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SUPREME COURT
OF GUAM

IN THE SUPREME COURT OF GUAM

**ADRIAN L. CRISTOBAL, CONCEPCION F. CRISTOBAL,
JORGE E.U. CRISTOBAL, BEATRIZ CRISTOBAL,
E.C. LEON GUERRERO, JUAN B. LEON GUERRERO,
ALBERTO C. LAMORENA, III, TRUSTEE, AND FE C. LAMORENA,**
Plaintiffs-Appellants,

v.

JEFFREY SIEGEL, FRANCIS L. GILL, CORAL PIT, INC.,
Defendants-Appellees.

Supreme Court Case No.: CVA12-011
Superior Court Case No.: CV0442-88

OPINION

Cite as: 2012 Guam 16

Appeal from the Superior Court of Guam
Argued and submitted on July 17, 2012
Hagåtña, Guam

Appearing for Plaintiffs-Appellants
Estate of Fe C. Lamorena and
Christopher A. Cristobal:
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Appearing for Defendant-Appellee
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ORIGINAL

BEFORE: F. PHILIP CARBULLIDO, Chief Justice; ROBERT J. TORRES, Associate Justice; KATHERINE A. MARAMAN, Associate Justice.

TORRES, J.:

[1] Plaintiffs-Appellants Estate of Fe C. Lamorena and Christopher A. Cristobal¹ (collectively the Cristobals) appeal from the trial court's denial of their motion to reconsider the court's grant of Defendant-Appellee Bottomless Pit, LLC's² Guam Rules of Civil Procedure ("GRCP") Rule 70 motion to enter a judgment divesting the Cristobals' title to property in accordance with a Stipulation and Order entered by the trial court. The trial court abused its discretion in denying the Cristobals' motion to reconsider because the Stipulation and Order is not a judgment for a specific act within the meaning of GRCP 70. The trial court should have granted the motion to reconsider pursuant to GRCP 60(b)(1) and relieved the Cristobals of the Rule 70 Decision and Order based on a mistake. Accordingly, we reverse and remand.

I. FACTUAL AND PROCEDURAL BACKGROUND

[2] Plaintiffs Adrian Cristobal, Concepcion Cristobal, Jorge Cristobal, Beatriz Cristobal, E.C. Leon Guerrero, Juan B. Leon Guerrero, Alberto Lamorena, III, trustee, and Fe Lamorena filed a complaint for fraud, damages, and cancellation of instruments against Defendants Jeffrey Siegel, Francis Gill, and Coral Pit, Inc. in the Superior Court of Guam Case No. CV0442-88. After many years of litigation, the parties entered into a Settlement Agreement to resolve the claims filed in CV0442-88. The Settlement Agreement was incorporated by reference into a Stipulation

¹ The Notice of Appeal identifies the Appellants as the Estate of Fe Lamorena and Christopher A. Cristobal, but the attorney's signature states he represents Plaintiffs-Appellants the Estate of Fe Lamorena and Enrico A. Cristobal. *See* Notice of Appeal (Mar. 2, 2012).

² Appellee Bottomless Pit, LLC is the successor in interest to Coral Pit, Inc. RA, tab 340 at 1 (GRCP 70 Mot., Aug. 1, 2010).

and Order for the Settlement and Compromise of Claims (“Stipulation and Order”) signed by the trial court. The trial court thereafter entered a final judgment dismissing the case with prejudice and providing that the “[c]ourt shall retain jurisdiction over the Settlement Agreement to enforce the terms and conditions thereof.” Record on Appeal (“RA”), tab 166 at 1 (Final Judgment, Mar. 14, 1996). The parties subsequently engaged in a series of negotiations to perform their obligations under the Settlement Agreement, which ultimately collapsed.

[3] Bottomless Pit, LLC (“Bottomless Pit”) thereafter filed a GRCP 70 motion requesting the trial court to direct plaintiffs to convey property to Bottomless Pit or enter a judgment divesting the title of plaintiffs to the property in accordance with the Settlement Agreement and Order. More specifically, Bottomless Pit wanted plaintiffs to convey the remainder portion of the basic lot in question by warranty deed. The trial court granted Bottomless Pit’s motion, finding that GRCP 70 was applicable because the Stipulation and Order directed plaintiffs to convey the remainder portion of the basic lot to Bottomless Pit. Nearly six months later, the Cristobals filed a motion for reconsideration pursuant to GRCP 60(b), arguing that no relief could be granted under GRCP 70 because the Stipulation and Order is not a judgment and there was no final judgment entered directing a party to execute a conveyance of land, to deliver a deed, or to perform any other specific act. Plaintiffs Beatriz Cristobal and Adrian L. Cristobal filed a non-opposition to the motion to reconsider. The trial court denied the Cristobals’ motion, finding that the Stipulation and Order was a judgment within the meaning of GRCP 70. The Cristobals timely filed this appeal.

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II. JURISDICTION

[4] This court has jurisdiction over an appeal from a final judgment of the Superior Court of Guam pursuant to 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 112-139 (2012)); 7 GCA §§ 3107(b) and 3108(a) (2005).

