

Rekesuk v. Lomonko, 6 ROP Intrm. 262 (1997)
PAULINA K. REKESUK, et al.,
Appellants,

v.

MAYUMI LOMONKO, representing
1263 the children of Teiko Bultedaob,
and JONATHAN BULTEDAOb, Appellees.

CIVIL APPEAL NO. 31-97

Supreme Court, Appellate Division
Republic of Palau

Order

Decided: November 25, 1997

Counsel for Appellants: David K. Kirschenheiter

Counsel for Appellees: Yosiharu Ueda, T.C.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; LARRY W. MILLER, Associate Justice;
R. BARRIE MICHELSEN, Associate Justice.

PER CURIAM:

Before the court is the motion of appellee Jonathan Bultedaob to dismiss the appeal of Paulina K. Rekesuk on the ground that it is untimely. ¹ Bultedaob's motion will be denied because Rekesuk secured an extension of time in which to file her appeal.

On June 6, 1997, the Land Court of the Republic of Palau issued an Adjudication and Determination awarding Mayumi Lomonko, Jonathan Bultedaob and others certain lands in Ngermechau Hamlet, Ngiwal State. On July 15, 1997, Hilaria Ellechel filed a notice of appeal contesting the Land Court's June 6 decision. On July 17, 1997, 31 days after she had received notice of the Land Court's decision, Paulina K. Rekesuk attempted to file a motion with the Land Court for an extension of time in which to file her appeal. The Land Court would not accept Rekesuk's motion. An official at the Land Court told Rekesuk to go ahead and file her appeal with the Appellate Division of the Supreme Court and Rekesuk did so on that same day. On July 24, 1997, Bultedaob filed a motion to dismiss Rekesuk's appeal because it is untimely. On September 25, 1997, Land Court Judge Ichiro Dingilius granted Rekesuk's motion to extend her time to file a notice of appeal.

¹ On September 5, 1997, Mayumi Lomonko filed a motion to join Bultedaob's motion to dismiss. Although it makes no difference to the disposition of this matter, Lomonko's motion to join is hereby granted.

¶264 ROP R. App. Pro. 4(c) provides:

Upon a showing of excusable neglect or good cause, the trial court may extend the time for filing the notice of appeal by any party for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this subdivision. Such an extension may be requested by motion before or after the time otherwise prescribed by this subdivision has expired.

Ordinarily, of course, a request for an extension should be acted upon promptly and must be granted before a notice of appeal is filed. That that did not happen here, however, is not Rekesuk's fault. In the future, the Land Court should know that as a trial court it is empowered to grant such extensions and we trust that it will do so on a timely basis.

IT IS HEREBY ORDERED that the motion of Jonathan Bultedaob, joined by Mayumi Lomonko, to dismiss Paulina Rekesuk's appeal is DENIED. Rekesuk should pay her share of the estimated cost of transcript within the next ten days.