

ASAKAO K. SASAO ET AL.
v.
NGIRAIKELAU BEOUCH

Civil Appeal No. 15-016
Appeal from Civil Action No. 04-143

Supreme Court, Appellate Division
Republic of Palau

Decided: October 27, 2015

Counsel for Appellants Salvador Remoket
Counsel for Appellee Siegfried B. Nakamura

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice
KATHLEEN M. SALII, Associate Justice
R. ASHBY PATE, Associate Justice

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice, presiding.

ORDER DISMISSING APPEAL

Per Curiam:

Appellants filed their notice of appeal and designation of records in this matter on June 12, 2015. Thereafter, on June 29, 2015, Appellants were provided audio recordings of the testimony or evidence adduced in the trial court. Consequently, pursuant to ROP R. App. P. 10(b), Appellants were required by July 13, 2015, to either order the preparation of transcripts and file a copy of the order with the Court or file a certificate with the Court stating that no transcript would be ordered. Moreover, pursuant to ROP R. App. P. 31(b), because Appellants have failed to notify the Court that they have ordered transcripts, Appellants' opening brief was due by August 13, 2015.

Because Appellants failed to submit the filings required by Rule 10(b) and Rule 31(b), this Court, ordered them to show cause, by October 19, 2015, why this appeal should not be dismissed for failure to prosecute or for failure to timely file an opening brief, under ROP R. App. P. 31(c), and warned them that failure to timely respond to the order to show cause could result in dismissal of the appeal. Appellants failed to timely respond to the order to show cause. Moreover, Appellants have not moved for an extension of time to submit requisite filings to the Court, under ROP R. App. 26(c), nor have Appellants submitted any filings to the Court since they filed their notice of appeal and designation of records on June 12, 2015.

Rule 31(c) provides: “If an appellant fails to file a brief within the time provided by this rule, or within an extended time, an appellee may move to dismiss the appeal, or the Appellate Division may so dismiss on its own motion.” ROP R. App. P. 31(c); *see Estate of Masang v. Marsil*, 13 ROP 1, 2 (2005) (“[W]e take this opportunity to warn all appellants and their counsel, and we direct the Clerk of Courts to provide a copy of this Order to all active members of the Palau Bar, that while we will continue to consider timely and reasonable requests for extensions of time, any failure to timely file an appeal or opening brief . . . will result in the dismissal of the appeal without further notice and that such dismissal will not be undone absent truly extraordinary and unanticipated circumstances.”).

Accordingly, the Court **DISMISSES** this appeal for Appellants’ failure to comply with Rule 31 and for lack of prosecution of this matter. *See Palau Red Cross v. Chin*, 20 ROP 40 (2012).