

Dalton v. Borja, 8 ROP Intrm. 302 (2001)
MARGARITA BORJA DALTON,
Appellant,

v.

HUAN BORJA,
Appellee.

CIVIL APPEAL NO. 00-30
Special Proceeding No. 4-94

Supreme Court, Appellate Division
Republic of Palau

Argued: March 19, 2001
Decided: April 13, 2001

Counsel for Appellant: Mark Doran

Counsel for Appellee: William Bischoff

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; R. BARRIE MICHELSEN, Associate Justice; KATHLEEN M. SALII, Associate Justice.

SALII, Justice:

Margarita Borja Dalton appeals a decision by the Trial Division granting summary judgment in favor of Huan Borja, finding that Huan was the sole heir of the estate of Emilio Borja, consisting of real property in Palau. ¹ Emilio Borja lived on L303 Guam from 1962 until his death in 1991. The only claimants to the estate of Emilio Borja were Huan Borja and Margarita Dalton.² Huan Borja is the son of Emilio Borja. Margarita Dalton is a sister of Emilio

¹ The lots found to be property of the estate are as follows:

<u>Tochi Daicho Lot</u>	<u>Cadastral Lot</u>
1582	27A05
1583	27A06
1584	27A07
1585	27A08
1586	27A09
1587	27A10
1591, 1592 & 1593	27A04&27A15
1598	003A06
1599	27A15
1608	003A06

² Although it is not the basis for this decision, we note that Dalton never made an

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Borja. Dalton claimed an interest in the estate because she alleged that Hesus Borja was the oldest son of Emilio Borja, and that Hesus Borja conveyed any interest he had in his father's estate to her.

Dalton claims that a material issue of fact remained because affidavits by family members indicated that they believed Emilio owned only a fractional share of his father's estate, when Emilio had actually inherited all of his father's property on Palau. Dalton also argues that the Trial Division erred in denying her motions for a new trial and to amend her pleading.

A. Summary Judgment

A grant of summary judgment is reviewed *de novo*, with all evidence and inferences viewed in the light most favorable to the nonmoving party, to determine whether the trial court correctly found that there was no genuine issue of material fact and that the moving party was entitled to judgment as a matter of law. *Tellames v. Congressional Reapportionment Comm'n*, 8 ROP Intrm. 142, 143 (2000).

The Trial Division granted summary judgment in favor of Huan Borja, finding that 25 PNC § 301(b) controlled the disposition of the property. That statute provides that land is to be disposed of "in accordance with the desires of the . . . lineage to whom the deceased was related by birth or adoption and which was actively and primarily responsible for the deceased prior to his death." Emilio's wife, who is now also deceased, and his son Huan were the persons primarily responsible for Emilio before Emilio's death. Affidavits from the family members of Emilio Borja on Guam stated that they wished the decedent's land to go to Huan.

Dalton does not challenge the Trial Division's conclusion that § 301(b) is the applicable statute. Instead, Dalton claims that issues of fact remained because the affidavits of the family members on Guam indicated that they believed that Emilio Borja owned only a fractional share of the estate of Jesus Borja, and that Jesus Borja's estate was passed to all nine of his children, not just Emilio Borja. Jesus Borja was Emilio Borja's father.

Initially, we note that none of the family members on Guam stated that they desired any portion of Emilio Borja's estate to pass to Hesus Borja. Secondly, the issue of what portion of Jesus Borja's estate that Emilio Borja owned has already been adjudicated. No issue of fact remains. In Special Proceeding 3-94, it was ordered, adjudged and decreed that all property owned by the estate of Jesus Borja vested in the estate of Emilio Borja.³ *In re Estate of Jesus Borja*, Spec. Proc. No. 3-94 (Order Dec. 19, 1997). Margarita Dalton was a party in that action, stipulated to the order, and the issue of who inherited the estate of Jesus Borja was the sole issue of the judgment. Therefore, relitigation of the issue of who inherited the estate of

averment that she was eligible to inherit real property in Palau. It is an affirmative obligation to prove citizenship whenever claiming acquisition of land. Const. art. XIII, § 8; *see also Aguon v. Aguon*, 5 ROP Intrm. 122, 127 (1995).

³ Specifically, the order stated "that the oldest male child of decedent at the time of [Jesus Borja's] death was Emilio Leon Guerrero Borja and that he inherited all of the real property of decedent located in Palau." *In re Jesus Borja*, Spec. Proc. No. 3-94 (Order Dec. 19, 1997).

