

**IN THE SUPREME COURT OF GUAM**

**SEAFOOD GROTTO**

Plaintiff-Appellee

**vs.**

**ROBERTO A. LEONARDI**

Defendant-Appellant

**OPINION**

Supreme Court Case No. CVA97-044

Superior Court Case No. CV0722-97

**Filed: December 3, 1999**

**Cite as: 1999 Guam 30**

Appeal from the Superior Court of Guam  
Submitted on the briefs on January 25, 1999  
Hagåtña, Guam

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BEFORE: BENJAMIN J. F. CRUZ, Chief Justice, PETER C. SIGUENZA and JOHN A. MANGLONA, Associate Justices.

**CRUZ, C.J.:**

[1] This case arose as an unlawful detainer action where the parties had settled a majority of the issues out of court. The sole issue presented to the trial court involved the matter of attorney's fees which the court granted to each of the parties. The Defendant-Appellant challenges the trial court's ruling based upon this court's decision in *Archbishop of Guam v. G.F.G. Corp.*, 1997 Guam 12. We affirm the trial court's ruling.

**FACTUAL AND PROCEDURAL BACKGROUND**

[2] On January 16, 1996, the Defendant-Appellant Roberto Leonardi (hereinafter "Leonardi") signed a contract stating that he would take over the leasehold between Plaintiff-Appellee Seafood Grotto (hereinafter "Seafood") and its former tenant Joseph Vitale (hereinafter "Vitale"). Both Seafood and Vitale also signed this contract. By May 5, 1997, Seafood presented Leonardi with a Notice to Pay Rent or Quit Premises in the amount of \$38,500.00 for back rent and related fees. On May 15, 1997, Leonardi paid Seafood \$21,390.00 in satisfaction of his contractual obligation. On May 28, 1997, Seafood acknowledged this payment; however, it continued to insist that Leonardi still owed \$14,410.00 in back rent and related costs. The parties eventually brought the matter to court.

[3] At the parties' first court appearance on June 13, 1997, Seafood clarified that Leonardi now only owed \$14,830.00 for the May 1997 and June 1997 rent. By the next hearing on June 19, 1997,

both parties concurred that Leonardi had paid Seafood \$14,830.00. As a result, the trial court was presented with the sole issue of attorney's fees.

[4] During the court hearings, Leonardi's counsel made several arguments against awarding Seafood its attorney's fees, including that Seafood's Notice to Pay Rent contained an inflated amount and was, therefore, fraudulent, that Seafood did not have a valid business license, and that Seafood should only be compensated for the time it spent obtaining the last two months' late rent. The trial court stated that it typically grants attorney's fees to any prevailing party in an unlawful detainer action<sup>1</sup> and added that it generally grants all attorney's fees to the lessor as soon as rent is overdue, regardless of the length of time during which rent goes unpaid. In this case, the trial court awarded both parties attorney's fees based on the billings submitted pursuant to the court's request.<sup>2</sup> Seafood was awarded \$5,352.10; Leonardi received \$500.00 based upon a Rule 11 sanction against Seafood's attorney for not having signed the complaint on two occasions. The trial court ordered the net amount of \$4,832.10 to be paid by Leonardi within ten days.

[5] Leonardi filed a Notice of Appeal on October 10, 1997 and additionally a Rule 60(b) motion before the trial court. This court ordered the matter remanded to the trial court on March 31, 1998 for a determination on the Rule 60(b) motion in order to avoid unnecessary review. Leonardi argued that Seafood was not properly licensed and that Leonardi had already overpaid on any amount due. The trial court held that Leonardi should have pled these affirmative defenses in his original answer.

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<sup>1</sup>Transcript, vol. II, pp. 29-30 (Unlawful detainer hearing, June 19, 1997). Several courts award attorney's fees to the prevailing party. See *Taijeron v. Kim*, 1999 Guam 16, ¶ 28; *La Londe v. Davis*, DCA No. 87-00045A, 1988 WL 242600 at \*4 (D. Guam Ap. Div. June 7, 1988).

<sup>2</sup>Transcript, vol. II, p. 42 (Unlawful detainer hearing, June 19, 1997).

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Having failed to do so, the trial court found the issues to have been waived and, in a procedural ruling dated July 16, 1998, denied the motion. Based upon the trial court's ruling, this appeal proceeded and was subsequently submitted on the briefs on January 25, 1999.

### DISCUSSION

[6] The court has jurisdiction over this matter pursuant to 7 GCA §§ 3107 and 3108(a) (1994). Leonardi raises two issues on appeal. First, he contends that the trial court erred in awarding attorney's fees to Seafood based upon this court's ruling in *Archbishop*, 1997 Guam 12. Next, he argues that the trial court erred in only awarding him \$500.00 in attorney's fees. Leonardi requests that the matter be reversed and remanded and that he be awarded his costs associated with the suit below as well as the costs associated with the instant appeal. The court reviews the interpretation of an unambiguous contractual provision *de novo*. *Cooperative Finance Assoc., Inc. v. Garst*, 927 F.Supp. 1179, 1187 (N.D. Iowa, 1996); *see Camacho v. Camacho*, 1997 Guam 5, ¶ 24 (questions of law are reviewed *de novo*).

[7] Leonardi contends that the trial court's ruling must be reversed for failing to follow the law in *Archbishop*. In *Archbishop*, the court ruled that the plaintiff could not be awarded a payment of sixteen months' unpaid rent when the relevant law, 21 GCA § 21103, only allowed for a maximum payment of one year's rent. *Archbishop* at ¶ 11. The court held that Guam's law on unlawful detainers, 21 GCA § 21103, must be followed strictly. *Id.* at ¶ 10 (*citing Cal-American Income Property Fund IV v. Ho*, 161 Cal. App. 3d 583, 585 (Cal. Ct. App. 1984)). We stated, "A default notice that overstates the amount due is insufficient to support an action for unlawful detainer." *Id.*

at ¶ 12 (citing *Bevill v. Zoura*, 27 Cal. App. 4th 694, 697-98 (Cal. Ct. App. 1994)).

