IN THE SUPREME COURT OF GUAM

DFS GUAM L.P.,
Plaintiff-Appellee,

v.

THE A.B. WON PAT INTERNATIONAL AIRPORT AUTHORITY, GUAM and LOTTE DUTY FREE GUAM LLC, and THE TERRITORY OF GUAM, and DOES 1-10, INCLUSIVE,
Defendants-Appellants.

Supreme Court Case No.: CVA13-035 (consolidated with CVA13-036)
Superior Court Case No.: CV0685-13

OPINION

Cite as: 2014 Guam 12

Appeal from the Superior Court of Guam
Argued and submitted on March 31, 2014
Hagåtña, Guam

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BEFORE: F. PHILIP CARBULLIDO, Presiding Justice; KATHERINE A. MARAMAN, Associate Justice; ALBERTO E. TOLENTINO, Justice *Pro Tempore*.[1]

CARBULLIDO, J.:

[1] This appeal is part of a contentious, high-profile, and high-stakes dispute surrounding Defendant-Appellant The A.B. Won Pat International Airport Authority, Guam's ("Airport Authority") award of a retail concessions contract at the Antonio B. Won Pat International Airport, Guam ("Airport") to Defendant-Appellant Lotte Duty Free Guam LLC ("Lotte"). At this stage of the dispute, this court has been called on to review two narrow and straightforward questions of law: (1) whether the trial court erred by making statements concerning the merits of the case after it determined that it did not have jurisdiction; and (2) whether the trial court abused its discretion in declining to impose sanctions against Plaintiff-Appellee DFS Guam L.P. ("DFS"). In order to reach these questions, we must first determine whether we have jurisdiction to hear the appeal.

[2] For the reasons set out below, we reverse in part, affirm in part, and remand this case. We hold that the trial court clearly erred when it denied a motion for reconsideration, which sought deletion of two statements it made after finding it lacked subject matter jurisdiction to hear the case. We also hold that the trial court provided sufficient reasoning for its denial of sanctions and that its denial was not an abuse of discretion. We remand the matter with instructions to the trial court to delete the two statements contested on appeal.

[1] Chief Justice Robert J. Torres recused himself from this matter. Associate Justice F. Philip Carbullido, as the senior member of the panel, was designated Presiding Justice.

I. FACTUAL AND PROCEDURAL BACKGROUND

[3] This case is founded on a competitive bidding process for a retail concession at the Airport's main terminal. The Airport Authority issued its Request for Proposal ("RFP") in 2012 and made its decision on April 12, 2013. The Airport Authority determined that Lotte was the most qualified of the four bidding parties. While the Airport Authority was considering proposals, DFS sent the Airport Authority letters alleging violations of both Guam Procurement Law and regulations, and the terms of the RFP. However, the Airport Authority and Lotte assert that no formal protest was made until April 23, 2013, after the Airport Authority announced its decision. Record on Appeal ("RA"), tab 101 at 2-3 (Lotte Mot. Dismiss, July 17, 2013); *see also* RA, tab 137 at 6 (Lotte Mot. for Sanctions, Aug. 8, 2013) ("DFS waited until [the Airport Authority] announced that Lotte was the most qualified proposer to issue its original Protest, despite having known of the alleged facts supporting its protest over six months before."). The Airport Authority did not respond to any of DFS's protests or letters until May 17, 2013, when it denied the protest.

[4] On Saturday, May 18, 2013, one day after denying DFS's protest, the Airport Authority entered into a concession contract with Lotte. DFS filed another protest on May 29, 2013, and on May 30, 2013, DFS filed an appeal with the Office of Public Accountability ("OPA") regarding the Airport Authority's denial of its bid protest, as well as a complaint in the Superior Court that sought an injunction to prevent the Airport Authority from requiring DFS to vacate the Airport premises. On June 7, 2013, DFS filed another bid protest with the Airport Authority. Thereafter, on July 2, 2013, DFS filed its First Amended Complaint.

