IN THE SUPREME COURT OF GUAM

PACIFIC ROCK CORPORATION,
Petitioner-Appellee,

vs.

LOURDES M. PEREZ,
in her official capacity as Director of Administration,
Government of Guam,
Respondent-Appellant.

Supreme Court Case No.: CVA03-010
Superior Court Case No.: SP0218-02

OPINION

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Appeal from the Superior Court of Guam
Argued and submitted on February 20, 2004
Hagåtña, Guam

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BEFORE: F. PHILIP CARBULLIDO, Chief Justice; FRANCES M. TYDINGCO-GATEWOOD, Associate Justice; and ROBERT J. TORRES, Associate Justice.

CARBULLIDO, C.J.:

[1] Respondent-Appellant Lourdes M. Perez, in her official capacity as Director of Administration, Government of Guam ("the Director"), appeals from the trial court's Decision and Order and Judgment granting Petitioner-Appellee Pacific Rock Corporation's first and second petitions for writ of mandate, which ordered the Director to pay Pacific Rock postjudgment interest at the rate of 6% per annum accruing on the judgment in Superior Court Case No. CV1668-94. The Director further appeals from the trial court's holding that notes issued pursuant to section 22415 of Title 5 Guam Code Annotated ("GCA") must include interest at the rate of 7% per annum.

[2] We hold that the trial court lacked jurisdiction to award post-judgment interest to Pacific Rock against the government of Guam and therefore, the trial court erred in upholding the validity of the judgment in Superior Court Case No. CV1668-94. We further hold that the trial court properly concluded that notes issued pursuant to Title 5 GCA § 22415 must bear interest at the rate of 7%. Accordingly, we reverse in part, affirm in part, and remand to the trial court.

I.

[3] In November of 1994, Pacific Rock filed suit in the Superior Court of Guam against the Department of Education ("DOE") for the amount of the unpaid balance it claimed DOE owed for the construction of several temporary classrooms. After a trial on the merits, the trial court awarded Pacific Rock $514,258.76, plus prejudgment and post-judgment interest.[1] DOE appealed.

[4] On appeal ("*Pacific Rock I*"), DOE challenged the trial court's decision on several grounds, but did not challenge the trial court's award of post-judgment interest to Pacific Rock on sovereign immunity grounds. Thus, the issue of sovereign immunity was not addressed by this court in *Pacific Rock I*. This court reversed the judgment of the trial court. *See Pacific Rock v. Dep't of Educ.*, 2000

[1] The Director contends, and Pacific Rock does not dispute, that Pacific Rock in its complaint and amended complaint did not seek prejudgment or post-judgment interest. Neither complaint can be found in the record before us.

Guam 19. Pacific Rock then petitioned for a rehearing of *Pacific Rock I*.

[5] In opposition to Pacific Rock's petition for rehearing, DOE again did not raise the issue of sovereign immunity with respect to the post-judgment interest awarded to Pacific Rock by the trial court. After granting the petition for rehearing, this court affirmed the judgment of the trial court. *See Pacific Rock v. Dep't of Educ.*, 2001 Guam 21 ("*Pacific Rock II*"). In the 2001 opinion, by way of background information, the court recited, but did not discuss, the trial court's award of post-judgment interest to Pacific Rock.[2]

[6] A few hours after the court issued its opinion in *Pacific Rock II* affirming the trial court judgment, the court issued its opinion in *Sumitomo Construction Co. v. Government of Guam*, 2001 Guam 23, where we held that post-judgment interest cannot be awarded against the government because the legislature did not waive the government of Guam's sovereign immunity with respect to post-judgment interest. DOE, who ultimately lost its appeal, petitioned this court for a rehearing of *Pacific Rock II*, but again did not challenge the trial court's decision awarding post-judgment interest to Pacific Rock. This court denied DOE's petition for rehearing.

[7] On October 2, 2002, Pacific Rock filed a petition for writ of mandate in the trial court ("the Writ Case"), seeking an order directing the Director of the Department of Administration to pay Pacific Rock's judgment out of the Government Claims Fund pursuant to Title 5 GCA § 6402. Appellant's Excerpts of Record, pp. 1-3 (Petition for Writ of Mandate). The trial court issued the alternative writ on the same day, directing the Director to pay the Pacific Rock judgment out of the Government Claims Fund or show cause why it had not done so. (Appellant's Excerpts of Record, pp. 4-5 (Writ of Mandate). The show cause hearing was rescheduled and was held on January 10, 2003.

