

KSPLA v. Diberdii Lineage, 3 ROP Intrm. 25 (1991)
**IN THE MATTER OF THE APPEALS FROM THE DECISION
OF THE LAND CLAIMS HEARING OFFICE (LCHO)**

**KOROR STATE PUBLIC LANDS AUTHORITY (KSPLA)
and OBODEI S. IYAR,
Appellants,**

v.

**DIBERDII LINEAGE,
Appellee.**

**NONA LUII, ESEBEI ARBEDUL,
KSPLA and IDID CLAN,
Appellants,**

v.

**MERIANG CLAN,
Appellee.**

**REPUBLIC OF PALAU, COLLEGE OF MICRONESIA,
SUGIYAMA FAMILY and IBAI LINEAGE,
Appellants,**

v.

**JONATHAN KOSHIBA, et al.,
Appellees.**

CIVIL APPEAL NO. 9-91

Consolidated Civil Action Nos. 654-89, 656-89, 210-90, 227-90, 242-90, 275-90, 453-90

Supreme Court, Appellate Division
Republic of Palau

Order re: motion to dismiss appeals

Decided: August 6, 1991

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Counsel for KSPLA: Mark Doran

Counsel for Iyar: Kevin Kirk

Counsel for Ibai Lineage: Johnson Toribiong

Counsel for LCHO and Koshiba: John K. Rechucher

Counsel for Diberdii Lineage: John O. Ngiraked

Counsel for Luii: Moses Uludong, T.C.

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Counsel for Arbedul: John S. Tarkong, Esq.

Counsel for Idid Clan: Carlos H. Salii

Counsel for Meriang Clan: Pro se

Counsel for ROP: Yosiharu Ueda, T.C.

Counsel for COM: R. Barrie Michelsen

BEFORE: MAMORU NAKAMURA, Chief Justice; LOREN A. SUTTON, Associate Justice;
and ALEX R. MUNSON, Associate Justice

PER CURIAM:

On February 15, 1991, Appellant Ibai Lineage filed a notice appealing a January 21, 1991, trial court decision and waiving designation of the record.

Appellant Esebei Arbedul joined in the Ibai Lineage appeal on February 19, 1991. Appellants LCHO, Jonathan Koshiba, and Obodei Iyar joined the Ibai Lineage appeal on February 20, 1991. Counsel for LCHO and Jonathan Koshiba apparently understood this to mean that it would not be necessary to file an appellate brief separate from that of Appellant Ibai Lineage, or to move for separate extensions of time.

Appellant Iyar timely filed a motion for extension of time to file his appellate brief until June 7, 1991, which was granted on April 5, 1991. On June 7, 1991, Appellant Iyar's brief was filed.

Pursuant to an extension of time granted to Appellant Arbedul, his appellate brief fell due on Saturday, June 8, 1991. On Monday, June 10, 1991, Appellant Arbedul filed a notice that he joined in the brief filed by Appellant Ibai Lineage.

On May 10, 1991, Appellant Ibai Lineage requested an 127 extension of time to file its opening brief, which was granted on May 15, 1991. On May 30, 1991, Appellant Ibai Lineage requested a further extension to May 30, 1990 to file its brief. The Chief Justice permitted the brief to be filed no later than June 7, 1991, and on that date, the brief was filed.

Appellee KSPLA filed this motion to dismiss the appeals on May 20, 1991, claiming that none of the parties had filed briefs within the time permitted under the Rules of Appellate Procedure. The record indicates that Appellants Iyar and Ibai timely filed their appellate briefs. As a result of the timely filing by Appellant Ibai Lineage, the appeals of Appellants Koshiba, LCHO and Arbedul were preserved. Appellee's motion to dismiss is groundless.

Appellee alleges that it was improper for a single justice to grant, ex parte, the requested extensions of time to file briefs, citing *Rurcherudel v. Uchel*, Civil Appeal No. 5-90 (May, 1991). In its pleading and at oral argument before this Court, Appellee's counsel maintained that *Rurcherudel v. Uchel*, which involved a motion to dismiss, stands for the proposition that a full, 3-justice panel is required to hear motions to grant extensions of time to file appellate briefs. In fact, that case states that procedural orders, such as extensions of time to file, that do not

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substantially affect the rights of the parties or the ultimate disposition of the appeal may be ruled upon by a single judge. *Id.*, at pg. 4.

The holding in *Rurcherudel vs. Uchel* is supported by the ROP Rules of Appellate Procedure. Rule 25(a) provides that a motion requesting relief which may be granted by a single judge may be **L28** filed with the judge and then transmitted to the Court Clerk. Rule 27(b) states that motions for procedural orders may be acted upon at any time, without awaiting a response from opposing counsel. An adversely affected party has the option to request reconsideration, vacation or modification of the order. In addition, Rule 3(a) specifies that the validity of an appeal is not affected by an appellant's failure to take any step other than the timely filing of a notice of appeal. Even a cursory review of the Appellate Rules of Procedure should have convinced Appellee KSPLA that its motion to dismiss the appeals was frivolous.

Counsel for KSPLA has filed and pursued a frivolous motion to dismiss, based on a case which holds the opposite of what he contends, and which necessitated the appearance of four other attorneys before this appellate panel. Mr. Doran is hereby personally sanctioned in the amount of \$500.00, payable to the Clerk of Courts no later than 4:30 p.m., August 2, 1991.

KSPLA's motion to dismiss the appeals is hereby DENIED.