[5] On July 15, 2013, DFS filed in the Superior Court an application for temporary restraining order/preliminary injunction ("TRO/PI") seeking to prevent Lotte from moving into the Airport retail space. The trial court held a hearing on the issue on July 17, 2013, and on July 19, 2013, it issued a decision and order dismissing the action, finding that it lacked subject matter jurisdiction as DFS had failed to exhaust its administrative remedies. After determining that it lacked subject matter jurisdiction to review the case, the trial court stated:

> The court's review of the arguments, assertions, rules and revelations made by the parties reveals an apparent administrative duty to impose the automatic stay mandated by Section 5425 of Title 5 of the Guam code. At the hearing the Parties conceded to the timeliness of the Plaintiff's last two protests. However such an action is not before this court. Neither is the question of whether a party, entitled to an automatic stay pursuant to 5425, may avail itself of the courts to enforce the stay by way of writ.

RA, tab 109 at 6-7 (Dec. & Order, July 19, 2013). This language forms the basis of the present appeal. The Airport Authority and Lotte separately filed a motion to reconsider and a motion to correct, respectively, relative to the trial court's July 19, 2013 Decision and Order. The trial court denied the Airport Authority's motion for reconsideration and Lotte's motion for correction of this language, reiterating that "although the Court's discussion at the end of its decision was the result of a careful consideration of the facts placed before it by the Parties as the Court indicated in its July 19, 2013 decision, the matters discussed were not before it." RA, tab 168 at 10 (Dec. & Order, Oct. 10, 2013).

[6] The trial court's October 10, 2013 Decision and Order also denied the Airport Authority and Lotte's motions for sanctions against DFS, which forms the second ground for this appeal. The Airport Authority argued that sanctions were warranted under Rule 11 of the Guam Rules of Civil Procedure ("GRCP"), because DFS knew or should have known that the trial court did not

have jurisdiction over its case and filed frivolous allegations in its complaints for the improper purpose of publicity.

[7] Lotte and the Airport Authority filed their respective notices of appeal before a judgment was entered on the trial court docket, and this court consolidated the appeals and expedited briefing and disposition of the appeal. On February 4, 2014, the trial court entered a judgment in this case.

II. JURISDICTION

[8] This court has jurisdiction over this appeal pursuant to 7 GCA § 25102(f). Section 25102(f) provides for appellate jurisdiction over "an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction." 7 GCA § 25102(f) (2005). In its July 19, 2013 Decision and Order the trial court refused to grant the injunction that DFS sought; thus, we have jurisdiction to hear this appeal.

[9] While it is generally true that "winning litigants do not have the right, by way of appeal, to dictate the precise language on how they win," DFS Br. at 25 (Feb. 14, 2014), this appeal presents a different question. Appellate courts have taken jurisdiction over such claims when a trial court acted in excess of its jurisdiction even when the appellant is a party who obtained a favorable outcome below. *See, e.g., Envtl. Prot. Info. Ctr., Inc. v. Pac. Lumber Co.*, 257 F.3d 1071, 1074-77 (9th Cir. 2001) (prevailing party had standing to appeal statements of fact and law in trial court decisions that were made after that court lost jurisdiction); *see also N.J. Dep't of Envtl. Prot. & Energy v. Heldor Indus. Inc.*, 989 F.2d 702, 704-09 (3d Cir. 1993). Because DFS spent a substantial amount of time on this argument in its briefs and at oral argument, we will analyze this issue in more detail below.

III. STANDARD OF REVIEW

[10] We review a trial court's denial of a motion for reconsideration for an abuse of discretion. *See, e.g., Ward v. Reyes*, 1998 Guam 1 ¶ 10. Similarly, trial court orders regarding sanctions are reviewed for an abuse of discretion. *See, e.g., In re Dissolution of Oka Towers Corp.*, 2000 Guam 16 ¶ 7. We find an abuse of discretion where the trial court's decision "is based on an erroneous conclusion of law or where the record contains no evidence on which the judge could have rationally based the decision." *Town House Dep't Stores, Inc. v. Ahn*, 2003 Guam 6 ¶ 27. Legal issues are reviewed *de novo*. *See, e.g., Mack v. Davis*, 2013 Guam 13 ¶ 11.

IV. ANALYSIS

[11] The two issues on appeal are (1) whether the trial court erred in denying a motion for reconsideration to delete its statements regarding conceding the issue of timeliness and the applicability of an administrative stay; and (2) whether the trial court erred in refusing to impose sanctions against DFS. Before reaching these substantive questions, we must first determine whether the Airport Authority and Lotte have standing to bring this appeal.