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Jesus Borja is barred by the doctrines of res judicata and issue preclusion. See, e.g., *Ngerketiit Lineage v. Tmetuchl*, 8 ROP Intrm. 122, 123 (2000); *Ngersikesol Lineage v. Ngiwal State Legislature*, 5 ROP Intrm. 284, 290 (Tr. Div. 1994); *Osarch v. Bai*, 5 ROP Intrm. 327 (Tr. Div. 1995).

Because no issue of fact remained that could preclude summary judgment, the Trial Division's judgment in favor of Huan Borja is affirmed.

B. Post-Judgment Motions

Following the Trial Division's grant of summary judgment in favor of Huan Borja, Dalton moved for a new trial and for relief from judgment, citing Rules 59(a), 59(e) and 60(b)(6). Her motions were denied. The trial court's rulings on the Rule 59 and Rule 60 motions are reviewed for an abuse of discretion. *Irruul v. Gerbing*, 8 ROP Intrm. 153, 154 (2000); *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996).

Under Rule 59(a), a new trial may be granted "for manifest errors of law apparent in the record or for newly discovered evidence." A manifest error of law "is the 'wholesale disregard, misapplication, or failure to recognize controlling precedent.'" *Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (quoting *Sedrak v. Callahan*, 987 F. Supp. 1063, 1069 (N.D. Ill. 1997)). Dalton does not point to any part of the record where she claims the trial court made a manifest error of law. She does not challenge the trial court's application of 25 PNC § 301(b), but simply reargues that the affidavits in the record left fact issues to be decided by a trial. "Rule 59 is not a vehicle for rearguing previously rejected motions." *Id.* The Trial Division did not abuse its discretion in denying Dalton's motion for a new trial under Rule 59(a).

Rule 59(e) permits motions to alter or amend a judgment, and has been interpreted to require a clear showing of manifest error of law or newly discovered evidence. See *F.D.I.C. v. World University Inc.*, 978 F.2d 10, 15 (1st Cir. 1992). "Rule 59(e) allows a party to direct the [trial] court's attention to newly discovered material evidence or a manifest error of law or fact The rule does not provide a vehicle for a party to undo its own procedural failures, and it certainly does not allow a party to . . . advance arguments that could and should have been presented to the [trial] court prior to judgment." *Aghar v. Crispin-Reyes*, 118 F.3d 10, 16 (1st Cir. 1997). For the same reasons why the trial court did not abuse its discretion in denying Dalton's Rule 59(a) motion, it likewise did not abuse its discretion in denying Dalton's motion for relief under Rule 59(e).

Rule 60(b) affords relief from a final judgment only under extraordinary circumstances. *Irruul v. Gerbing*, 8 ROP Intrm. 153, 154 (2000). Relief pursuant to Rule 60(b) will not be granted unless the movant establishes both injury and that circumstances beyond her control prevented timely action to protect her interests. *Id.* "Rule 60(b)(6) is intended to cover unforeseen contingencies." *Doe v. Doe*, 6 ROP Intrm. 221, 223 (1997). The only argument Dalton sets forth in support of her argument that the trial court erred in denying her relief under Rule 60(b)(6) is that because she put forth a great effort to secure the lands formerly owned by Jesus Borja, "[s]he should not be denied of the ability to enjoy the fruits of her labors, when it

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clearly appeared, up until the filing of the motion for summary judgment at issue, that all of the nine children of Jesus **L305** Borja . . . would receive equal shares in the land.” Appellants Brief at 19. Dalton does not explain why it “clearly appeared” that Emilio Borja’s estate would go to his siblings rather than his son Huan. Neither her mistaken belief nor her great efforts to obtain a portion of the estate are valid reasons for obtaining relief from judgment under Rule 60(b)(6). The Trial Division did not abuse its discretion in denying Dalton’s motion for relief under 60(b).

C. Motion to Amend the Pleading

Whether a party should be allowed to amend her pleadings is a decision that is left to the sound discretion of the trial court, and is thus reviewed for an abuse of that discretion. *See Moody v. FMC Corp.*, 995 F.2d 63, 65 (5th Cir. 1993). Here, the Trial Division found that Dalton’s motion to amend her pleading was “premised and dependent upon her motions for relief from judgment.” *In re Estate of Emilio Borja*, Spec. Proc. No. 4-94 (Order June 22, 2000). We agree. Therefore, because the Trial Division did not err in denying Dalton’s motion for a new trial, it did not abuse its discretion in denying her motion to amend her pleading.

CONCLUSION

The judgment of the Trial Division granting summary judgment in favor of Huan Borja is affirmed. The orders denying Dalton’s post-judgment motions are affirmed.