATE
PUBLIC LANDS AUTHORITY,
Appellees.

CIVIL APPEAL NO. 07-049
Case Nos. 04-182 and 166-92 (consolidated)

Supreme Court, Appellate Division
Republic of Palau

Decided: December 9, 2008

Counsel for PCI: David F. Shadel

Counsel for KSPLA: Keith Peterson

Counsel for PMIC: Johnson Toribiong

Counsel for Long: Richard Brungard

BEFORE: LOURDES F. MATERNE, Associate Justice; ALEXANDRA F. FOSTER,
Associate Justice; KATHERINE A. MARAMAN, Part-Time Associate Justice.

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

PER CURIAM:

BACKGROUND

This case is an appeal of a September 28, 2007, Order of the Trial Division which confirmed the sale of Palau Marine Industries Corporation's (hereinafter, "PMIC's") assets to Tai Chin Long ("Long"). Appellant Palau Call Investments ("PCI"), a creditor of PMIC, argues that the Trial Division erred in approving the sale, on the grounds that the sale did not follow required procedures. PCI alleges that the sale did not meet notice requirements and was not conducted properly.

In response to the Appeal, Long filed a Motion to dismiss the appeal, in lieu of a responsive brief. He asserts that the Appeal was filed prematurely, in violation of the final judgment rule. Long did not address the substantive claims of the appeal. Instead, he requested

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that, if the Court denied his Motion to dismiss, that it provide additional time for Long to prepare a responsive brief.

DISCUSSION

Long asserts that the Appeal of the September 28 order is untimely, because final judgment has not been reached in the case. He argues that the final judgment rule prevents any appeal until all the disputes between the parties have been resolved. Both parties assert that there are outstanding motions in this case before the trial court: motions for contempt and for an order in aid of judgment. The parties' disagreement is as to whether the outstanding motions make the current appeal premature.

The final judgment rule holds that “[a]n order which does not finally settle the issues on trial generally is not appealable, although it is open to review in connection with an appeal of the final judgment.” *In the Matter of Kaleb Udui*, 3 ROP Intrm. 130, 131 (1992). Palau follows the final judgment rule because “[p]iecemeal 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.” *ROP v. Black Micro Corp.*, 7 ROP Intrm. 46, 47 (1998) (internal citations omitted). Neither party contests that the issues before the trial court are finally settled or that there has been a final determination of the rights of the parties. Neither is the order being appealed a collateral order, which is completely separate from the merits of the action and effectively unreviewable on appeal from the final judgment. *See Heirs of Drairoro v. Yangilmau*, 10 ROP 116, 118 (2003).

Because, by the parties' own admission, there has not been an order which finally settles the issues before the trial court and because no exceptions to the final judgment rule apply, this appeal is premature. However, the parties retain the option to raise the September 28 order, and any other alleged trial court errors, on appellate review of the final judgment in the case.

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For the foregoing reasons, Long's Motion to dismiss the appeal is **GRANTED**.