A. Whether the Airport Authority and Lotte Have Standing to Appeal the Trial Court's Statements

[12] DFS argues that we have no jurisdiction over this appeal because the Airport Authority and Lotte prevailed below. *See* DFS Br. at 24-29. DFS cites many cases to support this general maxim that "winning litigants do not have the right, by way of appeal, to dictate the precise language on how they win," DFS Br. at 25. However, each of the cases is distinct from this case, because in each cited case the trial court had proper jurisdiction and made a determination on the merits, at which point the prevailing party appealed to shape the means of its victory on the merits. *See, e.g., Abbs v. Sullivan*, 963 F.2d 918, 922 (7th Cir. 1992) (addressing a trial judge's

summary judgment decision). This case has not yet reached the merits, and indeed the trial court did not have jurisdiction to address the merits. The Airport Authority and Lotte are not appealing dicta in an otherwise proper trial court decision; rather, they appeal "rulings in excess of the court's subject matter jurisdiction." Airport Authority Br. at 26 (Feb. 7, 2014). Appellate courts have taken jurisdiction over such claims even when the appellant is a party who obtained an otherwise favorable outcome below. *See, e.g.*, *Pac. Lumber*, 257 F.3d at 1074-77 (prevailing party had standing to appeal statements of fact and law in trial court decisions that were made after that court lost jurisdiction); *see also Heldor*, 989 F.2d at 704-09.

[13] *Pacific Lumber* persuasively determined that a trial court acting in excess of its jurisdiction may harm a party that otherwise prevailed in the case and stressed that "dicta entered after a court has lost jurisdiction over a party inflicts a wrong on that party of a different order than that which exists in the usual case of extraneous judicial pronouncement." *Pac. Lumber*, 257 F.3d at 1077. This is a very narrow ground for appeal, and it does not provide prevailing parties with appellate standing to amend the means of their victory where a trial court had jurisdiction and properly reached the merits of a case.

[14] DFS attempts to distinguish *Pacific Lumber* by noting that the trial court in that case entered an order weeks after it found that it lacked jurisdiction, whereas the trial court in this case made statements concerning the merits in the same order in which it found no jurisdiction. DFS Br. at 28-29. This is not a relevant distinction, because "[w]ithout jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (quoting

Ex parte McCardle, 74 U.S. 506, 514 (1868)). Though the trial court's actions in this case were certainly not as egregious as those in *Pacific Lumber*, including a statement in excess of jurisdiction in the same order finding no jurisdiction cannot convert an otherwise erroneous action into a proper one. Because the trial court's allegedly *ultra vires* statements occurred after it had properly determined that it lacked jurisdiction, the appellate jurisdiction basis of *Pacific Lumber* and *Heldor* applies.

B. Whether the Trial Court Erred in Denying Motions for Reconsideration to Remove its Statements

[15] In its July 19, 2013 Decision and Order, the trial court made two statements with which the Airport Authority and Lotte take issue. First, after determining that it did not have subject matter jurisdiction to hear the case, the trial court stated, "The court's review of the arguments, assertions, rules and regulations made by the parties reveals an apparent administrative duty to impose the automatic stay mandated by Section 5425 of Title 5 of the Guam [C]ode." RA, tab 109 at 6 (Dec. & Order, July 19, 2013). Second, the court stated that "[a]t the hearing the Parties conceded to the timeliness of the Plaintiff's last two protests." *Id.* The Airport Authority and Lotte seek removal of these sentences from the trial court's decision and order dismissing the case for lack of subject matter jurisdiction. All parties—including DFS and the trial court itself—agree that the factual question of protest timeliness was not before the trial court when it made the statement regarding the purported concession. *See* DFS Br. at 48; RA, tab 109 at 6 (Dec. & Order, July 19, 2013); RA, tab 168 at 10 (Dec. & Order, Oct. 10, 2013).

[16] Lotte and the Airport Authority argue that the trial court abused its discretion in denying the motions for reconsideration or correction under GRCP 60 and that its denial of those motions with regard to the two statements at issue should be reversed. GRCP 60(a) provides a means for

correcting "[c]lerical mistakes in judgments, orders or other parts of the record." Guam R. Civ. P. 60(a). GRCP 60(b) provides for reconsideration of a "final judgment, order, or proceeding" only in cases of (1) "mistake . . . or excusable neglect," (2) "newly discovered evidence," (3) "fraud . . . misrepresentation, or other misconduct of an adverse party," (4) a void judgment, (5) a satisfied, released, or discharged judgment, or (6) where there is "any other reason justifying relief from the operation of the judgment." Guam R. Civ. P. 60(b)(1)-(6). The final provision—"any other reason justifying relief"—has been deemed "extraordinary relief," and we have insisted upon a "showing of exceptional circumstances." *Parkland Dev., Inc. v. Anderson*, 2000 Guam 8 ¶ 6.

