IN THE SUPREME COURT OF GUAM

DEPARTMENT OF REVENUE AND TAXATION,
Petitioner-Appellee,

vs.

CIVIL SERVICE COMMISSION,
Respondent,

CONSTANCE S. QUINTANILLA,
Real Party in Interest-Appellant.

Supreme Court Case No.: CVA06-008
Superior Court Case No.: SP0093-05

OPINION

Cite as: 2007 Guam 17

Appeal from the Superior Court of Guam
Argued and submitted on March 13, 2007
Hagåtña, Guam

For Real Party in Interest-Appellant:
David J. Highsmith, *Esq.*
Law Office of David J. Highsmith, PC
Suite 209, Union Bank of Calif. Bldg.
195 Hernan Cortes Ave.
Hagåtña, GU 96910

For Petitioner-Appellee:
Kali S. Tara, *Esq.* (briefed)
Joseph Guthrie, *Esq.* (argued)
Office of the Attorney General
287 W. O'Brien Dr.
Hagåtña, GU 96910

BEFORE: F. PHILIP CARBULLIDO, Chief Justice; ROBERT J. TORRES, JR., Associate Justice; RICHARD H. BENSON, Justice *Pro Tempore*.

TORRES, J.:

[1] Petitioner-Appellee Department of Revenue and Taxation ("DRT"), through the Attorney General's Office, challenges the jurisdiction of this court to hear the instant appeal filed by Real Party in Interest-Appellant Constance S. Quintanilla. DRT argues that the Judgment entered by the Superior Court, which referred to and incorporated its prior Decision and Order, is not final and appealable. The Superior Court, in this prior Decision and Order, had ordered the dismissal of both DRT's Petition for Judicial Review and Quintanilla's Counter-Petition for Writ of Mandate, vacated the prior judgments of Respondent Civil Service Commission ("CSC"), and remanded the case to the CSC for evidentiary hearings. DRT maintains the Judgment is not final and appealable and thus, Quintanilla's appeal must be dismissed.

[2] Upon our examination, the Judgment entered by the Superior Court in this case does not effect a final resolution of the issues in the case, and does not constitute a final determination of the rights of the parties. The Judgment appealed from is not final and appealable, and we lack jurisdiction; therefore, DRT's Motion to Dismiss is hereby granted and the case is hereby dismissed.

I.

[3] Real Party in Interest-Appellant Constance S. Quintanilla began her employment at DRT in March 1982. Quintanilla has since retired. During her employment at DRT, she served as a Tax Technician III. On September 16, 1996, she was notified of her selection to the position of Regulatory Examiner I. A letter from DRT Director Joseph T. Duenas stated: "Having been selected you will now undergo a Probationary Period of six (6) months. During this period your

performance will be closely monitored by your supervisor." Appellees' Supplemental Excerpts of Record ("SER"), p. 2 (Letter from DRT Dir. Joseph T. Duenas to Quintanilla ("Duenas letter"), Sept. 19, 1996)). In this letter, Duenas stated, "It is my hope that upon successful completion of your probationary period you will find your new appointment both challenging and rewarding." SER, p. 2 (Duenas letter). In February 1997, Quintanilla's probationary period was extended another five months and five days. Based on a July 16, 1997 Memorandum, the probationary evaluation from Quintanilla's supervisor revealed that "in all categories, [Quintanilla] is rated at Below Work Performance Standards." SER, p. 6 (Mem. from Supervisors to DRT Dir. ("Mem. from Supervisors)" July 16, 1997)). The supervisor indicated that she had counseled Quintanilla on three occasions, and that Quintanilla herself had "admitted to being unqualified." SER, p. 6 (Mem. from Supervisors). It was recommended that Quintanilla be reassigned within DRT. Quintanilla was then advised that her appointment was "rescinded based on non-performance" and that she would be reverted to her former position of Tax Technician III. SER, p. 15 (Mem. from DRT Dir. to Quintanilla ("Duenas memo") (Aug. 21, 1997).

[4] Quintanilla filed an appeal with the CSC on September 10, 1997. While the appeal was pending, Quintanilla was indicted on six counts of an unlawful act as a revenue agent in the District Court of Guam. She ultimately pleaded guilty to one count of criminal facilitation in July 1999.

