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IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

ANTONIO DLG. VILLAGOMEZ, *et al.*,

Plaintiffs-Appellees,

v.

MARIANAS INSURANCE CO., LTD., *et al.*,

Defendant-Appellant.

Supreme Court Appeal No. 03-0040-GA
Superior Court Case No. 02-0015-CV

OPINION

Cite as: *Villagomez v. MICO, 2006 MP 21*

Argued and submitted on November 19, 2004
Saipan, Northern Mariana Islands

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FOR PUBLICATION

BEFORE: MIGUEL S. DEMAPAN, Chief Justice; ALEXANDRO C. CASTRO, Associate Justice; and JOHN A. MANGLONA Associate Justice

PER CURIAM.

¶1 A[I]n the absence of a writ of mandamus, the final judgment rule= denies this Court appellate jurisdiction over interlocutory orders.@ *Commonwealth v. Guerrero*, 3 N.M. I. 479, 481 (1993). These words create a proverbial greased poll for litigants to climb when appealing interlocutory orders to this Court. Although there are exceptions, they are few and narrow. Additionally, the parties state that jurisdiction for this appeal flows from 1 CMC § 3001 *et seq.* Marianas Insurance Company, Ltd., (“MICO”) filed the instant appeal after it lost a motion for summary judgment at the trial level. A motion for summary judgment is not a final order, and, therefore, MICO’s appeal is DISMISSED for lack of jurisdiction.

I.

¶2 This case involves a dispute regarding insurance policy (the “Policy”) coverage for a nonlicensed driver who may or may not have had permission to drive an automobile involved in an accident. Currently, the plaintiffs in this matter are maintaining a suit against MICO and its insured, Edward Manibusan. On December 23, 2002, Appellant MICO moved for summary judgment at the trial level on two grounds: (1) the driver of the automobile did not have a valid CNMI driver’s license; and (2) the driver did not have permission from the owner to drive. Hence, this appeal deals with Edward Manibusan’s insurance coverage and not any underlying tort issues.

¶ 3 On January 6, 2003, Plaintiffs/Appellees’ filed an opposition and a cross-motion for summary judgment, arguing that the restrictions against unlicensed drivers contained in the Policy are invalid as against public policy and that the driver received permission to drive. The trial court heard arguments, denied MICO’s Motion for Summary Judgment and granted Appellees’ cross-motion. In its order, the trial court held that MICO presented no legitimate grounds for denying coverage and that MICO was “estopped from disputing coverage of Mr. John as a matter of law.” There were no damages granted; indeed, there has not been a trial and the only relief requested by MICO is that this Court reverse the trial court’s ruling and grant summary judgment in its favour.

II.

¶ 4 The parties to this appeal state that this Court has jurisdiction pursuant to 1 CMC § 3102(a).¹ We start any review, however, by turning to the NMI Constitution.

¶ 5 N.M.I. Const. art IV, § 3 limits our jurisdiction to “final judgments and orders.” The Supreme Court’s jurisdiction only applies to Superior Court judgments and orders which are final. *Commonwealth v. Hasinto*, 1 N.M.I. 377, 381-85 (1990), *see also Commonwealth v. Guerrero*, 3 N.M.I. 479, 481 (1993).

¶ 6 Generally, a denial of a motion for summary judgment is not a final order, *Ito v. Macro Energy*, 2 N.M.I. 459 at 464 (1992); *see also, White v. Pierce County*, 797 F.2d 812, 814 (9th Cir.1986); *Construction Laborers' Trust Funds for Southern Cal.* 382 F.3d 897, 902 (9th Cir. 2004); *Abend v. MCA, Inc.*, 863 F.2d 1465, 1482 n. 20 (9th Cir.1988); *Metex Corp. v. ACS Industries, Inc.*, 748 F.2d 150, 153 (3d Cir.1984); *Whitford v. Boglino*, 63 F.3d 527, 530 (7th Cir.1995). A court's granting of summary judgment on a

¹ The parties were, in fact, much more generic, citing only 1 CMC § 3001 *et seq.*

cross-motion, however, can be viewed a final decision giving it jurisdiction to review its denial of plaintiff's motion for summary judgment. *Abend*, 863 F.2d at 1482. The cross-summary judgment, however, must act as a final order. *See id.*

¶7 In this case, however, the trial court's granting of the cross-motion for summary judgment does not act as a final order. Nothing in the trial court's ruling prevents MICO from bringing this appeal at a later date. As it stands now, MICO is unable to "deny coverage, at least as to the plaintiffs, on the grounds that the driver was not permissive user of the vehicle, or on the grounds that the driver was acting out of the scope of the permission at the time of the accident." Order Denying Motion for Reconsideration; Civil Action No. 02-0015, November 6, 2003.

¶8 "[A]ppeals from interlocutory orders are exceptional in character and are wholly dependent upon statute; therefore, the fundamental rule . . . requiring finality of decision as a basis for appeal must be followed unless an express authorization for a different procedure can be found." *Hasinto*, 1 N.M.I. at 385 (quotation omitted). MICO provides no reason why this issue cannot be resolved upon timely appeal at the conclusion of a trial on the merits. We, therefore, have no choice but to decline review of the denial of a summary judgment.

III.

¶9 Assuming MICO's arguments in its brief are correct, and we take no position on those issues, this Court is still free to revisit these arguments after a trial on the merits. As it currently stands, MICO's appeal is from a nonfinal order, and it is DISMISSED.

SO ORDERED THIS 16TH DAY OF OCTOBER 2006.

/s/ Miguel S. Demapan
MIGUEL S. DEMAPAN
CHIEF JUSTICE

/s/ Alexandro C. Castro
ALEXANDRO C. CASTRO
ASSOCIATE JUSTICE

/s/ John A. Manglona
JOHN A. MANGLONA
ASSOCIATE JUSTICE