1. Rule 60(a) of the Guam Rules of Civil Procedure

[17] Lotte appeals the trial court's denial of its GRCP 60 motion for correction.[2] Lotte argues that it had neither the opportunity (because timeliness was raised for the first time in DFS's reply) nor the ability (because the Airport Authority retains the power to determine the timeliness of protests lodged) to concede the timeliness of DFS's protests, so the trial court clearly erred in making its statement. Lotte Br. at 9-12 (Feb. 7, 2014). Lotte proceeds to argue that this error cannot go uncorrected because of the power of concessions in the law and the possibility that the OPA may base a decision on timeliness on the trial court's statement. *Id.* at 13-16. DFS counters that the trial court's statement was not clearly erroneous, because the Airport Authority and Lotte were silent on the issue of timeliness below. DFS Br. at 29-34. DFS also rebuts

[2] Lotte's motion is styled a "Motion for Corrections," but it purported to base its claims on GRCP 60(a), (b), and the trial court's inherent authority. *See* RA, tab 128 at 1 (Lotte's Mot. for Corrections, July 29, 2013). However, the foundation for Lotte's argument for correction was that "Lotte believes [the statements] were the result of unintentional oversight," *id.* at 2, which is a GRCP 60(a) rationale. Accordingly, we address its motion for correction under GRCP 60(a).

Lotte's argument regarding the OPA's review of the statement by stressing that the statement is merely dicta and not a conclusive, binding adjudication. *Id.* at 45-48.

[18] GRCP 60(a) allows trial courts to correct "clerical mistakes" and "errors [within judgments, order, or other parts of the record] arising from oversight or omission." Guam R. Civ. P. 60(a). By its plain language, GRCP 60(a) does not provide for substantive changes to an order; indeed, if the argued-for correction could affect substantive rights, it is beyond the scope of GRCP 60(a). *See, e.g.*, *In re W. Tex. Mktg. Corp. v. Kellogg*, 12 F.3d 497, 504 (5th Cir. 1994) (addressing the identically-phrased FRCP 60(a)). Lotte's arguments for why the statements should be excised are founded on concerns that the statement will affect substantive rights in future proceedings. Lotte Br. at 13-29. Furthermore, it is clear from the trial court's language—in its initial decision and order as well as its October 10, 2013 Decision and Order—that the statement's inclusion in the order was neither a clerical mistake nor the result of "oversight or omission." RA, tab 168 at 10 (Dec. & Order, Oct. 10, 2013). Therefore, because the change that Lotte requested is not within the scope of GRCP 60(a), the trial court did not abuse its discretion in denying Lotte's motion for correction.

2. Rule 60(b) of the Guam Rules of Civil Procedure

[19] The Airport Authority moved the trial court, pursuant to GRCP 59(e) and 60(b), to reconsider and correct statements in its July 19, 2013 Decision and Order that "exceed[ed] the [c]ourt's jurisdiction, [were] based on a mistake of fact, and result[ed] in the clearly erroneous application of Guam law." RA, tab 122 at 3 (GIAA Mem. P. & A. in Supp. of Mot. Recons., July 26, 2013).

[20] Motions for reconsideration under GRCP 60(b) do not allow altering the language of an order; rather, all of the enumerated reasons for reconsideration result in relief from the judgment or order. *See* Guam R. Civ. P. 60(b). As the section states: "On motion and upon such terms as are just, the court may relieve a party . . . from a final judgment, order, or proceeding." *Id.* GRCP 60(b) makes no mention of amending or deleting language in an order. The Airport Authority and Lotte did not seek relief from the judgment/order below, because that judgment was in their favor and dismissed the case. Thus, as we have stated, "Rule 60(b) is inapplicable where the appealing party . . . is not seeking complete relief" from the judgment or order disputed and instead seeks only to amend the judgment or order. *Sananap v. Cyfred, Ltd.*, 2011 Guam 21 ¶ 20.