[5] DRT served Quintanilla with a notice of proposed adverse action on August 3, 1999 as a result of her guilty plea. Quintanilla and DRT began discussions regarding her employment. What followed is in dispute. According to DRT, an agreement was reached where DRT would not take adverse action against Quintanilla as a result of the criminal case and would allow her to

remain employed at DRT as a Property Tax Technician II. Quintanilla was required to apply for this position and dismiss her CSC appeal. DRT then stated that the CSC Case Docket Sheet for July 11, 2000 reveals there was a Status Call hearing. Present were Quintanilla with her attorney Mark Williams, DRT attorney Fred Nishihira, DRT representative John Garrido, CSC attorney Jerry Hogan, and CSC employees John Calvo and Elaine Gogue. The Case Docket Sheet apparently contained a notation that "Employee was to prepare document dismissing appeal." Appellant's Excerpts of Record ("ER"), Tab A, p. 3 (Pet. for Review of Civil Service Comm'n Decision and Order). Two weeks later, Quintanilla completed an application for Tax Technician II. After Attorney David Highsmith entered an appearance on behalf of Quintanilla in August 2000, however, she has denied entering into the agreement purportedly recorded by the CSC Case Docket Sheet.

[6] On September 18, 2000, DRT moved to dismiss the CSC appeal, citing the parties' agreement, and the same day, Quintanilla moved to set aside the adverse action. In a March 8, 2001 Decision and Judgment, the CSC concluded that it did not have jurisdiction as the proceeding involved a request to modify a performance evaluation. Quintanilla appealed to the Superior Court, and after a hearing on April 29, 2002, the court held that the CSC had jurisdiction, and remanded the case to the CSC for evidentiary hearings.[1]

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[1] Specifically, the Superior Court ordered as follows:

> *I Kotte* therefore will remand the matter to the [Civil Service] Commission to hold such an evidentiary hearing on the appeal of Petitioner. It is at this hearing where the Commission may make its findings of fact whether the action taken against Petitioner should be sustained, modified or revoked. In this regard the Commission may also hear evidence whether there was an agreement between the parties relative to the disposition of this appeal case when Petitioner entered into her plea agreement with the Government. The Commission may hear any other matter or issue that bears on the disposition of the appeal.

Record on Appeal, Tab 16, Ex. G, p. 13 (Disision Yan Otden, Aug. 8, 2002).

[7] On remand to the CSC, Quintanilla filed a motion to void the adverse action and hearing was held on June 10, 2003. The CSC did not take any evidence at the hearing, relying solely on this court's Opinion in *Blas v. Guam Customs & Quarantine Agency*, 2000 Guam 12. In an October 12, 2004, Decision and Judgment, the CSC stated:

> Pursuant to the Blas decision, we find that the former Department of Administration Rules and Regulations 7.50 and 14.02 should be applied to Ms. Quintanilla's September 1996 promotion.
>
> No evidence was presented indicating Ms. Quintanilla was provided any normal job protection rights such as: informal counseling, opportunity to correct inadequate performance or notice of proposed adverse action.
>
> The [DRT]'s demotion of Ms. Quintanilla cannot stand and is therefore null and void. Ms. Quintanilla's status should be that of a permanent classified [employee] due to the expiration of any probational period after her September 1996 promotion.

SER, Tab F, pp. 23-24 (Decision and Judgment).

[8] DRT filed a motion for reconsideration, and after a February 15, 2005 hearing, the CSC determined that DRT "had presented little in the way of new material" and that it was "not required to conduct an evidentiary hearing on the question of whether [Quintanilla] had dismissed her appeal." SER, Tab E, pp. 17-18 (Decision and Judgement on Mgmt's Mot. for Recons. ("Decision"), Apr. 26, 2005). The CSC denied the motion to reconsider, and Quintanilla was "reinstated to her former position." SER, Tab E, p. 18 (Decision).

[9] DRT then filed a Petition for Review of Civil Service Commission Decision & Judgment in the Superior Court.[2] Quintanilla answered and filed a counterclaim for a writ of mandate. The court ordered further briefing by the parties, and scheduled a hearing in the matter for

[2] We have recently held, in *Carlson v. Perez*, 2007 Guam 6 ¶ 65, that filing a Petition for Judicial Review to be the proper procedure for seeking review of a Civil Service Commission adverse action decision.

