

Kamiishi v. Hanpa Constr. Co., 5 ROP Intrm. 135 (1995)
KATSUO KAMIISHI and ASHIBI CO.,
Appellants,

v.

HAN PA CONSTRUCTION CO.,
Appellee.

CIVIL APPEAL NO. 14-95
Civil Action No. 297-89

Supreme Court, Appellate Division
Republic of Palau

Order on motion to reinstate appeal
Decided: October 12, 1995

Counsel for Appellants: Johnson Toribiong

Counsel for Appellee: Carlos H. Salii

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; and LARRY W. MILLER, Associate Justice.

PER CURIAM:

Before the Court is Appellants' motion to reinstate the appeal. By notice dated June 13, 1995, Appellants had until July 3, 1995 to pay the estimated cost of the transcript they had designated. By August 4, 1995, Appellants still had not paid the cost and we dismissed the appeal. On August 29, 1995, Appellants filed a motion requesting that the appeal be reinstated because their neglect to pay the estimated cost of the transcript within the time frame established by Rule of Appellate Procedure 10(b) was excusable. We need not even reach that issue because this motion is itself untimely and must be denied for that reason.

Rule of Appellate Procedure 40(a) requires that a party file its petition for rehearing within 14 days after the service of the Appellant Division's order. This Rule applies to an appellant's request that the Court reconsider an order dismissing the appeal for failure to pay timely the estimated cost of a transcript. *See*, **¶136** *e.g.*, *Ngirchokebai v. Marcil*, 2 ROP Intrm. 1, 2 (1989). Appellants' motion to reinstate the appeal, however, was filed on August 29, 1995, long after the 14 day period following the August 4, 1995, Order of Dismissal. Appellants offers no excuse for this delay. Although Appellants' counsel states that he was off-island when the dismissal order was entered, he also states in his affidavit that he returned to Palau on August 11, 1995, well within the period for filing a timely petition for rehearing.

It appears from counsel's submission that after this appeal was filed in April, he did not

Kamiishi v. Hanpa Constr. Co., 5 ROP Intrm. 135 (1995)

take a single step to monitor its status until nearly five months later, and then only because of a post-judgment motion filed by appellee. It accordingly bears repeating that it is the responsibility of appellate counsel to prosecute their appeals and that failure to do so, as here, will result in the forfeiture of their clients' right to appeal. Appellants motion to reinstate the appeal is DENIED.