3. Rule 59(e) of the Guam Rules of Civil Procedure

[21] GRCP 59(e) provides for motions to "alter or amend a judgment." Guam R. Civ. P. 59(e). Motions brought under GRCP 59(e) are examined under court-created standards, because unlike GRCP 60(b), GRCP 59(e) does not explicitly provide the grounds for granting such a motion. Under the GRCP 59(e) standard, "[m]otions for reconsideration are appropriate where the trial court: (1) is presented with new evidence; (2) committed clear error or the decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *Rong Chang Co., Ltd. v. M2P, Inc.*, 2012 Guam 1 ¶ 16 (quoting *Ward*, 1998 Guam 1 ¶ 10). Though GRCP 59(e) by its terms applies only to judgments, and the Airport Authority moved to reconsider a decision and order, this court has not held "that a trial court acts erroneously if it chooses to entertain a GRCP 59(e) motion, which concerns a decision rather than a judgment." *Id.* ¶ 20 n.3. We have,

however, stressed that GRCP 59(e) is an "extraordinary remedy, to be used sparingly." *Guam Bar Ethics Comm. v. Maquera*, 2001 Guam 20 ¶ 9 (citation omitted).

[22] The Airport Authority's motion to reconsider did not present new evidence nor was there an intervening change in law between the trial court's July 19, 2013 Decision and Order and the Airport Authority's motion for reconsideration. Thus, only the second prong of the GRCP 59(e) standard—clear error or manifest injustice—is potentially implicated in this case. Clear error is found where the appellate court determines that a trial court could not rationally have decided as it did. *See, e.g., Craftworld Interiors, Inc. v. King Enters., Inc.*, 2000 Guam 17 ¶ 6.

[23] The trial court's statements were clear error, because the trial court could not rationally have believed that it had jurisdiction to make such statements—indeed, it is uncontroverted that the trial court knew it did not have jurisdiction. *See, e.g.*, RA, tab 168 at 10 (Dec. & Order, Oct. 10, 2013) (refusing to delete the offending sentences even though "the matters discussed [in the sentences] were not before" the court). The parties squabble over whether to term the trial court's statements as "findings," *see* Airport Authority Br. at 23, or as "factual observations," *see* DFS Br. at 43. Ultimately, it does not matter how we label the trial court's statements, because without jurisdiction a trial court does not have the power to decide or opine on any merits issue—whether legal or factual—and indeed should not address the merits at all. *See, e.g., Pan Tech Mgmt. Corp. v. U.S. Dep't of Hous. & Urban Dev.*, 788 F. Supp. 152, 153 n.2 (E.D.N.Y. 1992) ("[I]n light of the Court's finding that it lacks subject matter jurisdiction [due to failure to exhaust administrative remedies] . . . it cannot address the merits of plaintiff's claims."); *Smith v. Gary Pub. Transp. Corp.*, 893 N.E.2d 1137, 1140 (Ind. Ct. App. 2008) ("[B]ecause the trial court lacked subject matter jurisdiction it could not address the merits of the case . . . ."); *Scalise v. E.*

Greyrock, LLC, 85 A.3d 7, 11 (Conn. App. Ct. 2014) ("[A] court lacks discretion to consider the merits of a case over which it is without jurisdiction"); *Chelf v. State*, 263 P.3d 852, 858 (Kan. Ct. App. 2011) ("If a trial court determines that it lacks subject matter jurisdiction, it has absolutely no authority to reach the merits of the case."). Accordingly, the trial court clearly erred in refusing to grant the Airport Authority's motion to reconsider.[3]

[24] Because the trial court had no jurisdiction to address the merits, we need not reach the question of whether its statements regarding timeliness concessions were correct based on facts in the record.

C. Whether the Trial Court Erred in Denying the Airport Authority's Motion for Sanctions

[25] The second issue on appeal is whether the trial court erred—either procedurally or substantively—when it denied the Airport Authority's motion for sanctions against DFS.[4] The Airport Authority makes two distinct arguments on this question. First, the Airport Authority argues that the trial court's decision "was so devoid of any reasoning that it is impossible for this Supreme Court to conduct effective appellate review." Airport Authority Br. at 32. Accordingly, the Airport Authority urges this court to vacate and remand the question of sanctions back to the trial court to reconsider the issue and give a reasoned basis for its decision

