

7 GCA CIVIL PROCEDURE
CH. 25 APPEALS IN CIVIL ACTIONS

CHAPTER 25
APPEALS IN CIVIL ACTIONS

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ARTICLE 1
APPEALS IN GENERAL

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§ 25101. Judgments and Orders may be Reviewed.

A judgment, order, or decree in a civil action, except when expressly made final by this Title, may be reviewed as prescribed in this Chapter.

SOURCE: CCP § 936.

NOTE: See *Corn v. Guam Coral*, (1963) 318 F.2d 622; *Bank of America v. Webster*, 439 F.2d 691 (1971); *People v. Olsen*, 431 U.S. 195, 97 S.Ct. 1774 (1977). See **Note** preceding this Title.

§ 25102. Appealable Actions or Proceedings.

An appeal in a civil action or proceeding may be taken from the Superior Court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment other than as provided in subdivisions (h), (i) and (j); [and] (2) a judgment of contempt which is made final and conclusive by § 34106 of this Title (Contempts).

(b) From an order made after a judgment made appealable by subdivision (a);

(c) From an order granting a motion to quash service of summons;

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(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict;

(e) From an order discharging or refusing to discharge an attachment;

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction;

(g) From an order appointing a receiver;

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereof, determining such right to redeem and directing an accounting;

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made;

(j) From an interlocutory decree of divorce; [and]

(k) From an order or decree made appealable by the provisions of the Probate Code (Title 15 of this Code).

SOURCE: CCP § 936.1 added by P.L. 12-85 (1974) [The Court Reorganization Act of 1974].

§ 25103. Orders made out of Court, without notice, may be reviewed by the Judge.

An order made out of court, without notice to the adverse party, may be vacated or modified, without notice, by the judge who made it; or may be vacated or modified on notice, in the manner in which other motions are made.

SOURCE: CCP § 937.

§ 25104. Party Aggrieved may Appeal.

Any party aggrieved may appeal in the cases prescribed in this Chapter. The party appealing is known as the *appellant*, and the adverse party as the *respondent*.

SOURCE: CCP § 938.

NOTE: CCP § 939, *Time when appeal may be taken*, was repealed by P.L. 13-156:1. In its place, P.L. 13-156:2 amends Rule 2 of the Appellate Rules of Court, which reads:

Rule 2. Appeal to Appellate Court.

A. When and How Taken. When an appeal is permitted by law from the Superior Court to the Appellate Court, the time within which an appeal

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may be taken shall be thirty (30) days from the date of the signing of the judgment or order if the parties are present at the time the judgment is signed. If the parties are not present, and notice of the rendition of the judgment is transmitted to the parties, the time for filing the notice of appeal shall commence from the date the appealing party was given notice of the rendition of the judgment appealed.

There has been some discussion to the effect that only the District Court can set the time for filing an appeal, as this is a matter of procedure not within the power of the government of Guam to determine. However, the District Court provides for the same time period as does this Rule, so there is no conflict at this time (6/18/90).

§ 25105. If a Person Appealing Dies.

In the event of the death of any person having at his death a right of appeal, the attorney of record representing the decedent in the court in which the judgment was rendered may appeal therefrom at any time before the appointment of an executor or an administrator of the estate of the decedent.

SOURCE: CCP § 941.

NOTE: CCP § 942 has been superseded by Rule 65 of the GRCP and, therefore, will not appear here.

§ 25106. When an Appeal May and May not be Dismissed.

If the appellant appeals on trivial and frivolous grounds, or if he appeals on the grounds of newly discovered evidence and is unable to present it upon the hearing, the appeal may be dismissed.

SOURCE: CCP § 944.

§ 25107. Effect of Dismissal.

The dismissal of an appeal is in effect an affirmance of the judgment or order appealed from, unless the dismissal is expressly made without prejudice to another appeal.

SOURCE: CCP § 945.

NOTE: The CCP contained no § 946 or § 947.

§ 25108. Lower Courts to Give Effect to Supreme Court Orders.

