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SUPREME COURT
OF THE REPUBLIC OF PALAU

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

IGNACIO ANASTACIO, Appellant, v. JON ERIICH, Appellee.	CIVIL APPEAL NO. 15-012 (Civil Case No. 02-165) **OPINION**

Decided: June 30, 2016

Counsel for Appellant: William L. Ridpath
Counsel for Appellee: Ernestine K. Rengiil

BEFORE: KATHLEEN M. SALII, Associate Justice; KATHERINE A. MARAMAN, Associate Justice; and ROSE MARY SKEBONG, Associate Justice Pro Tem.

Appeal from the Trial Division, the Honorable Lourdes F. Materne, Associate Justice, presiding.

PER CURIAM[1]

This appeal concerns a contract in which Appellee's father, Paulino "Nino" Eriich[2] agreed to lease a tract of land known as *Sechersoi* in Aimeliik State to Appellant Ignacio Anastacio. After a full trial on the merits, the Trial Division entered judgment for Eriich. Upon review, we dismiss the appeal for lack of adequate briefing.

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[1] We determine that oral argument is unnecessary to resolve this matter. ROP R. App. P. 34(a).
[2] Paulino Eriich died in August 2011 while litigation below was still pending, and his son, Jon Eriich, was substituted as defendant and is the appellee in this appeal.

BACKGROUND

In the 1960s, Paulino Eriich's family began occupying land they called *Sechersoi* in Aimeliik State, intending to claim a homestead property. By 1987, Eriich had built a home and a summer house (the "structures") just north of a stream in the area. In 1999, Anastacio and Eriich entered an agreement, in which Eriich agreed to lease *Sechersoi* to Anastacio in exchange for $700,000 to be paid to Eriich over the course of 20 years.

Sometime between 2000 and 2002, after Anastacio had made payments on the lease totaling $130,000, Eriich and his family began occupying the structures north of the stream. When Anastacio discovered that Eriich was occupying the structures, he filed the 2002 suit that led to the instant appeal. Anastacio raised two claims in his complaint.[3] First, he alleged that the structures Eriich occupied were part of the property subject to the lease agreement, that the stream formed the property's southern boundary, and, therefore, that Eriich had breached the lease agreement by failing to deliver the premises specified in the agreement. Alternatively, he alleged that the parties' conduct following the signing of the agreement demonstrated that no meeting of the minds had occurred regarding the boundaries of the leased property, such that the agreement should be rescinded by the court.

While Anastacio's claims against Eriich regarding the lease agreement were proceeding, Eriich was simultaneously pressing in the Land Court his homestead claim to *Sechersoi*. Although litigation on Eriich's homestead claim started in the 1980s, the Land

[3] The complaint contained a third claim for fraud, but Anastacio abandoned it during the course of litigation below.

Court did not resolve the competing claims to the land until 2011, when ultimately it issued Eriich a certificate of title to a homestead lot that excluded the structures and awarded Aimeliik State Public Lands Authority a certificate of title to the land where the structures stood.

After the Land Court litigation regarding Eriich's homestead claim ended, and after Eriich had died, Anastacio's claims regarding the lease agreement proceeded to trial. The Trial Division rejected Anastacio's breach claim, stating that it was not persuaded that the parties had agreed that the property's southern boundary would extend to the stream in the south and thus encompass the structures built by Eriich. The Trial Division also rejected Anastacio's rescission claim, which Anastacio had clarified during the proceedings. Citing *Salii v. Omrekongel Clan*, 3 ROP Intrm. 212 (1992), he argued that the description of the property's boundaries in the agreement was too vague to be enforceable and, thus, that the agreement was inoperative and should be rescinded by the Trial Division. Interpreting and applying *Salii v. Omrekongel Clan*, the Trial Division found that the boundaries described in the lease agreement were sufficiently clear and definite, such that rescission was not warranted and the agreement's description clearly showed that the structures were not part of the property to be leased to Anastacio. Accordingly, the Trial Division entered judgment for Jon Eriich, and Anastacio appealed.

Because the burden of this appeal rests on Appellant Anastacio, it is appropriate to describe his brief. The brief states that the single issue presented on appeal is whether "the Trial Division commit[ted] reversible error in its construction of the property description term of the Lease between Ignacio Anastacio and Paulino Eriich."