III. STANDARD OF REVIEW

[5] A denial of a motion for reconsideration is reviewed for abuse of discretion. *Rong Chang v. M2P, Inc.*, 2012 Guam 1 ¶ 11 (citations omitted).

IV. ANALYSIS

A. Denial of the GRCP 60(b) Motion for Reconsideration

[6] The Cristobals maintain that the trial court abused its discretion in denying their GRCP 60(b) motion for reconsideration because the trial court's Stipulation and Order was not a final judgment as the trial court determined. *See* Appellant's Br. at 10-14 (May 22, 2012). The Cristobals maintain that the Stipulation and Order fails to comply with the separate document rule under GRCP 58 and it does not dispose of all the issues as to all the parties or award relief. *See id.* Bottomless Pit counters that the Cristobals are barred from raising the argument that the Stipulation and Order was not a final judgment because it was raised for the first time in their GRCP 60(b) motion instead of in their opposition brief to the underlying GRCP 70 motion. *See* Appellee's Br. at 5-6 (June 11, 2012).

1. Applicability of GRCP 60(b)

[7] The Cristobals sought relief pursuant to GRCP 60(b) from the trial court's order granting Bottomless Pit's GRCP 70 motion. *See* RA, tab 357 at 1 (Mot. to Reconsider, Aug. 2, 2011). The Cristobals alleged mistake under GRCP 60(b)(1), arguing that no relief could be granted

under GRCP 70 because no judgment had been entered. *Id.* at 2. The Cristobals also alleged in their reply to Bottomless Pit's opposition that the trial court's grant of the GRCP 70 motion was highly prejudicial to the Cristobals. *See* RA, tab 363 at 4-5 (Reply to Def.'s Opp'n Mot. to Reconsider, Oct. 11, 2011). The trial court determined that, because the Cristobals argued error and unjust result, only GRCP 60(b)(1) and GRCP 60(b)(6) applied. *See* RA, tab 368 at 4 (Dec. & Order, Feb. 2, 2012). The trial court found that its application of GRCP 70 was not in error and denied the motion for reconsideration because there was no mistake pursuant to GRCP 60(b)(1). *Id.* at 7. The trial court did not engage in a separate analysis of the motion for reconsideration under GRCP 60(b)(6). *See id.* at 4-7.

[8] GRCP 60(b) provides:

Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

....

(6) any other reason justifying relief from operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (1), (2), (3) not more than one year after the judgment, order, or proceeding was entered or taken.

Guam R. Civ. P. 60(b). The Eleventh Circuit Court of Appeals stated, "Rule 60(b)(1) authorizes a court to grant relief from judgments for 'mistake, inadvertence, surprise, or excusable neglect.' The 'mistakes' of judges may be remedied under this provision. The rule encompasses mistakes in the application of the law." *Parks v. U.S. Life & Credit Corp.*, 677 F.2d 838, 839-40 (11th

Cir. 1982) (internal citations omitted). Because the Cristobals allege that the trial court misapplied the law and the motion for reconsideration was filed not more than one year after the entry of judgment, here within six months, the trial court properly analyzed the motion under GRCP 60(b)(1). We therefore must examine whether the trial court committed a mistake in holding that the Stipulation and Order to be a final judgment under GRCP 70. If the trial court did make a mistake, then the court abused its discretion in denying the Cristobals' motion for reconsideration.

2. Analysis of the Stipulation and Order as a Final Judgment

[9] The trial court determined that the Stipulation and Order constituted a judgment under GRCP 70. *See* RA, tab 368 at 6 (Dec. & Order). The Cristobals argue that the Stipulation and Order was not a final judgment under GRCP 70 because it fails to comply with the separate document rule contained in GRCP 58 and does not offer relief to the parties. *See* Appellant's Br. at 11-14. Bottomless Pit claims that the Cristobals should be barred from raising on appeal the argument that the Stipulation and Order is not a final judgment. They assert that the Cristobals were required to raise this argument in their opposition brief to the underlying GRCP 70 motion. We disagree and find that the Cristobals were justified in not raising this argument in their opposition to the underlying motion. Given the alternative forms of relief that Bottomless Pit sought in its GRCP 70 motion, the Cristobals could not predict the form of relief that the trial court might grant. In its GRCP 70 motion, Bottomless Pit moved the trial court to either (1) direct conveyance of property, or (2) in lieu thereof, enter a judgment divesting the title of the Cristobals' property in accordance with the Settlement Agreement and Order. *See* RA, tab 368 at 4 (Dec. & Order). If the trial court had otherwise entered a judgment divesting the Cristobals

of title, the Cristobals could have simply appealed that judgment without the need to argue that the Stipulation and Order was not a final judgment. Moreover, we recognize that the Cristobals did not foresee that the trial court would commit a mistake in determining that the Stipulation and Order functioned as a final judgment. This left the Cristobals without reason to assert its argument until after the trial court actually ruled on the underlying GRCP 70 motion. Additionally, parties have an important interest in obtaining a judgment that is free from error. In light of this, precluding the Cristobals from raising their argument would impede the pursuit of justice. *See Seven Elves, Inc. v. Eskenazi*, 635 F.2d 396, 401 (5th Cir. 1981) (“Rule 60(b) vests in the district courts power adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice.”) (internal quotation omitted). As such, the Cristobals properly raised the argument on appeal that the Stipulation and Order was not a final judgment.