Any order or judgment issued by the Supreme Court in a case reviewed by it, on appeal or otherwise may be certified to the Superior Court to be attached to the record of the case, and the Superior Court shall give immediate effect to such order or judgment, certified to it.

SOURCE: CCP § 948; amended by P.L. 12-85.

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NOTE: This section is affected by the *Olsen* decision. See Note to § 25101. There is now no Supreme Court of Guam, but see Part 1 of this Title. The former section, referring to the District Court, reads:

Any order or judgment issued by the District Court in a case reviewed by it, on appeal or otherwise, may be certified to the Superior Court to be attached to the record of the case, and the Superior Court shall give immediate effect to such order or judgment certified to it.

Island Court has been changed to *Superior Court* pursuant to those portions of P.L. 12-85 which remain valid, namely, those portions which reorganize the trial court of Guam.

§ 25109. Remedial Powers of the Supreme Court.

When the judgment or order is reversed or modified, the Supreme Court may make complete restitution of all property and rights lost by the erroneous judgment or order, so far as such restitution is consistent with protection of a purchaser of property at a sale ordered by the judgment, or had under process issued upon the judgment, on the appeal from which the proceedings were not stayed; and for relief in such cases the appellant may have his action against the respondent enforcing the judgment for the proceeds of the sale of the property, after deducting therefrom the expenses of sale. When it appeals to the Supreme Court that the appeal was made for delay, it may add to the costs such damages as may be just.

SOURCE: CCP § 949 amended by P.L. 12-85.

NOTE: This section, likewise, has been rendered null and void, at least with respect to the Supreme Court, by the *Olsen* decisions. But see Part 1 of this title regarding the new Supreme Court of Guam. Former § 949 reads the same as does this section, except that the former section refers to the District Court. Because of the *Olsen* decision, the former section, with its reference to the District Court, has been reactivated, at least until the implementation of the new Supreme Court..

ARTICLE 2
APPEALS TO THE APPELLATE COURT

- § 25201. When an Appeal may be Taken.
- § 25202. Appeals by Executors, etc.
- § 25203. Acts of Executors, etc., where Appointment Vacated.
- § 25204. How Appeal is Perfected.

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§ 25201. When an Appeal may be Taken.

An appeal to the Supreme Court may be taken from the Superior Court in any case in which the Supreme Court has jurisdiction as set forth in § 2202 of this Title.

SOURCE: CCP § 963 amended by P.L. 9-256 and P.L. 12-85. Because of the *Olsen* case, references here must necessarily refer to the Appellate Division of the District Court of Guam until the new Supreme Court is implemented.

NOTE: No § 964 is contained in the original Code of Civil Procedure.

§ 25202. Appeals by Executors, etc.

When an executor, administrator, or guardian, who has given an official bond, appeals from a judgment or order of the Superior Court made in the proceedings had upon the estate of which he is executor, administrator, or guardian, his official bond shall stand in the place of an undertaking an appeal; and the sureties thereof shall be liable as on such undertaking.

SOURCE: CCP § 965.

§ 25203. Acts of Executors, etc., where Appointment Vacated.

When the judgment or order appointing an executor or administrator or guardian is reversed on appeal, for error, and not for want of jurisdiction of the court, all lawful acts in administration upon the estate performed by such executor or administrator or guardian, if he had qualified, are as valid as if such judgment or order had been affirmed.

SOURCE: CCP § 966.

§ 25204. How Appeal is Perfected.

An appeal from the Superior Court is taken and perfected by filing with the clerk of the court a written notice stating the appeal from the judgment, order, or decree, or some specific part thereof, within the time limit prescribed by Rule 2 of the Appellate Rules of Court, and by giving a bond with sufficient surety, to be approved by the judge of the Superior Court, in the sum of Two Hundred Dollars (\$200.00) condition for the payment of all such costs and fees in the actions as may be awarded against the appellant.

SOURCE: CCP § 967.

NOTE: CCP § 969 and § 970 have been repealed by P.L. 12-85.