[8] At the trial court, Leonardi’s counsel stated that because the Notice to Quit demanded a payment of approximately \$35,000.00 when only approximately \$21,000.00 were due and thus he argued that Leonardi should prevail. The trial court dismissed this argument, opining that unlawful detainers often included incorrect amounts due to the difficulty in ascertaining arrearage costs. If these were the only facts in this case, we would cite *Archbishop* in favoring Leonardi’s current argument.

[9] However, *Archbishop* is inapplicable to the case at bar. Unlike the facts in *Archbishop*, the parties here resolved the once-contentious matter of the unlawful detainer’s amount at the start of the trial court proceedings. The court cannot reverse a matter on which the trial court did not decide. Most importantly, the trial court based the attorney’s fees award on grounds unrelated to the amount of the unlawful detainer. The contract that both parties willfully entered dictates that the attorney’s fees be granted, *infra*.

[10] In *Citizens Security Bank (Guam), Inc., v. Bidaure*, 1997 Guam 3,<sup>3</sup> the appellant argued to this court that her contract with the appellee was unenforceable because it lacked consideration. *Id.* at ¶ 7. The appellee argued that the opposing party could not raise this argument on appeal after having failed to assert it as an affirmative defense earlier to the trial court. The court ruled in favor of the appellee. *Id.* at ¶ 9. The last issue in that case, as in the current discussion, involved attorney’s fees. The parties in *Citizens’ Security Bank* signed a contract stating that “[g]uarantors agree to pay a reasonable attorney’s fee and all other costs and expenses which may be incurred by

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<sup>3</sup>At the trial level, the court cited to this case as well. *Seafood Grotto v. Leonardi*, Civil Case No. CV 722-97, 3 (Supreme Court of Guam July 16, 1998) (ruling on the Rule 60(b) motion). Therefore, the parties should have been on alert to the importance of this case.

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Bank in enforcement of this guaranty.” *Id.* at ¶ 22. The court granted attorney’s fees to the appellee, affirming that a valid contract binds its two signing parties. *Id.*; *see also, Senato v. Querimit*, No. CV-93-00050A, 1994 WL 550053 at \*3 (D. Guam Ap. Div. Oct. 3, 1994).

[11] The contract that Leonardi signed taking over the leasehold from Vitale stated that Leonardi would have the same responsibilities that Vitale pledged to perform. Exhibit A in Excerpts of the Record. In Vitale’s contract with Seafood signed on March 15, 1994, section 17 clearly states:

Should the Sublessor be made a party, without his fault to any litigation, brought by or against the Sublessee, or because of the failure or refusal of the Sublessee to perform or observe the covenants and conditions of this sublease on his part, or any part thereof, or should the Sublessor be compelled to employ an attorney or enforce the payment of rent, or to enforce the performance or observance of any of the covenants and conditions of this sublease, or any part thereof, including the expense in preparing and serving, or attempting to serve, any notice or demand required by law or this sublease, then, and in each and every such event, *the Sublessee agrees to pay the reasonable costs thereof, and a reasonable attorney’s fee for the services rendered.*

*Id.* (emphasis added). Leonardi makes no claim that this clause is unconscionable or unclear. This court will continue to honor contracts that are fair and unambiguous. *See Iizuka Corp., v. Kawasho Int’l (Guam), Inc. et al.*, 1997 Guam 10 at ¶¶ 12-13 (reducing a contentious real property matter to the specifics of the contract between the two parties). Thus, the trial court did not err in holding Leonardi to this valid contractual clause.

[12] In addition to his claim that the trial court erred in awarding attorney’s fees to Seafood, Leonardi’s second issue on appeal is the contention that the trial court erred in failing to award him greater attorney’s fees. The trial court ruled that Leonardi’s counsel could only receive attorney’s

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fees for filing a Rule 11 sanction against Seafood's counsel.<sup>4</sup> Charging sanctions is reviewed for abuse of discretion. *PCI Communications, Inc. v. GST Pacwest Telecom Hawaii, Inc.*, 1999 Guam 17, ¶ 5. While Leonardi's counsel argued that he deserved attorney's fees for the legal work he performed besides filling Rule 11 sanctions, he later stated that his total fees amounted to \$500.00.<sup>5</sup> Because the trial court awarded him \$500.00 for the Rule 11 sanctions, Leonardi received the total amount of money for which he argued. Therefore, the trial court did not abuse its discretion in granting this award.

[13] Leonardi makes no current arguments as to how and why this amount should be altered. In *People of Guam v. Quinata*, the court held that if a party introduced an issue but failed to discuss it in her or his brief, then the issue was abandoned. *People v. Quinata*, 1999 Guam 6, ¶¶ 22-27. Due to Leonardi's failure to provide arguments in his brief on the issue, this court similarly finds this claim abandoned.

### CONCLUSION

[14] Based upon to the previous discussion, we **AFFIRM** the trial court's decision in each matter. Additionally, Leonardi will not be granted attorney's fees for this appeal.

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PETER C. SIGUENZA  
Associate Justice

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JOHN A. MANGLONA  
Designated Justice

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<sup>4</sup>Transcript, vol. II, p. 46 (Unlawful detainer hearing, June 19, 1997).

<sup>5</sup>Transcript, vol. III, p. 13 (Further Proceedings, September 2, 1997).

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BENJAMIN J. F. CRUZ  
Chief Justice