January 4, 2006.[3] On May 22, 2006, the court dismissed the Petition for Judicial Review, dismissed the Counter-Petition for Writ of Mandate filed by Quintanilla, vacated the prior judgments of the CSC, and remanded the case to the CSC for evidentiary hearings. Judgment, which incorporated the May 22, 2006 Decision and Order, was entered on August 15, 2006. Quintanilla then filed this appeal.

II.

[10] After Quintanilla filed her Brief and Excerpts of Record, DRT sought to dismiss the appeal, arguing in a Motion to Dismiss that this court lacked jurisdiction because the judgment was not final and appealable. Quintanilla opposed the Motion to Dismiss, maintaining that the appeal should proceed because judgment has been entered. Before addressing the issues briefed by the parties in this appeal, we will examine our jurisdiction to hear the appeal.

A. Guam law

[11] Under Guam law, a party may appeal upon entry of judgment. Under 7 GCA § 3107(b) (2005), we have jurisdiction over "appeals arising from judgments, final decrees, or final orders of the Superior Court"; however, jurisdiction must be viewed in light of 7 GCA § 3108(a), which additionally require between them, either a final judgment or the satisfaction of criteria justifying interlocutory consideration." *Merchant v. Nanyo Realty, Inc.*, 1997 Guam 16 ¶ 3. Moreover, "[a]n appeal in a civil action or proceeding may be taken from the Superior Court . . . [f]rom a judgment . . . ." 7 GCA § 25102(a) (2005). This judgment must be set forth in a separate

[3] DRT instead filed a Motion for Summary Judgment on December 14, 2005. Record on Appeal, Tab 20 (Mot. for Summ. J., Dec. 14, 2005).

document.[4] Guam R. Civ. P. 58 (GRCP) ("Every judgment shall be set forth on a separate document. A judgment is effective only when so set forth.")[5]; *A.B. Won Pat Guam Int'l Airport*

[4] Because of our holding herein, we do not decide whether the Judgment satisfies the separate document requirement, because we are cognizant that some courts have interpreted a judgment incorporating another document as contrary to the separate document requirement of Rule 58 of the Federal Rules of Civil Procedure. The Seventh Circuit has interpreted Rule 58 as requiring that a judgment be "self-contained and complete." *Am. Interinsurance Exch. v. Occidental Fire & Cas. Co.*, 835 F.2d 157, 159 (7th Cir. 1987). "It is true that a final judgment should not incorporate any other document or contain legal reasoning. . . [but t]he fact that the district court's judgment entry included the phrase 'pursuant to memorandum opinion and order' does not turn a self-contained final judgment into a non-final order." *Paganis v. Blonstein*, 3 F.3d 1067, 1071 (7th Cir. 1993). Unlike *Paganis*, the Judgment entered in the instant case is not self-contained. By incorporating the Decision and Order, the court made clear that remand to the CSC was necessary to resolve factual disputes due to a faulty record.

[5] The Guam Rules of Civil Procedure were amended on June 1, 2007, while this case was pending. Rule 58 now states in relevant part:

> **Rule 58. Entry of Judgment**
>
> **(a) Separate Document.**
>
> **(1)** Every judgment and amended judgment must be set forth on a separate document, but a separate document is not required for an order disposing of a motion:
>
> **(A)** for judgment under Rule 50(b);
>
> **(B)** to amend or make additional findings of fact under Rule 52(b);
>
> **(C)** for attorney fees under Rule 54;
>
> **(D)** for a new trial, or to alter or amend the judgment, under Rule 59; or
>
> **(E)** for relief under Rule 60.
>
> **(2)** Subject to Rule 54(b):
>
> **(A)** unless the court orders otherwise, the clerk must, without awaiting the court's direction, promptly prepare, sign, and enter the judgment when:
>
> **(i)** the jury returns a general verdict,
>
> **(ii)** the court awards only costs or a sum certain, or
>
> **(iii)** the court denies all relief;
>
> **(B)** the court must promptly approve the form of the judgment, which the clerk must promptly enter, when:
>
> **(i)** the jury returns a special verdict or a general verdict accompanied by interrogatories, or
>
> **(ii)** the court grants other relief not described in Rule 58(a)(2).
>
> **(b) Time of Entry.** Judgment is entered for purposes of these rules:
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> **(1)** if Rule 58(a)(1) does not require a separate document, when it is entered in the civil docket under Rule 79(a), and

Auth. (GIAA) v. Moylan, 2004 Guam 1 ¶ 17 ("[W]e find that the lower court is in fact required to issue a judgment in this matter, and an appeal may only be taken from such final judgment set forth on a separate document.").