[3] The Airport Authority also argues that "[b]y making factual findings regarding DFS's pending protests, the Superior Court violated [the Airport Authority] and the Territory of Guam's sovereign immunity, violated the Procurement Law, and usurped the functions of [the Airport Authority]'s Executive Manager and the OPA." Airport Authority Br. at 16-17. However, sovereign immunity is not implicated in this case. As part of the statute establishing the Airport Authority and its powers, 12 GCA § 1105(h) provides that the Airport Authority may "sue or be sued in its own corporate name." 12 GCA § 1105(h) (2005). We have previously deemed such language sufficient to waive sovereign immunity. *See Guam Econ. Dev. Auth. v. Island Equip. Co.*, 1998 Guam 7 ¶¶ 8-9, 14. Because we hold that the Airport Authority was correct that the statements should be removed from the trial court's decision and order, we will not analyze this issue in greater detail.

[4] Lotte also filed a motion for sanctions, RA, tab 137 (Lotte Mot. for Sanctions, Aug. 8, 2013), but Lotte does not argue the denial of sanctions in its briefs on appeal. *See generally* Lotte Br.; Lotte Reply Br. (Feb. 19, 2014). For that reason, we will address the Airport Authority's arguments on the sanctions question.

to grant or deny sanctions. *Id.* at 34. Second, the Airport Authority addresses the merits of the sanctions question and argues that the trial court abused its discretion in refusing to levy sanctions. *Id.* In support of this contention, the Airport Authority argues that DFS knew or should have known that its filing was frivolous due to a clear lack of subject matter jurisdiction and that DFS filed the complaint for improper purposes. *Id.* at 34-41.

1. Whether the trial court provided sufficient reasoning for appellate review

[26] Because the Airport Authority first challenges the sufficiency of the trial court's reasoning, it is worthwhile to quote fully from the October 10, 2013 Decision and Order on this issue. After detailing the facts, arguments, and legal standards regarding sanctions, the trial court stated:

> Upon review of the facts asserted by Defendants as described above and the papers and pleadings in the file herein the Court is not persuaded that under the authorized standards that a finding allowing for an order of sanctions is merited. As to the Court's inherent power, Defendants have asserted no fact evincing willful bad faith or sufficiently intimating recklessness. Similarly under a Rule 11 analysis the Court is not persuaded that Plaintiff's actions, pleading and papers evince or intimate an improper purpose, frivilousness [sic], or that fall outside the standards of reasonableness identified by the rule.

RA, tab 168 at 8 (Dec. & Order, Oct. 10, 2013).

[27] The Airport Authority argues that this paragraph is insufficient for this court to conduct meaningful appellate review. Airport Authority Br. at 34. In support of this contention, it cites one case that included a statute that required more detailed explanation than is required here, *Thompson v. RelationServe Media, Inc.*, 610 F.3d 628, 637-38 (11th Cir. 2010) (dealing with the Private Securities Litigation Reform Act), one case in which the trial court denied sanctions merely by stating it "remain[ed] unwilling to award sanctions in this matter," *Trulis v. Barton*, 107 F.3d 685, 695-96 (9th Cir. 1995), and two cases that did not involve sanctions and instead

decided motions with no reasoning whatsoever in causes with numerous factual and legal arguments, *Myers v. Gulf Oil Corp.*, 731 F.2d 281, 284 (5th Cir. 1984); *Danley v. Allen*, 480 F.3d 1090, 1091 (11th Cir. 2007). The Airport Authority cites to no case in which an appellate court found comparable analysis insufficient.

[28] Here, the trial court carefully set out the parties' arguments regarding sanctions, examined the Rule 11 and inherent power sanctions standards, and concluded that it was "not persuaded that under the authorized standards that a finding allowing for an order of sanctions is merited." RA, tab 168 at 2-3, 8 (Dec. & Order, Oct. 10, 2013). The trial court's analysis is more thorough than any case the Airport Authority cites, and it is sufficient for our appellate review.