[8] Meanwhile, on December 5, 2002, Pacific Rock and the "government of Guam - including

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[2] In *Pacific Rock II*, 2001 Guam 21, ¶ 10, this court stated:

> A four-week bench trial was held on August 26, 1996 through September 23, 1996, and subsequently, the trial court ruled in favor of Pacific Rock, denying DOE liquidated damages but awarding Pacific Rock a total of $514,258.76 in damages plus prejudgment and post-judgment interest.

the Department of Education," entered into a settlement agreement whereby the government agreed to issue promissory notes "pursuant to 5 G.C.A. § 22415," for the principal amount of the Pacific Rock judgment, in exchange for Pacific Rock's agreement to relinquish any priority for payment that it may have had for payment out of the Government Claims Fund. Appellant's Excerpts of Record, pp. 12-15 (Settlement Agreement). In the agreement, the parties recognized that, while the promissory notes would issue for the payment of the principal amount of the judgment, "the parties are in the process of litigating the validity of the provision for post-judgment interest . . . and the issue of whether interest on the promissory notes is required." Appellant's Excerpts of Record, p. 15, ¶ 5 (Settlement Agreement).

[9] Pursuant to Title 5 GCA § 22415, Pacific Rock then sent a letter to the Director, requesting the Director to issue two promissory notes in equal amounts of $263,301.02, one to be payable to Pacific Rock and the other to Thomas Tarpley. On October 24, 2002 and December 6, 2001, the trial court in two other unrelated cases issued a Writ of Execution against Pacific Rock, in favor of UOG for $75,220.00 and Dongbu Insurance for $43,355.50. In both cases, Pacific Rock agreed to satisfy the judgments by tendering a promissory note to each of the two judgment creditors.

[10] On December 3, 2002, the Director issued four promissory notes, as follows:

1. $263,301.02 (Thomas Tarpley)
2. $120,759.40 (UOG)
3. $61,126.70 (Dongbu Insurance)
4. $81,414.92 (Delbert Swegler, owner of Pacific Rock).

[11] A few weeks later, on January 22, 2003, Pacific Rock filed a second petition for alternative writ of mandate, alleging that the Department of Revenue and Tax refused to allow the promissory note to be used as a setoff against income taxes, the ability of Pacific Rock to satisfy the judgment was thus restricted, and therefore sought payment of the judgment out of the Government Claims Fund. On the same day, the trial court issued the Second Alternative Writ of Mandate, commanding the Director to pay the judgment out of the Government Claims Fund and give priority to payment of Pacific Rock's judgment over other claims or show cause why it should not do so.

[12] The trial court issued a Decision and Order on January 29, 2003, holding, *inter alia*, that the award of post-judgment interest at the rate of 6% to Pacific Rock against DOE is valid, and that if

promissory notes are issued pursuant to Title 5 GCA § 22415, that an interest rate of 7% must apply. Thereafter, on February 14, 2003, the trial court ordered that the principal amount of the Pacific Rock judgment be paid from funds appropriated to the Government Claims Fund as of February 14, 2003.

[13] On March 28, 2003, the trial court issued a Judgment in the Writ Case in favor of Pacific Rock. This appeal followed.

II.

[14] This court has jurisdiction over an appeal from a final judgment. 48 U.S.C. § 1424-1(a)(2) (West, WESTLAW through Pub. L. 109-76 (2005)); Title 7 GCA §§ 3107 and 3108(a) (West, WESTLAW through Guam Pub. L. 28-037 (Apr. 22, 2005)).

[15] Generally, the grant of a writ of mandate is reviewed to determine whether the court's judgment is supported by substantial evidence. *See Sablan v. Gutierrez*, 2002 Guam 13, ¶ 6, citing *Holmes v. Territorial Land Use Comm'n,* 1998 Guam 8, ¶ 6. However, when there are no facts in dispute, and the questions presented for review are strictly questions of law, the court's review is *de novo*. *See id.* When a challenge to post judgment interest rests on sovereign immunity grounds, a lower court's award of interest is reviewed *de novo*. *Sumitomo Constr. Co. v. Gov't of Guam*, 2001 Guam 23, ¶ 7. Issues of statutory interpretation are also reviewed *de novo*. *Bank of Guam v. Reidy*, 2001 Guam 14, ¶ 16.

III.