Appellant's Br. at iv. The brief devotes eight pages to the statement of the case, roughly one page to the applicable standard of review on appeal—which includes six of the brief's seven citations to legal authorities—and three pages to argument. In the argument section, only one authority is cited, and it stands for the unremarkable proposition that "[t]he primary concern of a court in interpreting a lease is to arrive at the intent of the contracting parties at the time the parties entered into the contract." *Id.* at 11 (citing *Woodstock Soapstone Co., Inc. v. Carleton*, 585 A.2d 312 (N.H. 1991)). Anastacio begins the argument with (obviously counterfactual) rhetoric, "submit[ting] that the evidence in this matter can lead to but one conclusion about the leased property: that when the Lease was entered into, he and Paulino intended for the lease of the entire homestead that Paulino claimed." *Id.* at 10. Anastacio uses the remainder of the argument section to express his view of some of the evidence presented at trial, pointing out the errors he perceives in the trial court's factfinding. Aside from the single citation to *Carleton*, the argument section states no legal proposition and provides no reference to governing law or other legal authority.

STANDARD OF REVIEW

In reviewing an appeal, the threshold analysis is of the sufficiency of the appeal itself. *See Idid Clan v. Koror State Public Lands Authority*, 20 ROP 270, 272 (2013) ("We do not review legal issues that the parties have not developed through proper briefing."); *Ucherremasech v. Hiroichi*, 17 ROP 182, 192 (2010) (explaining that Appellate Division "need not reach [appeal's] merits" if appellant "never propounded [issue raised on appeal] before the trial court" because "the trial court must first have an

opportunity to . . . at least consider[] an issue before an appellate court has anything to review"); *Napoleon v. Children of Masang Marsil*, 17 ROP 28, 32 (2009) ("[O]ur review is normally confined to the record, meaning we cannot consider evidence presented for the first time on appeal."); *Gibbons v. Seventh Koror State Legislature*, 13 ROP 156, 164 (2006) (noting that Appellate Division "need not even consider [an] issue" if appellant has "fail[ed] to adequately brief the issue"); *Estate of Masang v. Marsil*, 13 ROP 1, 2 (2005) (concluding that dismissal for failure to timely file opening brief may be appropriate despite appellant's desire to have appeal decided on its merits). If that threshold is met, we may then reach the merits of the appeal, which in this case involve the interpretation of a contract.

Generally speaking, the interpretation of a contract is a matter of law, which we review *de novo*. *Ngoriakl v. Rechucher*, 20 ROP 291, 294 (2013). "Whether the contract is ambiguous to an extent that would permit extrinsic or parol evidence of the content of the contract is also a question of law," which we review *de novo*. *Ngiratkel Etpison Co., Ltd. v. Rdialul*, 2 ROP Intrm. 211, 217 (1991) (citing *In re Stratford of Texas, Inc.*, 635 F.2d 365 (5th Cir. 1981)). However, "[w]hen the interpretation of a contract includes review of factual extrinsic evidence, the findings of fact are reviewed for clear error, and the principles of law applied to those facts are reviewed de novo." *Stephens v. City of Vista*, 994 F.2d 650, 655 (9th Cir. 1993); *accord Alford v. Kuhlman Elec. Corp.*, 716 F.3d 909, 912 (5th Cir. 2013).

APPLICABLE LAW

As we noted in *Suzuky v. Gulibert*, 20 ROP 19 (2012), "[t]he [ROP] Rules of Appellate Procedure and the Court's case law impose both formal and substantive requirements for adequate appellate briefing." 20 ROP at 21. With respect to the substantive requirements, "[a]s a general matter, the burden of demonstrating error on the part of a lower court is on the appellant." *Id.* at 22 (citing *Ngetchab v. Lineage v. Klewei*, 16 ROP 219, 221 (2009)). Thus, "'appellate courts generally should not address legal issues that the parties have not developed through proper briefing.'" *Idid Clan*, 20 ROP at 276-77 (brackets omitted) (quoting *Ngirmeriil v. Estate of Rechucher*, 13 ROP 42, 50 (2006)). "'[I]t is not the Court's duty to interpret . . . broad, sweeping argument, to conduct legal research for the parties, or to scour the record for any facts to which the argument might apply.'" *Ngarameketii v. Koror State Pub. Lands Auth.*, 18 ROP 59, 66 (2011) (quoting *Idid Clan v. Demei*, 17 ROP 221, 229 n.4 (2010)).