[10] We now address the merits of whether the Stipulation and Order constituted a judgment under GRCP 70. GRCP 70 states, in pertinent part:

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party, by some other person appointed by the court and the act when so done has like effect as if done by the party.

Guam R. Civ. P. 70 (emphasis added). Rule 70 is “operative only after a judgment is entered” and “only when a party refuses to comply with a judgment.” *De Beers Consol. Mines v. United States*, 325 U.S. 212, 218 (1945); *McCabe v. Arave*, 827 F.2d 634, 639 (9th Cir. 1987). GRCP 54(a) defines judgment: “‘Judgment’ as used in these rules includes a decree and any order from which an appeal lies.” Guam R. Civ. P. 54(a). For the Stipulation and Order to qualify as a

judgment under GRCP 70, the Stipulation and Order has to be an appealable order within the meaning of GRCP 54(a). Under Guam's statute on appealable orders, 7 GCA § 3108, final judgments and certain interlocutory orders are appealable orders. *See* 7 GCA § 3108(a) & (b) (2005). However, an interlocutory order does not qualify as an appealable order for the purposes of GRCP 70 because GRCP 70 is operative only after judgment has been entered in a separate document and entered on the docket. *See De Beers Consol. Mines*, 325 U.S. at 218; GRCP 70; Guam R. Civ. P. 58(a) & (b). The Stipulation and Order does not qualify as a judgment under GRCP 70 because a separate entry of judgment was needed.³

[11] Title 7 GCA § 21101 defines judgment as “the final determination of the rights of the parties in an action or proceeding.” 7 GCA § 21101 (2005). In interpreting the California statutory counterpart to 7 GCA § 21101, the California Supreme Court has explained:

In its most fundamental sense, “finality” is an attribute of every judgment at the moment it is rendered; indeed, if a judicial determination is not immediately “final” in this sense it is not a judgment, no matter what it is denominated. The Legislature has incorporated this meaning of finality into the very definition of a judgment: “A judgment is the *final* determination of the rights of the parties in an action or proceeding.” And we have explained the meaning as follows: “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) (emphasis in original) (internal citations omitted).⁴ Under this interpretation, “judgment” under GRCP 70 means “final

³ Indeed, a separate final judgment dismissing the case with prejudice was entered and while it stated the court would retain jurisdiction over the Settlement Agreement to enforce the terms and conditions thereof, this judgment did not direct a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act within the meaning of GRCP 70. *See* RA, tab 166 (Final Judgment, Mar. 14, 1996).

⁴ This court recognized these principles of finality in *Department of Revenue & Taxation v. Civil Service Commission*. *See* 2007 Guam 17 ¶ 15 (citing *Sullivan*, 935 P.2d at 791).

judgment,” especially in light of the fact that GRCP 70 is operative only after a judgment directing a party to take action has been entered, as discussed. The Cristobals maintain that the Stipulation and Order is not a final judgment because “it does not dispose of all the issues as to all the parties and does not award relief.” Appellant’s Br. at 12.

[12] The Stipulation and Order states:

The above-captioned parties, through counsel, hereby stipulate as follows:

1. The parties have reached a settlement of their disputes in this action and have memorialized their agreement in that certain Settlement Agreement attached hereto as Exhibit 1 and incorporated herein by reference.
2. The Court hereby orders the parties to perform their respective obligations pursuant to and under the terms and conditions of the Settlement Agreement.
3. The above-captioned matter shall be dismissed with prejudice, each party to bear their respective costs and attorneys['] fees.
4. The Court shall retain jurisdiction over the Settlement Agreement to enforce the terms and conditions thereof.
5. Let judgment enter accordingly.

RA, tab 167 at 1 (Stip. & Order, Mar. 14, 1996). We cannot say that the Stipulation and Order was the final determination of the rights of the parties in an action or proceeding. Although the Stipulation and Order incorporated the Settlement Agreement, it did not direct a party to execute a conveyance of land as required by GRCP 70. Moreover, we cannot say that the Stipulation and Order left nothing to be done but to enforce by execution what had been determined. The Stipulation and Order itself did not contain the terms and conditions to be enforced. Thus, the Stipulation and Order was not a final judgment within the meaning of GRCP 70, and the trial court committed a mistake in determining otherwise. Accordingly, the trial court abused its

discretion in denying the Cristobals' motion for reconsideration seeking relief from the GRCP 70 motion under GRCP 60(b)(1) on the basis of mistake.

V. CONCLUSION

[13] We **REVERSE** the trial court's denial of the Cristobals' GRCP 60(b) motion and **REMAND** the matter back to the trial court to take action in accordance with this opinion.

Original Signed - Robert J. Torres
By

ROBERT J. TORRES
Associate Justice

Original Signed - Katherine A. Maraman
By

KATHERINE A. MARAMAN
Associate Justice

Original Signed - F. Philip Carbullido
By

F. PHILIP CARBULLIDO
Chief Justice