

Ngirarengi v. Nakamura, 8 ROP Intrm. 301 (2001)
TAIMA NGIRARENGEI,
Appellant,

v.

LUCY NAKAMURA,
Appellee.

CIVIL APPEAL NO. 01-05
Case No. LC/F 99-159
Civil Action No. 376-94

Supreme Court, Appellate Division
Republic of Palau

Decided: April 4, 2001

Counsel for Appellant: Francisco Armaluuk, T.C.
Counsel for Appellee: Roman Bedor, T.C.

BEFORE: LARRY W. MILLER, Associate Justice; R. BARRIE MICHELSEN, Associate Justice; KATHLEEN M. SALII, Associate Justice.

PER CURIAM:

The Determination of Ownership that is the subject of this appeal was issued on January 15, 2001, and according to Land Court records, was provided to counsel for all parties on January 16, 2001. Appellant filed his notice of appeal on February 26, 2001, 41 days later. The filing deadline for appeals from the Land Court, however, is 30 days.¹ An Order to Show Cause was accordingly issued on March 1, 2001, directing appellant to show why his appeal should not be dismissed as untimely.

Appellant, by counsel and by his own affidavit, has responded to the Order to Show Cause by explaining that both he and his counsel believed that the 45-day deadline formerly provided for appeals from the Land Claims Hearing Office remained in effect. Appellant contends that this mistake amounts to excusable neglect and asks that his appeal be permitted to go forward. Appellee has filed a reply arguing that appellant's mistake does not constitute excusable neglect and that the appeal should be dismissed.

Rule 4(c) of the Rules of Appellate Procedure allows an appellant to move for a 30-day extension of the time for filing an appeal "before or after the time . . . has expired." Thus, as a jurisdictional matter, appellant could, on the date he filed his appeal, have sought such an extension. See *Tellei v. Ngirasechedui*, 5 ROP Intrrn. 148, 149 (1995) (construing appellant's

¹ 35 PNC § 1312 directs that appeals shall be filed "in the manner provided in the Rules of Appellate Procedure." Rule 4(a) of those Rules sets a 30-day time limit.

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response to a motion to dismiss as a motion for extension of time). As appellant recognizes, however, such a motion could only have been granted upon a showing of "excusable neglect or good cause."

In the circumstances, we agree with appellee that excusable neglect has not been shown. The 30-day deadline for Land Court appeals is neither new nor obscure: It has been in effect for nearly five years and is featured prominently in the Determination of Ownership now on appeal, which states:

Any person aggrieved by this determination . . . may appeal directly to the Appellate Division of the Supreme Court within thirty (30) days after service of the determination.

Adherence to this deadline, which has been complied with by dozens of previous appellants, proceeding with and without counsel, is not difficult and provides a 1302 necessary and important indicator of finality in Land Court matters. We see no legitimate excuse for appellant himself to have disregarded this deadline; much less is there any basis to excuse his counsel's misfeasance. The appeal is therefore dismissed.

This is the second time within the past several months in which an appeal filed by appellant's counsel has been dismissed as a result of counsel's failure to keep himself informed of applicable rules, and the filing of this appeal occurred after a disciplinary proceedings had been commenced concerning the prior dismissal. We therefore recommend that a new disciplinary proceeding be convened to determine whether further sanctions should be imposed on appellant's counsel as a result of his actions herein.