

Ngerketiit Lineage v. Rechucher, 9 ROP 214 (2002)
NGERKETIIT LINEAGE,
Appellant,

v.

EUSEBIO RECHUCHER,
Appellee.

CIVIL APPEAL NO. 01-27
Civil Action No. 121-94

Supreme Court, Appellate Division
Republic of Palau

Argued: July 12, 2002
Decided: September 24, 2002

[1] **Appeal and Error:** Standard of Review

A trial court's denial of a Rule 60(b) motion is reviewed for an abuse of discretion.

Counsel for Appellant: Johnson Toribiong

Counsel for Appellee: Carlos Salii

BEFORE: LARRY W. MILLER, Associate Justice; ALEX R. MUNSON, Part-Time Associate Justice; J. UDUCH SENIOR, Associate Justice Pro Tem.

Appeal from the Supreme Court, Trial Division, the Honorable R. BARRIE MICHELSEN, Associate Justice, presiding.

MILLER, Justice:

In *Ngirmeriil v. Armaluuk*, Civil Action No. 98-222, the trial court entered a partial judgment declaring that certain of the plaintiffs in that case were senior, strong members of Ngerketiit Lineage, and, consequently, holding that various land transfers to Appellee Eusebio Rechucher, which were previously validated on appeal in this case, *see Ngerketiit Lineage v. Ngerukebid Clan*, 7 ROP Intrm. 38, 44-45 (1998), were void. Following the entry of that partial judgment, and the filing of appeals from that judgment by Rechucher and other defendants in that case, the successful plaintiffs filed various motions in Civil Action No. 98-222 seeking the return by Rechucher of substantial rental payments that had been released to him in post-judgment proceedings following the appellate decision in this case. Those motions were denied, and the trial court subsequently stayed further proceedings pending the resolution of the appeals. At the same time that they filed those motions in Civil Action No. 98-222, the same plaintiffs opened a second front by filing in this case, in the name of Ngerketiit Lineage, a motion pursuant

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to ROP R. Civ. Pro. 60(b) asking for essentially the same relief, *i.e.*, to obtain the return of rental payments received by Rechucher. The trial court denied the motion, finding that Rule 60(b)(5) was not applicable, and concluding that, given the pendency of Civil Action No. 98-222, relief under Rule 60(b)(6) was not justified because the relief plaintiffs were seeking “will or will not be granted in [the] current case.” *See* Tr. of May 25, 2001 Hearing at 52-53.

[1] We review the trial court’s denial of a Rule 60(b) motion for an abuse of discretion. *Ngerketiit Lineage v. Ngirarsaol*, 8 ROP Intrm. 126, 127 (2000). Without addressing which, if any, subdivision of Rule 60(b) is applicable in these circumstances, we see no abuse of discretion in the trial court’s determination that, rather than reopening this case, the recovery that Appellant seeks from Rechucher could and should be sought in the ongoing proceedings in Civil Action No. 98-**1215** 222.¹ Accordingly, the order of the trial court is AFFIRMED.

¹Indeed, given our separate decision today, *see Rechucher v. Ngirmeriil*, 9 ROP 206 (2002), in which we vacate the portion of the judgment in Civil Action No. 98-222 on which Appellant relies, the trial court’s decision to proceed one step at a time was amply justified.