

BILUNG GLORIA G. SALII,
Appellant,

v.

SHALLUM ETPISON and KEIZA
ETPISON,
Appellees.

CIVIL APPEAL NO. 09-028
Civil Action No. 07-182

Supreme Court, Appellate Division
Republic of Palau

Decided: January 31, 2011

[1] **Appeal and Error:** Interlocutory
Appeals

This court has long adhered to the premise
that the proper time to consider appeals is
after final judgment.

[2] **Appeal and Error:** Interlocutory
Appeals

An order that does not settle the trial issues
is generally not appealable.

[3] **Appeal and Error:** Interlocutory
Appeals

A partial summary judgment ruling is not
typically the type warranting immediate
appeal.

Counsel for Appellant: Salvador Remoket.
Counsel for Appellees: John K. Rechucher.

BEFORE: LOURDES F. MATERNE,
Associate Justice; ALEXANDRA F.

FOSTER, Associate Justice; and RICHARD H. BENSON, Part-Time Associate Justice.

Appeal from the Trial Division, the Honorable ARTHUR NGIRAKLSONG, Chief Justice, presiding.

PER CURIAM:

Appellant Bilung Gloria G. Salii appeals the Trial Division's decision granting partial summary judgment to Appellees Shallum Etpison and Keizia Etpison. Because the Trial Division's decision does not constitute a final judgment, this appeal is **DISMISSED** without prejudice to the parties raising these issues and referencing these briefs once judgment is final.

BACKGROUND

This dispute concerns whether Gloria G. Salii's fences encroached upon Shallum and Keizia Etpison's property. The three parties own four lots of land. Shallum owns the land called Tmasch, Cadastral Lot No. 040 B 02; Keizia owns the land called Metuker/Ngelngii, Cadastral Lot No. 040 B 20; and Salii's lineage, the Techeboet Lineage, owns two lots, Cadastral Lot No. 040 B 18 and Cadastral Lot No. B 19. Salii's lots are located in between Shallum's lot (Tmasch) and Keizia's lot (Metekuer/Ngelngii). Specifically, Salii's Cadastral Lot No. 040 B 18 shares a boundary with Shallum's lot, and both of Salii's lots share a boundary with Keizia's lot. (*See* Pl. Ex. 10A.)

Plaintiffs brought suit for trespass against Salii after Salii built concrete fences that allegedly encroached on their parcels of land and refused to move them. At trial,

Plaintiffs submitted as evidence a survey of the common boundaries created by the Bureau of Lands and Survey. The survey was completed based on cadastral lot numbers of the four lots, and it included a map of the lots. (Pl. Ex. 10A.) The map showed that the fences encroached on Plaintiffs' lots. In response, Salii introduced testimony of Roman Remoket, who held a position as Surveyor at the Bureau of Land and Surveys. During his testimony, Salii introduced a sketch of the lots that Remoket created. (Def. Ex. A.) According to Remoket's sketch and testimony, the fences did not encroach upon either Plaintiff's lot because the official map of the Bureau of Land and Surveys has errors when compared to the actual land markers.

The Trial Division found the exhibit from the Bureau of Lands and Survey credible, and Remoket's testimony and exhibit to lack probative value. Thus, the Trial Division granted Shallum and Keizia's motion for partial summary judgment on the issue of trespass. The court reasoned that there was no genuine issue of material fact as to the location of the fences, and it concluded, as a matter of law, that Salii's fences infringed upon Shallum and Keizia's property. The Trial Division did not make a decision regarding punitive damages, consequential damages, and attorneys' fees because they required factual findings, and the court stated that it would reach those decisions after a hearing or trial. This appeal followed.

ANALYSIS

The parties did not address this issue in their briefing, but we must address whether this case is properly before the Appellate Division. The Trial Division's Decision

expressly stated that it was not handling issues of punitive damages, compensatory damages, and attorneys' fees until after the decision becomes final. Thus, the Trial Division acknowledged that its partial summary judgment decision was not final.

[1, 2] This Court has "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). "An 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). "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." *Ngirchechol v. Triple J. Enters., Inc.*, 11 ROP 58, 60 (2004). Most interlocutory matters therefore must therefore await final judgment for appeal. *Emaudiong v. Arbedul*, 5 ROP Intrm. 31, 34 (1994).

[3] Salii appeals a partial summary judgment ruling, which is not the type that requires immediate appeal. *Airai State Pub. Lands Auth. v. Aimeliik State Gov't*, 11 ROP 39, 41 (2003) (noting that a partial summary judgment decision was not an appealable final judgment); *Renguul v. Orak*, 9 ROP 86 (2002) (dismissing appeal in an ejectment case where appellant sought review of the trial court's decision as to a portion of land appellee was using, reasoning that the decision was not a final judgment or an appealable interlocutory order). The Trial Division's decision simply concluded that Salii's fences trespassed on Plaintiffs' property. It did not order Salii to take down the fence, and it did not address

damages. Thus, appellate review of this decision is inappropriate.

CONCLUSION

For the foregoing reasons, Appellant Bilung Gloria Salii's appeal is **DISMISSED.**