[12] Quintanilla maintains that appellate jurisdiction exists, based on a "Judgment" entered on August 15, 2006, which is separate from the court's Decision and Order. Quintanilla argues that the Judgment satisfies both Guam law and the separate document requirement and is properly appealed herein. 7 GCA §§ 3107(b), 25102(a); GRCP 58. DRT contends, on the other hand, that the Judgment is not final and appealable, because the court did not address the merits of the arguments raised, and the judge specifically noted that "the record is unreliable, and this court cannot track the steps by which the CSC reached its decision." DRT's Mem. of P. & A., p. 4 (Nov. 21, 2006). DRT further argues that the Judgment lacks finality because "there has never been an evidentiary hearing in this case and the CSC has never addressed the settlement agreement." Mem. of P. & A., p. 5.

[13] We acknowledge that a document, styled a "Judgment" was entered by the trial court. Our analysis, however, does not end here. Although not cited or discussed by either party, 7 GCA § 21101 (2005) defines "judgment" as "the final determination of the rights of the parties in an action or proceeding." We therefore must ascertain whether the document, entered by the trial court on August 15, 2006, and denominated as a Judgment, constitutes "the final determination of the rights of the parties in an action or proceeding" pursuant to 7 GCA § 21101.

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(2) if Rule 58(a)(1) requires a separate document, when it is entered in the civil docket under Rule 79(a) and when the earlier of these events occurs:

(A) when it is set forth on a separate document, or

(B) when 150 days have run from entry in the civil docket under Rule 79(a).

As explained herein, we must conclude that the rights of the parties in this action have not been fully determined and therefore, the appeal must be dismissed for lack of jurisdiction.

B. California precedent

[14] The genesis of 7 GCA § 21101 is Guam Code of Civil Procedure § 577, which in turn has as its source California Code of Civil Procedure § 577. Guam's version of section 577 was enacted in 1953, and the California codes were acknowledged as the source of Guam's statutes. *See Torres v. Torres*, 2005 Guam 22 ¶ 33 n.6. Therefore, this court may look to the decisions of California courts to assist its interpretation. *Torres*, 2005 Guam 22 ¶ 33, *Sinlao v. Sinlao*, 2005 Guam 24 ¶ 7.

[15] The trial court's entry of a document, denominated a "Judgment," is not dispositive to our analysis. "[I]t is the substance and effect of a judgment that determines its finality." *In re Los Angeles County Pioneer Soc'y v. Hist. Soc'y of S. Calif.*, 257 P.2d 1, 4 (Cal. 1953). The California Supreme Court held that "a judgment is final when it terminates the litigation between the parties on the merits of the case, and leaves nothing to be done but to enforce, by execution, what has been determined." *Sullivan v. Delta Air Lines, Inc.*, 935 P.2d 781, 791 (Cal. 1997) (quoting *Doudell v. Shoo*, 114 P. 579, 581 (Cal. 1911)). The court more fully explained this rule as follows:

> It is not the form of the decree but the substance and effect of the adjudication which is determinative. As a general test, which must be adapted to the particular circumstances of the individual case, it may be said that where no issue is left for future consideration except the fact of compliance or noncompliance with the terms of the first decree, that decree is final, but where anything further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties, the decree is interlocutory.

