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SUPREME COURT  
OF GUAM

**IN THE SUPREME COURT OF GUAM**

**JOSE L. CEJOCO and PROMELINDA E. CEJOCO,**  
Plaintiffs-Appellees,

v.

**JUAN CEPEDA GOMEZ, MELINDA M. GOMEZ,**

by,

**LENA LOUIE, on behalf of EMILIA D. SCHARFF (deceased)  
and GEORGE E. SCHARFF (deceased),**  
Defendants-Appellants.

Supreme Court Case No.: CVA14-010

Superior Court Case No.: CV1147-12

**OPINION**

**Cite as: 2014 Guam 23**

Appeal from the Superior Court of Guam  
Argued and submitted on August 11, 2014  
Hagåtña, Guam

Appearing for Defendants-Appellants:

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Appearing for Plaintiffs-Appellees:

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

**CARBULLIDO, J.:**

[1] Lena Louie filed this appeal on behalf of her deceased parents, Defendants-Appellants Emilia D. Scharff and George E. Scharff, asking this court to vacate the trial court's Amended Partial Judgment on the ground that service of process was improper. Plaintiffs-Appellees Jose L. Cejoco and Promelinda E. Cejoco alleged that Louie has no standing, appellate review of the issue of improper service or personal jurisdiction is improper, and the Amended Partial Judgment is not a final judgment. We dismiss the appeal as premature because it does not originate from a final judgment or order, and we do not address any of the issues raised in Louie's appeal.

**I. PROCEDURAL BACKGROUND**

[2] Plaintiffs-Appellees Jose L. Cejoco and Promelinda E. Cejoco (the "Cejocos") filed a Verified Complaint against Defendants-Appellants Emilia D. Scharff and George E. Scharff ("the Scharffs").<sup>1</sup> The Cejocos hired a process server to serve the Scharffs, but were unable to locate them. As a result, the Cejocos moved for an order for service by publication and mailing, which was granted.

[3] Due to the Scharffs' failure to file an answer to the Verified Complaint, the Cejocos moved for a default judgment, which the clerk entered on April 15, 2013.

[4] The Cejocos then moved for summary judgment on all seven causes of action. The trial court granted partial summary judgment on three claims, but denied the four remaining claims.

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<sup>1</sup> Based on the record, the other named defendants (i.e., Juan and Promelinda Gomez) in the underlying case are not involved in this appeal.

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Record on Appeal (“RA”), tab 38 (Am. Dec. & Order, Jan. 22, 2014).<sup>2</sup> The court then issued a “Judgment.” RA, tab 42 (Judgment, Feb. 7, 2014).

[5] The Cejocos subsequently moved to amend the Judgment so that the caption would read “Amended Partial Judgment,” asserting that the “‘Judgment’ can only be a partial judgment or partial summary judgment, as judgment was only entered on three of the seven claims asserted in the complaint[,] and the merits of the remaining four claims were not dismissed, disposed, or otherwise adjudicated by the Court.” RA, tab 47 (Pls.’ Mot. Am. Judgment & for Relief, Feb. 21, 2014). The trial court’s entry of the Amended Partial Judgment followed, *see* RA, tab 50 (Am. Partial Judgment, Mar. 5, 2014), and Louie’s appeal ensued.<sup>3</sup>

## II. ANALYSIS

[6] As a threshold matter, we consider whether the Amended Decision and Order, as well as the Amended Partial Judgment, are final and appealable. Whether the Amended Partial Judgment is a final judgment affects this court’s jurisdiction to hear the appeal. *Pia Marine Homeowners Ass’n v. Kinoshita Corp. Guam, Inc.*, 2013 Guam 6 ¶ 11 (“We may review our own jurisdiction *sua sponte* and will dismiss the appeal if we find jurisdiction to be lacking.” (citing *People v. Angoco*, 2006 Guam 18 ¶ 2)).

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<sup>2</sup> The trial court issued the original Decision & Order on October 22, 2013, which the Cejocos moved to amend on November 5, 2013. RA, tab 35 (Pls.’ Mot. Clarification or Recons., Nov. 5, 2013). Although the court granted the Cejocos’ motion, the substance and rulings of the original Decision and Order was left unchanged. *Compare* RA, tab 30 (Dec. & Order, Oct. 22, 2013), *with* RA, tab 38 (Am. Dec. & Order).

<sup>3</sup> Louie’s Notice of Appeal mentions that she is appealing the original judgment, while her Statement of Jurisdiction and Appellant’s Brief indicate that she is appealing the Amended Partial Judgment. *Compare* RA, tab 52 (Notice of Appeal, Mar. 10, 2014), *with* Cejoco v. Gomez, CVA14-010 (Statement of Jurisdiction, Mar. 21, 2014), *and* Appellant’s Br. at 1 (May 20, 2014). This distinction, however, has no bearing on the dismissal of this appeal because the original and amended judgments are substantively identical (with the exception of the document title) and, as explained below, they both fail to satisfy the final judgment rule. *See Dep’t of Revenue & Taxation v. Civil Serv. Comm’n*, 2007 Guam 17 ¶ 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.’”); *Tumon Partners, LLC v. Shin*, 2008 Guam 15 ¶ 21 (“The substance of the order, and not its form or title, determines if it is appealable.”).