[16] The Director raises two issues on appeal. First, we consider whether the trial court erred in finding that the provision for post-judgment interest in the *Pacific Rock Corp. v. Dep't of Educ.*[3] judgment is valid, despite this court's opinion in *Sumitomo Construction Co., Ltd. v. Government of Guam*, 2001 Guam 23. Second, we consider whether the trial court erred in finding that if promissory notes are issued to Pacific Rock pursuant to 5 GCA § 22415, they must include interest

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at 7% per annum.

1. Award of Post-Judgment Interest

[17] The Director argues that the trial court erred in issuing the writ of mandate ordering the payment of post-judgment interest, despite this court's holding in *Sumitomo* that the legislature did not waive the government of Guam's sovereign immunity with respect to such interest.

[18] Pacific Rock contends that the Director is barred by the doctrine of *res judicata* from raising the defense of sovereign immunity at this stage of the litigation and further, that *Sumitomo* cannot be applied retroactively.

[19] In response, the Director asserts that because the parties in the Writ Case are different from the parties in CV1668-94, *res judicata* does not bar her from raising the sovereign immunity defense. Moreover, the Director asserts that because sovereign immunity is a jurisdictional issue, the trial court was without jurisdiction to award post-judgment interest in the first instance and therefore, that portion of the judgment is void. The Director further argues that the principles underlying sovereign immunity outweigh the policies behind the doctrine of *res judicata.*

[20] At the outset, it is important to note that the parties do not dispute our holding in *Sumitomo* that the government of Guam cannot be held liable for post-judgment interest because the legislature did not waive Guam's sovereign immunity with respect to such liability. In other words, it is undisputed that the trial court erred in awarding post-judgment interest to Pacific Rock, against DOE.

[21] The real issue therefore is whether the Director is barred by *res judicata* from attacking the portion of the judgment awarding post-judgment interest, when the judgment was appealed from by DOE and affirmed by this court, and where DOE, in its appeal and its petition for rehearing, failed to raise the issue of sovereign immunity.

[22] We first determine whether *res judicata* applies under the facts of this case. We find that it does. "Under the doctrine of *res judicata,* a judgment on the merits in a prior suit bars a second suit involving the same parties or their privies based on the same cause of action." *Trans Pacific Export Co. v. Oka Towers Corp.*, 2000 Guam 3, ¶ 13 (quoting *Parklane Hoisery Co. v. Shore*, 429 U.S. 322, 327 n.51, 99 S. Ct. 645 (1979)). While the defendant in the prior *Pacific Rock* appeal was DOE (a

department of the executive branch of the government of Guam), "[a]n official-capacity suit is really just another way of suing the government. Therefore a city official sued in his official capacity is generally in privity with the municipality." *Conner v. Reinhard*, 847 F.2d 384, 394 (7th Cir. 1998) (citations omitted). Moreover, prior to its amendment by Public Law 27-142:5, and at all times relevant to the facts of the instant case, Title 5 GCA § 6402 provided that "[t]he Director of Administration shall pay the amount allowed in an approved settlement or in a final court judgment rendered against any line agency of the government, or the Government of Guam in general." Title 5 GCA § 6402 (West, WESTLAW through Guam Pub. L. 28-037 (Apr. 22, 2005). We therefore find that the Director is in privity to DOE, an executive branch agency of the Government of Guam. In addition, the petitions for a writ of mandate filed in this case are based on the same causes of action filed in CV1668-94. Accordingly, under the general rule, *res judicata* would bar the Director in this case from raising the issue of sovereign immunity.[4]

[23] The question still remains, however, whether sovereign immunity will lie as an exception to the general rule of *res judicata.* The answer to this question turns on a balance of the policies underlying the finality of judgments and the court's recognition that sovereign immunity implicates a court's subject matter jurisdiction and can be raised at any time.

[24] In *Sumitomo v. Government of Guam*, we held that "sovereign immunity implicates a court's subject matter jurisdiction . . . . [and therefore] can be raised at any time, either by a party or by the court." *Sumitomo*, 2001 Guam 23 at ¶ 22 (citation omitted). In other words, if sovereign immunity applies, the action is barred because of a court's lack of subject matter jurisdiction. *See Pacific Rock II*, 2001 Guam 21 at ¶ 18.[5] In *Sumitomo*, we addressed the issue of sovereign immunity in the

[4] This result might have been different had the parties in the settlement agreement specifically agreed to waive the effects of *res judicata*. *See e.g.*, 18 CHARLES ALAN WRIGHT, ARTHUR R. MILLER & EDWARD H. COOPER, FEDERAL PRACTICE AND PROCEDURE: JURISDICTION AND RELATED MATTERS, § 4415 (found at West, WESTLAW, FPP § 4415) (2d ed. 2005) ("Just as a *res judicata* defense may be lost by failure of proper pleading, courts have expressed willingness to honor an express agreement between the parties that an action on one part of the claim will not preclude a second action on another part of the same claim. . . .") (footnote omitted).