2. Whether the trial court erred by refusing to impose sanctions under Rule 11 or its inherent authority

[29] Because the trial court's analysis was sufficient for appellate review, we must determine whether the trial court abused its discretion in denying the motion for sanctions. A trial court abuses its discretion on a sanctions decision "when it bases its decision on an erroneous view of the law or on a clearly erroneous assessment of the evidence." *Trans Pac. Export Co. v. Oka Towers Corp.*, 2000 Guam 3 ¶ 37. Appellate courts have rightly stressed that GRCP 11 is designed to vest trial courts with wide discretion in sanction decision-making. *See, e.g.*, *Perez v. Posse Comitatus*, 373 F.3d 321, 325-26 (2d Cir. 2004) (examining FRCP 11, on which GRCP 11 is based). In reviewing the denial of a sanctions motion, a trial judge "is entitled not only to the ordinary deference due the trial judge, and additional deference in the entire area of sanctions, but extraordinary deference in denying sanctions." *Anderson v. Bos. Sch. Comm.*, 105 F.3d 762, 768 (1st Cir. 1997). The court's inherent power to sanction affords the trial court even more

discretion and requires a higher threshold of misconduct. *See, e.g.*, *Peer v. Lewis*, 606 F.3d 1306, 1314-15 (11th Cir. 2010).

[30] In this case, the trial court heard full briefing and argument on the jurisdictional question after it was raised by Lotte in its motion to dismiss. The trial court then issued a reasoned decision and order in which it found no jurisdiction. RA, tab 109 (Dec. & Order, July 19, 2013). Nothing in the language of this decision and order hinted at DFS's complaint being frivolous; rather, the trial court interpreted related statutory sections together to conclude that DFS had not exhausted its administrative remedies as it was required to do. *Id.* at 5-6.

[31] DFS argued that Guam's statutory scheme allowed it to choose between taking its protest to the Superior Court or to the OPA after the Airport Authority had denied its initial protest. *See* DFS Br. at 64. This argument requires reading "final administrative decision" in 5 GCA § 5481(a) to mean an agency's protest decision rather than a decision from the OPA. 5 GCA § 5481(a) (2005). The trial court was not persuaded by this argument, *see* RA, tab 109 at 4-6 (Dec. & Order, July 19, 2013), but there is a significant difference between a weak or unpersuasive argument and one that is sanctionably frivolous. *See, e.g.*, *Rodick v. City of Schenectady*, 1 F.3d 1341, 1350-51 (2d Cir. 1993). The trial court sat in the best position to review DFS's arguments, and we cannot say that it abused its discretion in finding that the arguments were not frivolous. Therefore, we affirm the trial court's decision not to impose sanctions under GRCP 11.

[32] An even greater showing—bad faith—is required for an exercise of a trial court's inherent power to sanction. *See, e.g.*, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 46-49 (1991). As with GRCP 11, the trial court considered its inherent authority and the requirement of bad faith and determined that the Airport Authority had "asserted no fact evincing willful bad faith or

sufficiently intimating recklessness." RA, tab 168 at 8 (Dec. & Order, Oct. 10, 2013). The trial court did not abuse its discretion in denying sanctions under the more exacting standard required for the inherent power to sanction.

[33] Because the trial court did not abuse its discretion when it refused to impose sanctions, we need not address DFS's disputed, fact-intensive arguments regarding the Airport Authority's failure to satisfy GRCP 11's procedures.

V. CONCLUSION

[34] The trial court should not have addressed the merits once it determined that it lacked subject matter jurisdiction. The statements it made were in excess of its authority, and it was clearly erroneous not to remove the statements upon the Airport Authority's motion for reconsideration. Accordingly, we reverse the trial court's denial of the motion for reconsideration under GRCP 59(e).

[35] On the question of sanctions, the trial court provided sufficient reasoning for meaningful appellate review. The court set out the facts, cited the relevant legal standards, and concluded that sanctions were not warranted. In light of the court's treatment of the issues and the content of DFS's First Amended Complaint, the trial court did not abuse its discretion in refusing to impose sanctions against DFS. We affirm the trial court's denial of the Airport Authority's motion for sanctions.

[36] Therefore, we **REVERSE** in part, **AFFIRM** in part, and **REMAND** this case with instructions for the trial court to delete at least the following statements from its July 19, 2013 Decision and Order, which were made after the trial court held that it lacked subject matter jurisdiction to hear the case: "The court's review of the arguments, assertions, rules and

revelations made by the parties reveals an apparent administrative duty to impose the automatic stay mandated by Section 5425 of Title 5 of the Guam code. At the hearing the Parties conceded to the timeliness of the Plaintiff's last two protests."

Original Signed By: Katherine A. Maraman

KATHERINE A. MARAMAN
Associate Justice

Original Signed By Alberto E. Tolentino

ALBERTO E. TOLENTINO
Justice *Pro Tempore*

Original Signed By: F. Philip Carbullido

F. PHILIP CARBULLIDO
Presiding Justice