In the "usual course," we "only decid[e] issues properly presented to us, which, of course, includes citation to relevant legal authority." *Aimeliik State Pub. Lands Auth. v. Rengchol*, 17 ROP 276, 282 (2010) (collecting cases). "Litigants may not, without proper support, recite a laundry list of alleged defects in a lower court's opinion and leave it to this Court to undertake the research." *Id.* Arguments that are unsupported by legal authority "need not be considered by the Court on appeal," *Suzuky*, 20 ROP at 23, and generally "we will not consider [them,]" *Mikel v. Saito,* 19 ROP 113, 116 (2012).

We are not alone in our refusal to consider issues not adequately briefed. Appellate courts in the United States routinely decline to entertain issues raised by an

appellant when the appellant's brief lacks analysis of the issues including citation to relevant legal authority. Their reasoning is similar to ours. Like our rules, the United States Federal Rules of Appellate Procedure "mandate[] that an appellant must present in its brief the issues to the appellate court that the appellant desires to litigate. In addition, the issues must be supported by appropriate judicial authority." *F.T.C. v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1025 (7th Cir. 1988); *accord Flanigan's Enters., Inc. v. Fulton Cnty.*, 242 F.3d 976, 987 n.16 (11th Cir. 2001), *superseded by statute on other grounds as noted in U.S. v. Hesser*, 800 F.3d 1310, 1327 n.28 (11th Cir. 2015). Federal appellate courts "ha[ve] no duty to research and construct legal arguments available to a party," *Head Start Family Educ. Program, Inc. v. Coop. Educ. Serv. Agency 11*, 46 F.3d 629, 635 (7th Cir. 1995), and, when appellants fail in this regard, federal appellate courts do not "fill the void by crafting arguments and performing the necessary legal research," *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 841 (10th Cir. 2005) (quotation marks omitted).

Moreover, "[i]t is not enough for an appellant in his brief to raise issues; they must be pressed in a professionally responsible fashion," *Pearce v. Sullivan*, 871 F.2d 61, 64 (7th Cir. 1989), including the use of citation to relevant legal authority, *see, e.g.*, *Heft v. Moore*, 351 F.3d 278, 285 (7th Cir. 2003). Federal appellate courts require appellants to present developed argument supported by legal authority because they "are not self-directed boards of legal inquiry and research, but essentially arbiters of legal questions presented and argued by the parties." *Cruz v. Am. Airlines, Inc.*, 356 F.3d 320, 333-34 (D.C. Cir. 2004) (quotation marks, ellipsis, and citation omitted). Inadequate briefing

may result in the appeal's dismissal, and "the failure to cite authorities in support of a particular argument constitutes a waiver of the issue." *LINC Fin. Corp. v. Onwuteaka*, 129 F.3d 917, 921 (7th Cir. 1997).

DISCUSSION

We conclude that Anastacio's appellate brief does not meet the formal requirements imposed by our Rules and precedent. Specifically, the brief fails to adequately present an issue for appeal through proper development of argument and citation to relevant legal authority. Instead, he attempts to re-litigate the trial court's factual determinations without offering any legal basis for doing so. For these reasons, we exercise our discretion to dismiss the appeal.

As an initial matter, we note that Anastacio has abandoned his rescission claim on appeal. Rather than argue that the lease terms regarding the property's boundary were too vague to be enforceable, he contends that there was a "clear understanding of the parties" at the time they entered the lease and that the evidence "can lead to but one conclusion" regarding the property's boundaries, namely that they encompassed the structures previously built by Eriich. Appellant's Br. at 10-11. Nowhere in his brief does Anastacio argue that the Trial Division erred in its application of *Salii v. Omrekongel Clan*, the primary case he cited in support of his rescission claim, or in otherwise concluding that the lease agreement should not be rescinded. Because Anastacio has abandoned his rescission claim on appeal, we do not address it.

We turn now to Anastacio's breach claim. The sole authority Anastacio cites in support of the claim is *Carleton*, which states the well-known principle that, in

interpreting a contract, a court's primary goal is to arrive at the meaning intended by the parties. However, any hornbook, let alone a quick peek at Palauan case law, would disclose that this principle is merely the starting point, not the sum total of the principles that should guide a court's assessment of the evidence in a breach-of-contract claim. The inquiry into the intent of contracting parties is not an unstructured foray into their subjective purposes. At times, fact-finding—such as resort to extrinsic and parol evidence—will be required to determine the intent of the parties, but both the initiation and the process of such fact-finding are guided by other indispensible legal principles.

