

Renguul v. Orak, 9 ROP 86 (2002)
LEBAL RENGUUL,
Appellant,

v.

JAMES ORAK,
Appellee.

CIVIL APPEAL NO. 01-26
Civil Action No. 99-1

Supreme Court, Appellate Division
Republic of Palau

Decided: April 9, 2002¹

[1] **Appeal and Error:** Interlocutory Appeals

We have long adhered to the premise that the proper time to consider appeals is after final judgment.

[2] **Appeal and Error:** Interlocutory Appeals

The prohibition on interlocutory appeals has a limited exception, but it applies only where particular claims, or the claims as to a particular party, have been fully resolved and then only upon an express determination that there is no just reason for delay.

Counsel for Appellant: John Rechucher

Counsel for Appellee: David Kirschenheiter

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

Appeal from the Supreme Court, Trial Division, the Honorable KATHLEEN M. SALII,
Associate Justice, presiding.

PER CURIAM:

James Orak (Appellee) filed the underlying action to eject Lebal Renguul (Appellant) from a portion of land known as Mizuho, in Airai State. Orak also seeks monetary damages. The parties stipulated to a bifurcated trial and in March 2001, the parties obtained a judgment

¹Oral argument was scheduled for April 10, 2002. Upon reviewing the briefs and the record, the panel finds this case appropriate for submission without oral argument pursuant to ROP R. App. Pro. 34(a). The scheduling Order is hereby vacated.

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from the Trial Division that merely clarified, for the purposes of this action, what portion of the land Orak was using for his crops at the time judgment was entered in a prior action between the parties. Unhappy with the Trial Division's disposition of that issue, Renguul obtained the entry of a partial judgment pursuant to ROP R. Civ. Pro. 54(b) and filed this appeal. We conclude that consideration of this issue now would be premature and, accordingly, dismiss the appeal.²

The land at issue is part of the public lands in Airai State that was leased to Renguul. In August 1993, Renguul entered into a sublease agreement with Orak for use of a portion of the property. Orak used the land for farming and operating a tree nursery. In 1994, Renguul brought an ejectment action against Orak, challenging the validity of the agreement because it failed to describe the land over which Orak was given the use right. In 1997, the trial court found the agreement was invalid as a lease, but found that the agreement was a "use right." The trial court entered a judgment ejecting Orak from two community stores on the property, but further declaring that Orak had "a forty year use right in that portion of the land in Airai known as Mizuho on which his mahogany trees, betelnut trees, farm crops, and farm house are currently located." See *Renguul v. Orak*, 6 ROP Intrm. 334 (Tr. Div. 1997).

In 1999, Orak brought this action to eject Renguul and five John Does from the portion of the land he was subleasing under the agreement. Orak moved the trial court for a clarification of what portion of the land he was using at the time the judgment was entered in *Renguul v. Orak*, *supra*.

After an evidentiary hearing, the Trial Division found that:

the portion of land in Airai known as Mizuho on which Plaintiff was using for crops as of May 19, 1997 is described as bounded by the following markers: the northern boundary is delineated by the boundary of Johanes Thing's property; the southern boundary is delineated by the first stream; the eastern boundary is delineated by the main road; and the western boundary is delineated by the wooded area which merges into the swampy area.

Judgment, entered the 30th of March, 2001.

Renguul moved the Trial Division **188** under ROP R. Civ. Pro. 54(b) for the court to enter a final judgment on its boundary determination and on April 27, 2001, the trial division issued an entry of final judgment, stating only: "The Court's Judgment of March 30, 2001 is hereby entered as a final judgment in the above-captioned matter." This appeal ensued and, in the meantime, a trial on the remaining issues has been scheduled.

[1, 2] "[W]e have long adhered to the premise that the proper time to consider appeals is after final judgment." *ROP v. Black Micro Corp.*, 7 ROP Intrm. 46, 47 (1998); see also *In re Estate of Ngirausui*, 6 ROP Intrm. 216 (1997). "Piecemeal appeals disrupt the trial process, extend the

²The Court acknowledges the diligent efforts made by the parties in pursuing this appeal. The Court will retain all briefs and papers filed in this appeal so that the parties may refer to or incorporate them in later filings if they so wish.

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time required to litigate a case, and burden appellate courts. It is far better to consolidate all alleged trial court errors in one appeal.” *Black Micro Corp.*, 7 ROP Intrm. at 47 (citations omitted); *see also Rengulbai v. Rengiil*, 6 ROP Intrm. 197 (1997). Rule 54(b) provides a limited exception to this principle, but applies only where particular claims or the claims as to a particular party have been fully resolved and then only “upon an express determination that there is no just reason for delay.” ROP R. Civ. Pro. 54(b).³

Here, entry of final judgment pertained to neither a claim nor a party, but rather to one of the issues implicated by Appellee’s claim for ejectment. Moreover, the trial court neither stated that there was no just reason for delay, nor gave any explanation as to its reasoning for the conclusion that a partial final judgment should be entered immediately. *See L.B. Foster Co. v. Am. Piles, Inc.*, 138 F.3d 81, 86 (2d Cir. 1998) (“since certification is to be reviewed for abuse of discretion, it must be accompanied by a reasoned, even if brief, explanation . . . that there is no just cause for delay, a certification that is conclusory . . . is insufficient.”). The Trial Division’s decision and order was therefore not properly certified under Rule 54(b) and does not fall into any other exception to the final judgment rule.

CONCLUSION

For the reasons stated above, the appeal is dismissed. No costs.

³Rule 54(b) reads:

Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, crossclaim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.