Lyon v. Goss, 123 P.2d 11, 17 (Cal. 1942). More simply stated: "When no issue is left for future decision except the fact of compliance or noncompliance with the judgment it is final, but if final

adjudication is postponed awaiting further judicial determination of the rights of the parties the decree is interlocutory." *Craig of Cal. v. Green*, 202 P.2d 104,106 (Cal. Dist. Ct. App. 1949). *See also Civic Western Corp. v. Zila Indus., Inc.*, 135 Cal. Rptr. 915, 922 (Ct. App. 1977) (stating that a judgment is "final" where it leaves no issue for future consideration or where it is finally dispositive of the case); *Kosloff v. Kosloff*, 154 P.2d 431, 434 (Cal. 1945) (holding that a judgment must be "definitive" in that the decision itself must purport to decide finally the rights of the parties on issues submitted, by specifically denying or granting remedy sought by action).

[16] The facts here find a parallel in *Bakewell v. Bakewell*, 130 P.2d 975, 977 (Cal. 1942), wherein the trial court had issued a document styled as a "Judgment (Interlocutory)," which nonetheless stated, *inter alia*, "that final judgment herein shall provide for payment of the sums due plaintiff," and that the court was authorized to "make all orders necessary to carry the judgment into effect." *Id.* The California Supreme Court held that the judgment was not final, because the trial "court did not finally determine the relative rights of the [parties] . . . . Those rights have yet to be ascertained." *Id.* at 978. *Cf. Kumar v. Nat'l Med. Enters., Inc.*, 267 Cal. Rptr. 452, 455 (Dist. Ct. App. 1990) (holding that there was no finality because the trial court had set aside a decision by an administrative body, remanded the matter back to that body, and the appellant would have to "again proceed to a final administrative decision . . . before seeking redress in the courts").

[17] Our examination of the "Judgment" entered by the Superior Court reveals that it did not "finally determine the relative rights" of Quintanilla and the DRT. *Bakewell*, 130 P.2d at 978. The Judgment expressly referred to the court's prior Decision and Order, stating that the "case is dismissed and the parties shall comply with the court's Decision and Order of May 22, 2006." ER, Tab F (Judgment). The trial court's incorporation of its prior Decision and Order

unequivocally reveals that the rights of Quintanilla and DRT are "yet to be ascertained." *Bakewell*, 130 P.2d at 978. The Decision and Order states in relevant part:

> [T]he Court DISMISSES the Petition for Judicial Review, DISMISSES the Counter-Petition for Writ of Mandate, VACATES the prior judgments of the CSC [i]n this matter and REMANDS this case to the CSC for a second time, ordering further evidentiary hearing and CSC resolution of factual issues crucial to any appellate review of Ms. Quintanilla's case. To make it patently clear to the CSC, the CSC WILL hold evidentiary hearings to address the following questions of fact in its decision regarding Ms. Quintanilla's appeal, and it WILL rule upon those questions of fact:
>
> 1) Did Quintanilla make an agreement with the DRT regarding their respective CSC cases?
>
> 2) If so, what were the terms of that agreement?
>
> After a full evidentiary hearing and determination upon those factual issues, the CSC WILL then arrive at a final decision in the matter of Ms. Quintanilla's appeal.

ER, Tab F, pp. 8-9 (Decision and Order). The language of the Decision and Order make clear that there had not been any determination of each party's rights and furthermore, that certain factual issues needed to be resolved by the CSC in order to determine each party's rights. In fact, the trial court explicitly stated that, due to the DRT's failure to provide a transcript, the court was "unable to even rule upon the matter at hand." ER, Tab F, p. 8 (Decision and Order). The Judgment, and its express incorporation of the Decision and Order, did not "terminate[] the litigation between the parties on the merits of the case." *Sullivan*, 935 P.2d 791.

[18] As the Decision and Order revealed, important factual questions have yet to be addressed by the CSC. The trial court, although stating that it could not rule on the case, nevertheless entered a document denominated as a "Judgment." We query whether, in light of the court's stated inability to address the merits, the case could have simply been remanded without entry of the "Judgment." Entry of this document may have contributed to the parties' confusion in this case and Quintanilla's belief that appeal was authorized. "We have consistently held that this

court's appellate jurisdiction is limited to those matters which the legislature permits us to review." *People v. Lujan*, 1998 Guam 28 ¶ 8. Accordingly, statutes governing our jurisdiction allow for appeal upon entry of a final judgment[6] as was advanced by Quintanilla here, as well as from interlocutory[7] and other orders, such as the trial court's certification for appeal based on the grant of partial summary judgment.[8] Quintanilla's sole argument in this appeal has been the

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[6] *See* 7 GCA § 3108(a) (2005) ("Appellate review to the Supreme Court of Guam shall be available only upon the rendition of final judgment in the Superior Court from which appeal or application for review is taken.")