Anastacio's brief does not describe the legal principles that should have guided the Trial Division's assessment in the instant case—and more importantly, does not explain how the Trial Division strayed from them—and the utter lack of citation deprives us of any clues. In fact, Anastacio's brief does not even recite the elements of a claim for breach, *see Aimeliik State Pub. Lands Auth. v. Rengchol*, 17 ROP 276, 282 (2010) ("[W]ithout citation to authority to guide us to a contrary conclusion—or even lay out the elementary law of estoppel, waiver, and laches—we will not stray from our usual course of only deciding issues properly presented to us . . . ."), an oversight made all the more damning by the fact that Anastacio is a losing plaintiff in this appeal, and we can affirm the Trial Division's rejection of his breach claim on grounds other than those relied upon by the Trial Division, *see Ngetelkou Lineage v. Orakiblai Clan*, 17 ROP 88, 93-94 (2010).

Aside from his general failure to provide any legal authority which might persuade us that the Trial Division's ultimate determination of his breach claim deserves reversal,

Anastacio has also failed to provide any legal framework for us to assess his myriad criticisms of the more particular factual conclusions reached by the Trial Division. For instance, the Trial Division largely rejected Anastacio's testimony, finding it self-serving and uncorroborated. Nevertheless, much of Anastacio's appellate briefing relies on his trial testimony in a bid to show that the Trial Division made incorrect factual determinations. Although a number of our cases explain how we review a trial court's credibility determinations, *see, e.g.*, *Ngermengiau Lineage v. Estate of Isaol*, 20 ROP 68, 71-72 (2013) (credibility determinations only set aside under "extraordinary circumstances"), Anastacio does not refer to any of them. Indeed, his reliance on factual disagreements with the trial court suggests that he did not consider our standard of review; for the most part, arguments based on disagreements with the factfinder are long-shots on appeal. Similarly, Anastacio asserts that the Trial Division should have either placed less weight on a sketch attached to the lease agreement showing the leased property's boundaries or else interpreted the sketch in his favor. Again, despite numerous published decisions regarding a trial court's weighing of evidence and our review of it, *see, e.g.*, *Nakamura v Uchelbang Clan*, 15 ROP 55, 60 (2008), Anastacio's brief contains no citation to any legal authority on the matter. With citation to legal authority absent, we are disinclined to review Anastacio's criticisms in detail, and we note that none of them are so clearly meritorious that Anastacio's failure to provide a legal framework can be excused. *See Mikel*, 19 ROP at 117.

In a similar vein, Anastacio, in passing, criticizes the Trial Division's reliance on his pre-litigation efforts to settle his dispute with Eriich in support of its determination

that the leased property did not include the structures. He contends that he should not have been penalized for attempts at settlement. Even making the dubious assumption that Anastacio's characterization of the Trial Division's reasoning is accurate, Anastacio cites no authority for the unexpressed legal propositions underlying this terse argument, and we will not research the matter for him. Anastacio also levels criticism at Paulino Eriich for choosing to characterize his homestead claim in the Land Court as one that excluded the structures he had built. How Eriich's decision amounts to reversible error on the part of the Trial Division is not clearly explained, and again Anastacio provides no legal authority from which we might glean some inkling of the relevance of this line of argument. We will not do the legwork for him.

We emphasize once more that parties to an appeal may not outsource their legal research to the Court. Like U.S. federal appellate courts, the Appellate Division is "not [a] self-directed board[] of legal inquiry and research;" it is instead an "arbiter[] of legal questions presented and argued by the parties." *Cruz v. Am. Airlines, Inc.*, 356 F.3d 320, 333-34 (D.C. Cir. 2004) (quotation makes and ellipsis omitted). Parties who fail to cite relevant legal authority in their briefs do so at their own peril.

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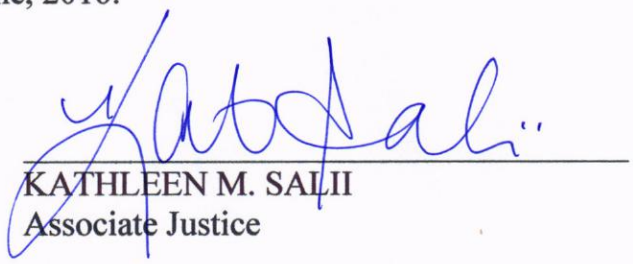
CONCLUSION

For the reasons set forth above, this appeal is **DISMISSED**.

SO ORDERED, this 30th day of June, 2016.



KATHLEEN M. SALII
Associate Justice

KATHERINE A. MARAMAN
Associate Justice

ROSE MARY SKEBONG
Associate Justice Pro Tem

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