[7] It is well settled that this court's jurisdiction "is limited to those matters which the legislature permits it to review." *Tumon Partners, LLC v. Shin*, 2008 Guam 15 ¶ 6. Statutes governing this court's jurisdiction allow for appeal upon the entry of a final judgment,<sup>4</sup> as well as from interlocutory and other orders.<sup>5</sup>

[8] Louie asserts that the Amended Partial Judgment is appealable as a final judgment because the trial court "dispos[ed] of the matter as to the interests of Defendants Emilia D. Scharff and George E. Scharff, terminating their interest in the subject real property . . . ." Appellant's Br. at 2. The Cejocos argue that the Amended Partial Judgment is not final and appealable because other un-adjudicated claims remain. *See* Appellee's Br. at 32-34 (June 20, 2014).

[9] "The final judgment rule mandates that a party must ordinarily raise all claims of error in a single appeal following final judgment on the merits." *Duenas v. George & Matilda Kallingal, P.C.*, 2013 Guam 28 ¶ 14 (citing *Angoco*, 2006 Guam 18 ¶ 10). "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.

[10] This court has jurisdiction over "appeals arising from judgments, final decrees, or final orders of the Superior Court." 7 GCA § 3107(b) (2005). While section 3107(b) confers jurisdiction over "final orders," such jurisdiction must be viewed in light of section 3108(a),

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<sup>4</sup> *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.").

<sup>5</sup> *See* 7 GCA § 3108(b) (2005) (interlocutory review); 7 GCA § 25102 (2005) (list of orders that may be appealed); Guam R. Civ. P. 54(b) (trial court's certification for appeal based on the grant of partial summary judgment). Louie did not file for permission to file an interlocutory appeal in accordance with Guam Rules of Appellate Procedure ("GRAP") Rule 4.2 or seek GRAP 54(b) certification.

which creates the availability of appellate review only “upon the rendition of final judgment in the Superior Court from which appeal or application for review is taken.” 7 GCA § 3108(a); *see also* *A.B. Won Pat Guam Int’l Airport Auth. v. Moylan*, 2004 Guam 1 ¶ 9 (citing *Merchant v. Nanyo Realty, Inc.*, 1997 Guam 16 ¶ 3). “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.’” *Angoco*, 2006 Guam 18 ¶ 10 (quoting *Flanagan v. United States*, 465 U.S. 259, 263 (1984)). A final judgment is defined as “the final determination of the rights of the parties in an action or proceeding.” 7 GCA § 21101 (2005); *Moylan*, 2004 Guam 1 ¶ 21. “In other words, to appeal an order as a final judgment, the order must have the effect of disposing of the case and must be reduced to a final judgment.” *Angoco*, 2006 Guam 18 ¶ 10. “We strictly construe the statutes defining our appellate jurisdiction.” *Id.* ¶ 11 (citing *People v. Natividad*, 2005 Guam 28 ¶ 1).

[11] In this case, neither the trial court’s Amended Decision & Order nor its Amended Partial Judgment is a final judgment because neither of them has the effect of disposing of the underlying case. *See* RA, tab 50 (Am. Partial Judgment); RA, tab 38 (Am. Dec. & Order). Specifically, partial summary judgment was granted in favor of three out of the seven causes of action, leaving four remaining causes of action undisposed: (1) to set aside judgment entered in CV1651-96; (2) Fraud; (3) Breach of Express and Implied Warranties; and (4) Conversion. *See* RA, tab 38 (Am. Dec. & Order). Thus, because the merits of the four remaining claims have yet to be adjudicated, the underlying case is left unresolved in its entirety. We therefore find that the Amended Decision & Order, as well as the Amended Partial Judgment, are not final and appealable.

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**III. CONCLUSION**

[12] Based on the above, we lack jurisdiction to address the instant appeal under 7 GCA § 3108(a). We therefore need not address any of the issues raised in the appeal; in particular, whether service of process was proper in the underlying case. Accordingly, this appeal is hereby **DISMISSED** for lack of jurisdiction.

Original Signed: **F. Philip Carbullido**  
By

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F. PHILIP CARBULLIDO  
Associate Justice

Original Signed: **Katherine A. Maraman**  
By

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KATHERINE A. MARAMAN  
Associate Justice

Original Signed: **Robert J. Torres**  
By

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ROBERT J. TORRES  
Chief Justice

I do hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the clerk of the Supreme Court of Guam

SEP 15 2014

By: **IMELDA B. DUENAS**  
Assistant Clerk of Court  
Supreme Court of Guam