[5] In *Pacific Rock II*, this court addressed the existence of a statutory waiver of sovereign immunity with respect to breach of contract claims. Again, sovereign immunity in the context of post-judgment interest was not discussed, although the court made cursory mention of the award in its background portion of the opinion.

context of a direct attack of the trial court's judgment, and not, as in the instant appeal, in the context of a collateral attack. *See* BLACK'S LAW DICTIONARY (7th ed. 1999) (defining a collateral attack as "[a]n attack on a judgment entered in a different proceeding."). Because sovereign immunity is treated as a limitation on subject matter jurisdiction, the collateral attack is governed by ordinary rules dealing with the enforcement of judgments where the rendering court's jurisdiction is challenged. *See Chicot County Drainage Dist. v. Baxter State Bank*, 308 U.S. 371, 376-77, 60 S. Ct. 317 (1940). The Restatement of Judgments offers guidance on when subject matter jurisdiction may be challenged in the post-judgment context:

> When a court has rendered a judgment in a contested action, the judgment precludes the parties from litigating the question of the court's subject matter jurisdiction in subsequent litigation except if:
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> > (1) The subject matter of the action was so plainly beyond the court's jurisdiction that its entertaining the action was a manifest abuse of authority; or
> >
> > (2) Allowing the judgment to stand would substantially infringe the authority of another tribunal or agency of government; or
> >
> > (3) The judgment was rendered by a court lacking capability to make an adequately informed determination of a question concerning its own jurisdiction and as a matter of procedural fairness the party seeking to avoid the judgment should have opportunity belatedly to attack the court's subject matter jurisdiction.

RESTATEMENT (SECOND) OF JUDGMENTS § 12 (1982).

[25] Specifically addressing the issue of sovereign immunity and whether a state may be permitted to collaterally attack an adverse judgment against it on the ground that the state's immunity deprived the rendering court of subject matter jurisdiction, courts have ruled either way. Some courts have held that notwithstanding the general rule that jurisdictional challenges may be raised at any time, "[i]t is elementary that any jurisdictional defect must be raised while the case is pending." *City of South Pasedena v. Mineta,* 284 F.3d 1154, 1156 (9th Cir. 2002); *see also Calhoun v. Bernard*, 359 F.2d 400, 401 (9th Cir. 1966) (refusing to consider issues in a second appeal that could have been raised during the first appeal). In these courts, this rule applies to the government's failure to invoke its immunity. *See City of South Pasadena,* 284 F.3d at 1156-57 (*citing Gunter v. Atl. Coast Line R.R.*, 200 U.S. 273, 290, 26 S. Ct. 252 (1906)) (holding that a state who fails to invoke its immunity

while the litigation is pending cannot do so after the lawsuit has ended because any defenses "whether brought to the attention of the court or waived, were foreclosed by the decree."). *See also* Restatement (Second) of Judgments § 12, Reporter's Note, cmt. d (discussing the case history with regard to sovereign immunity and *res judicata*, it explains that "[g]iving such effect to the sovereign immunity doctrine proves too much, for it is possible to say that any "erroneous" judgment against the government violates the scope of its waiver of immunity.").

[26] Consistent with the above authority, Pacific Rock relies primarily on *United States v. County of Cook*, a Seventh Circuit case which held that "if the court decides a case on the merits after an adversarial presentation, the judgment cannot be collaterally attacked on the ground that the court lacked subject-matter jurisdiction. The parties' failure to address jurisdiction fully or cogently does not deprive the judgment of force." *United States v. County of Cook*, 167 F.3d 381, 388 (7th Cir. 1999). In *County of Cook*, the United States refused to pay interest and penalties on real estate taxes pursuant to a judgment entered against it and affirmed by the court on appeal. *Id.* at 383. There, the United States argued that the interest and penalties were barred by sovereign immunity, regardless of its lawyer's failure to invoke the immunity during the prior appeal. *Id.* The *County of Cook* court turned its focus on whether the principle of sovereign immunity is a recognized exception to the finality of judgments rule. Disagreeing with the United States, the court stated:

> For a long time it has been understood that the United States, like a private litigant, cannot relitigate claims that have reached final judgment. *United States v. Stauffer Chemical Co.*, 464 U.S. 165, 104 S. Ct. 575, 78 L.Ed.2d 388 (1984); *United States v. Moser*, 266 U.S. 236, 45 S. Ct. 66, 69 L.Ed. 262 (1924). (The special treatment of offensive nonmutual issue preclusion, see *United States v. Mendoza*, 464 U.S. 154, 104 S. Ct. 568, 78 L.Ed.2d 379 (1984), does not qualify this rule when identical parties contest the sequential suits.) Likewise it is settled that a "claim" for purposes of this rule means all legal theories bearing on a set of facts; an omitted argument cannot be raised later. *Nevada v. United States*, 463 U.S. at 129-30, 103 S. Ct. 2906. To create a sovereign-immunity exception to these principles would be to abolish them, for *every* suit involving the interests of the United States potentially involves sovereign immunity.

Id. at 385.

[27] In contrast to the above body of case law, the United States Supreme Court allowed an attack of a judgment after an adjudication on the merits, where the issue involved a government's sovereign immunity. *See United States v. United States Fidelity & Guar. Co.*, 309 U.S. 506, 60 S. Ct. 653

(1940) (involving federal sovereign immunity); *Jordon v. Gilligan*, 500 F.2d 701 (6th Cir.1974), *cert. denied*, 421 U.S. 991, 95 S. Ct. 1996 (1975) (involving state government immunity).

[28] In *United States Fidelity & Guaranty Company* ("*USF&G*"), the case relied upon by the Director, the Supreme Court held that collateral estoppel does not preclude the government from invoking sovereign immunity in a royalties claim that had been actually decided in a previous action brought by the government. *United States Fidelity & Guar. Co.*, 309 U.S. 506, 60 S. Ct. 653. The government did not raise the sovereign immunity defense in the original action, and the court adjudged the royalties claim adversely to the government. *See id.* at 510, 60 S. Ct. 653. The government then brought a second action, and United States Fidelity & Guaranty argued that the government was collaterally estopped from challenging the first decision. *See id.* at 511, 60 S. Ct. 653. The Court held, however, that sovereign immunity cannot be waived by the action of government officials by their failure to raise the sovereign immunity defense in the preceding action. *See id.* at 513-14, 60 S. Ct. 653. This is so because consent to be sued may only be granted by Congress. *See id.* at 514, 60 S. Ct. 653. The Court further held that "[t]he reasons for the conclusion that this immunity may not be waived govern likewise the question of *res judicata*. . . . Consent alone gives jurisdiction to adjudge against a sovereign. Absent that consent, the attempted exercise of judicial power is void." *Id.* at 514, 60 S. Ct. 653. Weighing the policy underlying the finality of judgments against the doctrine of sovereign immunity, the court stated that in the "collision between the desirable principle that rights may be adequately vindicated through a single trial of an issue and the sovereign right of immunity from suit . We are of the opinion . . . [that] the doctrine of immunity should prevail." *See id.* at 514-15, 60 S. Ct. 653. Thus, the Court recognized that the "desirability for complete settlement of all issues between parties must . . . yield to the principle of immunity." *Id.* at 513, 60 S. Ct. 653.

[29] We agree with the policy considerations and the law as laid out by the Court in *USF&G* and hold that *res judicata* does not bar a sovereign Director from asserting the government's sovereign immunity and attacking the validity of the trial court judgment granting post-judgment interest against DOE in favor of Pacific Rock.

[30] The policy considerations supporting the finality of judgments, weighed against the doctrine of sovereign immunity – which we have held to be a unwaivable jurisdictional issue – compel us to agree with the Court that, where there exists a "collision between the desirable principle that rights may be adequately vindicated through a single trial of an issue and the sovereign right of immunity from suit, . . . the doctrine of immunity should prevail." *Id.* at 514-15*; see also Danning v. United States*, 259 F.2d 305, 311 (9th Cir.1958) (citing *USF&G* for the proposition that "failure to appeal an adverse judgment does not work an estoppel against the government"); *Sterling v. United States*, 85 F.3d 1225, 1231 (7th Cir.1996) (Flaum, J.) (concurring) (stating the rule a "judgment is afforded no *res judicata* effect if the claim should have been dismissed on the ground of sovereign immunity . . . [thus] if a court reaches the merits of a claim that is barred by sovereign immunity, the judgment is simply void"). Stated simply, sovereign immunity cannot be waived by the action (or inaction) of the government of Guam officials and their failure to appropriately raise the sovereign immunity defense. Rather, under section 1421a of the Organic Act of Guam, "sovereign immunity can *only* be waived by duly enacted legislation." *Sumitomo*, 2003 Guam 21, ¶ 9 (emphasis added).

