

Town House, Inc. v. Kanai, 9 ROP 286 (Tr. Div. 2002)
TOWN HOUSE, INC.,
Plaintiff,

v.

ERNEST KANAI,
Defendant.

CIVIL ACTION NO. 01-305

Supreme Court, Trial Division
Republic of Palau

Decided: May 9, 2002

[1] **Civil Procedure:** Subject Matter Jurisdiction

The Supreme Court's jurisdiction extends to all matters in law and equity.

[2] **Civil Procedure:** Subject Matter Jurisdiction

The Trial Division of the Supreme Court has subject matter jurisdiction over cases where the Plaintiff seeks to enforce a foreign judgment within the Republic of Palau.

[3] **Judgments:** Enforcement of Foreign Judgments

A judgment should be enforced and not retried if the foreign forum: (1) provided a full and fair trial of the issues in a court of competent jurisdiction; (2) ensured the impartial administration of justice; and (3) ensured the trial was without prejudice or fraud.

[4] **Judgments:** Enforcement of Foreign Judgments

For a judgment to be enforceable, the foreign court must have proper jurisdiction over the **L287** parties and the judgment must not violate public policy.

[5] **Judgments:** Enforcement of Foreign Judgments

The burden of proof in establishing that the foreign judgment should be recognized and given preclusive effect is on the party asserting it should be recognized.

[6] **Judgments:** Enforcement of Foreign Judgments

A final judgment of a court of a foreign state granting or denying recovery of a sum of money is entitled to recognition by the courts of the Republic.

Counsel for Plaintiff: Michael A. White

Counsel for Defendant: Salvador Remoket

R. BARRIE MICHELSEN, Associate Justice:

In this case, Plaintiff sues to enforce a judgment of the Superior Court of the Commonwealth of the Northern Mariana Islands. Defendant has answered with a general denial. Plaintiff now moves for summary judgment, and Defendant has filed an opposition thereto.

Plaintiff alleges that it is a corporation chartered in the Commonwealth of the Northern Mariana Islands, that it has obtained a judgment on May 3, 2001, against Defendant in the amount of \$672.89, and that no part of the judgment has been paid. In his opposition, Defendant asserts that “[t]here are no factual issues in this case.” Hence the Court will accept the factual assertions of the Plaintiff. For the reasons stated below, Plaintiff is entitled to judgment as a matter of law.

[1] This court’s jurisdiction “extend[s] to all matters in law and equity.” Palau Const. art. X, § 5. Defendant argues, without any citation of authority, that this provision simply means that this Court has jurisdiction over matters “within the bounds of the Republic of Palau” and nothing more. But all that assertion does is raise the question as to the meaning of the expression, “within the bounds of Palau.” Indeed, Plaintiff could assert that since it is asking for enforcement of a foreign judgment “within the bounds of Palau” it meets the “bounds” test. If Defendant is suggesting that this Court only has jurisdiction over those events that physically occur within the territorial limits of the Republic of Palau, the assertion is too restrictive, since such a rule would, among other things, prevent litigants from utilizing this Court in cases where the cause of action occurred outside the Republic, even in cases where both litigants were Palau residents and the defendant was amenable to service here. That is simply not the law, either statutory or common.

[Defendant’s] argument confuses the concepts of subject matter jurisdiction and personal jurisdiction. Subject matter jurisdiction “refers to the competency of the court to hear and determine a particular category of cases.” S. Gifis, *Law Dictionary* (2d ed. 1984), at 254. Personal jurisdiction “refers to the court’s powers over the parties involved in a particular law suit.” *Id.*

Kruger v. Dean Worldwide, Inc., 4 ROP Intrm. 282, 284 (Tr. Div. 1994).

[2-5] This Court has subject matter 1288 jurisdiction over cases where the Plaintiff seeks to enforce a foreign judgment within the Republic of Palau. The Court has personal jurisdiction over this Defendant, since he does not challenge service of process. Hence, the issue is not whether the Court has jurisdiction; rather, the question presented is whether Palau law provides for the enforcement of foreign judgments. There are no provisions in the Palau National Code that address the question. Hence, the applicable provisions of the Restatement apply. 1 PNC § 303. Sections 481 and 482 of the Restatement of the Foreign Relations Law of the United States

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provide guidance. In a case concerning the recovery of money, the two sections can be generally summarized as follows:

A judgment should be enforced and not retried if the foreign forum: (1) provided a full and fair trial of the issues in a court of competent jurisdiction; (2) ensured the impartial administration of justice; and (3) ensured the trial was without prejudice or fraud. The foreign court must also have proper jurisdiction over the parties and the judgment must not violate public policy. The burden of proof in establishing that the foreign judgment should be recognized and given preclusive effect is on the party asserting it should be recognized.

Shen v. Leo A. Daly Co., 222 F.3d 472, 476 (8th Cir. 2000) (internal citations omitted).

Because the Defendant raises no disputed factual issues, this Court will assume that the CNMI court afforded Defendant the opportunity for a full and fair trial, ensured the impartial administration of justice, and kept the proceedings free of prejudice or fraud. Although there may be occasions where this Court will conduct a more searching inquiry if the foreign jurisdiction's jurisprudence does not emanate from the same judicial tradition as this Court, or if there are assertions by a defendant that in a particular case there were irregularities, this Court will accept as a general proposition that judgments of the courts of the Commonwealth of the Northern Marianas meet the requirements of Restatement sections 481 and 482 previously cited.

[6] By presenting a judgment of the Superior Court of the Commonwealth of the Northern Mariana Islands, which is not challenged on its face by Defendant, Plaintiff has met the burden of proof by demonstrating that this case falls within the general rule: "a final judgment of a court of a foreign state granting or denying recovery of a sum of money . . . is entitled to recognition" Section 481, Restatement of the Foreign Relations Law of the United States.

Summary judgment will therefore be entered in favor of Plaintiff.

Plaintiff may submit a proposed judgment reflecting principal, interest according to law, and its costs, the latter being supported by affidavit.