

*Silmai v. The Pension Plan Fund Bd. of Trustees*, 1 ROP Intrm. 631 (1989)

**SADANG N. SILMAI,  
Appellant,**

v.

**THE PENSION PLAN FUND BOARD OF TRUSTEES, et al.,  
Appellees,**

**THE PENSION PLAN FUND BOARD OF TRUSTEES, et al.,  
Counterclaim Plaintiff,**

v.

**SADANG N. SILMAI,  
Counterclaim Defendant.**

CIVIL APPEAL NO. 15-88  
Civil Action No. 129-88

Supreme Court, Appellate Division  
Republic of Palau

Opinion

Decided: May 25, 1989

Counsel for Appellant: Johnson Toribiong

Counsel for Appellees: Shad D. Priest

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice;  
ARTHUR NGIRAKLSONG, Associate Justice.

NGIRAKLSONG, Associate Justice:

On March 7, 1989, oral argument was heard on two motions: Appellant's Motion For Leave to File Opening Brief and Appellees' Motion to Dismiss Appeal. After reviewing the record and the motions and affidavits submitted by both parties, and after considering oral argument, the Court **1632** grants Appellees Motion to dismiss the appeal and denies Appellant's motion for leave to file an Appellant's Opening Brief.

On September 16, 1988, Appellant filed a Notice of Appeal. Also on that date Appellant filed a Waiver of Transcript. On November 17, 1988, Appellee filed a Motion to Dismiss Appeal. Appellees cite as the grounds for the motion the fact that Appellant's brief had not been filed within the 45 days required by Rule 31(b) of Republic of Palau Rules of Appellate Procedure (1983).

*Silmai v. The Pension Plan Fund Bd. of Trustees*, 1 ROP Intrm. 631 (1989)

The pertinent part of Rule 31(b) reads:

Time of Filing. Appellant's brief shall be filed within forty-five (45) days after the notification (service) of certification of the record by the clerk of the trial court . . .; or if a transcript is not designated or is waived, then within forty-five (45) days after the filing of the notice of appeal.

Appellant has not filed a response to Appellees' Motion to Dismiss. Rather Appellant has submitted a motion seeking leave to file his opening brief.

In the Affidavit filed with Appellant's Motion for leave to file, the secretary of Appellant's attorney states that she was requested by Appellant's attorney to find out when the opening brief was due to be filed. The secretary called the Clerk of Courts and was told by him that the record had not yet been certified and that Appellant would have 45 days from the date that Appellant's attorney received notice of the certification.

**¶633** In *Republic of Palau v. Singeo*, Palau Supreme Court Appellate Division slip opinion at 3-4 (App. Div. 1987), this Court adopted the standard that good cause must be shown for the Court to depart from the rules of procedure and that good cause "shall not be deemed to exist unless the movant avers something more than the normal (or even the reasonably foreseeable but abnormal) vicissitudes inherent in the practice of law".

We do not condone the practice of lawyers relying on the opinion of non-lawyers for assessments of the law particularly when a quick reading of Rule 31(b) would have resolved the matter. No good cause has been shown for us to depart from following the rules of procedure.

IT IS HEREBY ORDERED that Appellees Motion to Dismiss Appeal is granted and Appellant's Motion for Leave to File Appellant's Opening Brief is denied.