[7] Guam law governing interlocutory review states:

> Orders other than final judgments shall be available to immediate appellate review as provided by law and in other cases only at the discretion of the Supreme Court where it determines that resolution of the questions of law on which the order is based will:
>
> (1) Materially advance the termination of the litigation or clarify further proceedings therein;
>
> (2) Protect a party from substantial and irreparable injury; or
>
> (3) Clarify issues of general importance in the administration of justice.

7 GCA § 3108(b) (2005). The procedure for seeking interlocutory review was recently changed during the pendency of this case. Due to the promulgation of Rule 4.2 of the Guam Rules of Appellate Procedure (GRAP), it is now required that a party obtain permission before filing an interlocutory appeal. The relevant appellate rules in effect at the time of Quintanilla's appeal did not require such a petition, and therefore, we do not apply the new rule here, as doing so would not be feasible. *See* Re: Adoption of the Guam Rules of Appellate Procedure, PRM07-003 (Promulgation Order No. 07-003-01, Feb. 21, 2007) (stating that the new appellate rules shall apply to new and pending cases, "except to the extent that the application of the Rules to those pending actions, cases and proceedings would not be feasible, or would work injustice, in which event the prior valid Guam Rules of Appellate Procedure shall apply."); see also, *Rojas v. Rojas*, 2007 Guam 13 ¶ 10 n.5 (declining to apply the newly amended appellate rules because doing so would not be feasible)

[8] Appeal may be sought upon the trial court's certification pursuant to Rule 54(b) of the Guam Rules of Civil Procedure, which states that "the court may direct entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for entry of judgment." Furthermore, 7 GCA § 25102 (2005), provides additional statutory grounds for appeal:

> 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;

entry of the "Judgment"; she has never argued, even alternatively, that this court should assert interlocutory jurisdiction. *Cf. Rojas v. Rojas*, 2007 Guam 13 ¶ 13 (stating that "the separate routes for appeal under section 3108(a) and (b) become mutually exclusive when a party fails to pursue the interlocutory appeal of an interlocutory order that was solely appealable under section 3108(b) prior to the expiration of time for appealing the final judgment in the case."). Moreover, our policy is "to strictly limit the exercise of interlocutory review." *People v. San Nicolas*, 1999 Guam 19 ¶ 11. We fail to see any legal issues in the court's "Judgment" needing resolution which would "[m]aterially advance the termination of the litigation or clarify further proceedings therein"; or "[p]rotect a party from substantial and irreparable injury"; or "[c]larify issues of general importance in the administration of justice." 7 GCA § 3108(b) (2005).

[19] The concept of final judgment in section 3108(a), asserted by Quintanilla as the basis for this court's appellate jurisdiction, contemplates more than mere entry of a document styled as a "judgment." Section 3108(a) "is a codification of the final judgment rule which mandates 'that a party must ordinarily raise all claims of error in a single appeal following final judgment on the merits.'" *People v. Angoco*, 2006 Guam 18 ¶ 10 (citing *Flanagan v. United States*, 465 U.S.

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

259, 263 (1984) (quoting *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 374 (1981))). The "final judgment" required by section 3108(a) implicitly means a ruling on the merits of the case. As such, it is doubtful whether the "Judgment" should have been entered in this case, when the trial court stated it was "unable to even rule upon the matter at hand" and remanded the case to the CSC.[9] ER, Tab E, p. 8 (Decision and Order). Finality is called into question when the case involves a remand:

> The finality doctrine is based on the twin policies of controlling piecemeal adjudication and eliminating the delays caused by the appeal of interlocutory decisions. [*Catlin v. United States*, 324 U.S. 229, 233-34, (1945).] Courts have traditionally not considered remands as final decisions because of their preference to have a single "ultimate review on all the combined issues." *Barfield v. Weinberger*, 485 F.2d 696, 698 (5th Cir.1973); *accord United States v. Alcon Laboratories*, 636 F.2d 876, 884 (1st Cir.1981); *Eluska v. Andrus*, 587 F.2d 996, 999 (9th Cir.1978).