[31] In so holding, we reject the analysis employed by the Seventh Circuit in *County of Cook*. Significantly, and unlike the law of our jurisdiction, the Seventh Circuit declined to view sovereign immunity as a jurisdictional doctrine. In *County of Cook*, the court stated:

> For most purposes it overstates the strength of sovereign immunity to analogize it to a lack of jurisdiction. Any difference between the two should make it easier to raise a jurisdictional objection belatedly than to raise a sovereign-immunity objection belatedly. As we have explained, what sovereign immunity means is that relief against the United States depends on a statute; the question is not the competence of the court to render a binding judgment, but the propriety of interpreting a given statute to allow particular relief.

County of Cook, 167 F.3d at 388 -389. In particular, the court's view that sovereign immunity is not an issue of a court's jurisdiction conflicts with our express holding in *Sumitomo* that "[s]overeign immunity implicates a court's subject matter jurisdiction." *Sumitomo*, 2001 Guam 23, ¶ 22.

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[32] We therefore reverse the trial court's holding that the portion of the judgment entered in CV1668-94, granting post-judgment interest against the government of Guam, is valid.[6]

2. Interest on Promissory Notes

[33] The next issue for our consideration is whether the trial court erred in holding that promissory notes issued pursuant to Title 5 GCA § 22415 must bear an interest of 7%. Specifically, the Director argues that because *Sumitomo* holds that the legislature has not waived the government of Guam's immunity with respect to post-judgment interest, then the principal amount of the judgment, reduced to promissory notes pursuant to Title 5 GCA § 22415, cannot bear an interest of 7%, because the interest would constitute "post-judgment interest." Pacific Rock argues that Title 5 GCA § 22415 applies to all "creditors" of the government of Guam. Further, Pacific Rock contends that the plain reading of the statute calls for an interest rate of 7%, and does not implicate this court's holding in *Sumitomo*.

[34] Title 5 GCA § 22415, entitled "Promissory Note; Issuance to Creditors," states in relevant part:

> *Any creditor* of the government of Guam (*other than a tort claimant with an unadjudicated claim*) who is not paid within thirty (30) days of filing his claim may file a request for the Director of Administration for issuance of a one year negotiable promissory note payable to bearer from the Government of Guam, bearing interest at 7% per annum.

Title 5 GCA § 24415 (West, WESTLAW through Guam Pub. L. 28-037 (Apr. 22, 2005).

[35] "In cases involving statutory construction, the plain language of a statute must be the starting point." *Pangelinan v. Gutierrez*, 2000 Guam 11, ¶ 23. A plain reading of the above provision indicates that it applies to "any creditor" of the government of Guam, except tort claimants with unadjudicated claims. It does not except from the statute judgment creditors, a position argued by the Director. The Director provides no authority in support of her position that the 7% interest does

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[6] This result is not, as the trial court appears to conclude, a matter of *Sumitomo* being applied retroactively. The government of Guam enjoys sovereign immunity "in the absence of an express statutory waiver of immunity against postjudgment interest" and therefore "the government is not liable for such interest." *Sumitomo*, 2001 Guam 23 at ¶ 27. The existence of sovereign immunity, while discussed and clarified by this court in *Sumitomo*, exists not merely as a result of *Sumitomo*, but rather, by virtue of the Organic Act of Guam. "The Organic Act provides a very specific mechanism by which the government of Guam's inherent sovereign immunity may be waived. Under the Organic Act, a waiver of immunity must be in the form of duly enacted legislation." *Id.* at ¶ 24 (citing Title 48 U.S.C. § 1421a).

not apply to judgment creditors and further, that the interest on the promissory note constitutes "post-judgment interest" if the creditor is a judgment creditor.

[36] We therefore affirm the trial court's holding that notes issued pursuant to section 22415 for payment of the principal amount of the judgment must bear interest at 7% per annum.

IV.

[37] We hold that the trial court erred in upholding the validity of the portion of the judgment in CV1668-94 awarding post-judgment interest against DOE. We further hold that the policies and principles underlying the rule of finality of judgments are outweighed by the doctrine of sovereign immunity. Lastly, we hold that the trial court properly concluded that notes issued pursuant to Title 5 GCA § 22415 must bear interest at the rate of seven percent (7%) per annum. Accordingly, we **REVERSE** in part, **AFFIRM** in part, and **REMAND** for entry of judgment consistent with this opinion.