

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

FILED 

2016 JUN 16 PM 2 41

SUPREME COURT
REPUBLIC OF PALAU

In re: the ESTATE OF LASSEN IKEYA
YSAOL,

Deceased.

In re: LANDS IN NGARAARD KNOWN
AS CADASTRAL LOT NOS. 065 E 01
AND 069 E 01.

TWILLA YSAOL and FARRINGTON
YSAOL,

Appellants,

v.

SHAKIRA KLUMECH YSAOL,

Appellee.

CIVIL APPEAL NO. 16-009
(Civil Action No. 15-001)

**ORDER GRANTING MOTION
TO DISMISS AND DISMISSING
APPEAL**

Decided: June 16, 2016

Counsel for Appellants: Pro Se
Counsel for Appellee: Oldiais Ngiraikelau

BEFORE: KATHLEEN M. SALII, Associate Justice; LOURDES F. MATERNE,
Associate Justice; and KATHERINE A. MARAMAN, Associate Justice.

Appeal from the Trial Division, the Honorable R. ASHBY PATE, Associate
Justice, presiding.

PER CURIAM:

On April 8, 2016, pro se Appellants Twilla and Farrington Ysaol filed their notice
of appeal in this matter. Following the filing of their notice of appeal, Appellants did not
receive audio recordings of the case below because no hearings that would be recorded

occurred. On May 26, 2016, Appellee Shakira Klumech Ysaol filed the instant motion to dismiss the appeal on the ground that Appellants had failed to timely file their opening brief in accordance with ROP R. App. P. 31(b). Along with the motion, Appellee filed a proof of service, stating that, on May 26, 2016, she sent a copy of the motion to dismiss by certified mail to the post office box address that Appellants had handwritten on their notice of appeal.

The Rules of Appellate Procedure set forth the period in which an appellant must timely file an opening brief:

Appellant's brief shall be filed within forty-five (45) days after the appellant has received an audio recording of the trial court proceedings or, if ordered, after the service of a transcript of the testimony and evidence. If no recording or transcript has been requested, then the appellant's brief shall be filed within forty-five (45) days after the filing of the notice of appeal.

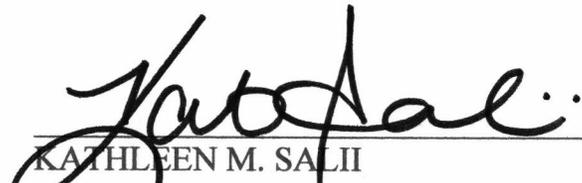
ROP R. App. P. 31(b). Because no recorded hearings were held in the proceedings below, no audio recordings exist, and no transcript of any recording or proceeding can be made. Accordingly, Appellants' opening brief was due on May 23, 2016. Appellants have not filed their opening brief or a motion to extend the time for doing so,

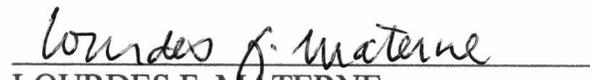
"If an appellant fails to file a brief within the time provided by [Rule 31], or within an extended time, an appellee may move to dismiss the appeal, or the Appellate Division may so dismiss on its own motion." ROP R. App. P. 31(c). Appellee filed a Rule 31(c) motion to dismiss on May 26, 2016, and served Appellants by mail in accordance with ROP R. App. P. 25(b)-(d). Accordingly, Appellants had until June 10, 2016, to file a response to the motion to dismiss. *See* ROP R. App. P. 26(a)-(b), 27(a). Appellants have

not filed a response to Appellee's motion to dismiss or a motion to extend the time for doing so.

Accordingly, Appellee's motion to dismiss is **GRANTED** and this appeal is **DISMISSED** for Appellant's failure to comply with Rule 31, *see Estate of Masang v. Marsil*, 13 ROP 1, 2 (2005), and for lack of prosecution of this matter, *see Palau Red Cross v. Chin*, 20 ROP 40, 41 (2012).

So ORDERED, this 16th day of June, 2016.


KATHLEEN M. SALII
Associate Justice


LOURDES F. MATERNE
Associate Justice


KATHERINE A. MARAMAN
Associate Justice