In re Martinez, 721 F.2d 262, 265 (9th Cir. 1983). In *Martinez*, a remand was ordered. *Id.* at 264. So too here. The instant case counsels that a court must be cautious when entering judgment, to ensure that there has been either an adjudication on the merits of all the claims or the rights and liabilities of all the parties, or "an express direction for entry of judgment" by the court "as to one or more but fewer than all of the claims or parties" pursuant to Rule 54(b) of the Guam Rules of Civil Procedure.[10] The sparing use of "judgment" and the strict application of

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[9] The United States Supreme Court explained the finality doctrine as follows: "A 'final decision' has been defined as one which 'ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" *Catlin v. United States*, 324 U.S. 229, 233 (1945).

[10] Rule 54(b) of the Guam Rules of Civil Procedure states:

> **(b) Judgment Upon Multiple Claims or Involving Multiple Parties.** When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or

the final judgment rule "ensure[s] that a determination addressed on appeal really is the trial court's final resolution, and to protect the litigants from uncertainty as to when a notice of appeal must be filed to be within the time permitted." *Merchant*, 1997 Guam 16 ¶ 14. Thus, the court would be able to give clear guidance to parties regarding the propriety of appeal.

[20] Other important policy interests support our strict construction of the final judgment rule. "Generally limiting appellate review to final judgments reduces an appellate court's interference with a trial judge's pre-judgment decisions, minimizes a party's ability to harass opponents through multiple appeals, and promotes the efficient administration of justice. *Angoco*, 2006 Guam 18 ¶ 11 (citing *Flanagan v. United States*, 465 U.S. 259, 263-64 (1984)); *see also Rojas*, 2007 Guam 13 ¶ 12 ("[C]ourts try to avoid rulings that are 'contrary to the philosophy favoring finality of judgments and the expeditious termination of litigation.'") (quoting *Nat'l Petrochemical Co. of Iran v. M/T Stolt Sheaf*, 930 F.2d 240, 245 (2d Cir. 1991). This policy interest is echoed in California. "Efficient administration of justice requires that finality be brought to each cause at some determinable point." *McIntire v. Super. Ct. (Kelly)*, 125 Cal. Rptr. 379, 381 (Ct. App. 1975).

[21] In this case, there has not been finality of factual, and correspondingly, legal questions, as evidenced by the remand to the CSC. Were this court to assert jurisdiction and hear this case on appeal, we would face the same impediments that hindered the trial court in its review of the case from the CSC. If, after the remand to the CSC, the parties decide to appeal once again to the Superior Court, which enters judgment after addressing the merits of the case, then "an appeal may be taken that properly invokes our jurisdiction." *Merchant*, 1997 Guam 16 ¶ 16.

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other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

[22] We hold that the document entered by the Superior Court, although denominated a "Judgment," was nonetheless interlocutory and did not constitute a "final determination of the rights of the parties in an action or proceeding." 7 GCA § 21101. The document did not address the merits of the case, and did not determine the rights of the parties; consequently, it lacks finality and does not satisfy the definition of a judgment set forth in Guam law. Because there is no final appealable judgment, appellate jurisdiction is lacking, and the case must therefore be dismissed.[11]

III.

[23] We hold that the Judgment entered by the Superior Court is not a final appealable judgment. Notwithstanding the entry of a separate document denominated a "Judgment," Guam law requires that a judgment constitute a final determination of the rights of the parties. The document entered by the trial court, in ordering that the case be remanded to the Civil Service Commission for evidentiary hearings, did not terminate the litigation on the merits of the case and did not constitute a final determination of the rights of the parties. Accordingly, the case is **DISMISSED** for lack of appellate jurisdiction.

RICHARD H. BENSON
RICHARD H. BENSON
Justice Pro Tempore

ROBERT J. TORRES, JR.
ROBERT J. TORRES, JR.
Associate Justice

F PHILIP CARBULLIDO
F. PHILIP CARBULLIDO
Chief Justice

[11] In light of our holding that appellate jurisdiction is lacking, we do not address the arguments briefed by the parties.