

LUCIO ALDAN and CONCEPCION L. ALDAN, Appellants

v.

BANK OF AMERICA, Appellee

Civil Appeal No. 104

Appellate Division of the High Court

September 7, 1973

Motion to dismiss untimely appeal. The Appellate Division of the High Court, D. Kelly Turner, Associate Justice, dismissed the appeal.

Appeal and Error—Notice and Filing of Appeal—Effective Date

Appeal is not perfected until filing fee is paid; so that where notice of appeal was filed 31 days after entry of judgment and filing fee was not paid until 52 days after entry of judgment, notice was not effective until 52 days after judgment and was thus untimely under 30-day filing limit statute. (6 TTC § 352)

TURNER, *Associate Justice*

Judgment in this case was entered July 10, 1973. Notice of Appeal was filed thirty-one days later, August 10, 1973. Paying of filing fee was not made to the Clerk of Courts until August 31, 1973, the same day appellee filed its motion to dismiss the appeal on the grounds the Appellate Division does not have jurisdiction because of failure to comply with 6 TTC § 352.

The appeal in this case was not perfected until the filing fee had been paid. Delivering notice of appeal to the Clerk was insufficient in that the statutes and procedural rules were not complied with by appellants. The fee was paid, it is noted, on the same day appellee's motion to dismiss was filed. The notice was not timely. It became effective fifty-two days after entry of judgment.

This court has held many times jurisdiction depends upon compliance with the time limit within which an appeal may be perfected. *San Nicolas v. Bank of America*,

LABILLET v. ZEDEKIAH

Civil Appeal No. 103, ordered dismissed this day, is a companion appeal with the same counsel as the present case.

Ordered, that the appeal filed herein be, and the same is, dismissed.

LABILLET, Plaintiff

v.

ZEDEKIAH L. and "LEROIJ" LANJEN, Defendants

Civil Appeal No. 78

Appellate Division of the High Court

Marshall Islands District

January 17, 1974

Appeal from determination of interests in Makije *wato*, Ajeltake Island, "Jebrik's side" of Majuro Atoll. The Appellate Division of the High Court, per curiam, held that judgment unsupported by any testimony below would not be upheld and that record allowed determination of the interests on appeal.

1. Appeal and Error—Unsupported Judgment—Power of Reviewing Court

That trial court's judgment that defendant held interests in *wato* was without support in testimony before the Master or in the Master's report did not require either a remand or an opposite determination, on appeal, that plaintiff held the interests, where record allowed an appropriate decision.

2. Marshalls Land Law—"Jebriks side" of Majuro—Succession

Plaintiff was bound by the law as to ownership, and successorship to ownership, of interests in *wato* on "Jebrik's side" of Majuro.

3. Marshalls Land Law—"Morjinkot" Land—Generally

Morjinkot was *alab* and *dri jermal* interests, given by an *iroij lablab* who was successful in war, to an outstanding warrior, or to his *bwij*; and since warriors were not of the royal blood, were commoners, the *iroij* interest did not pass under a *morjinkot* gift.

4. Marshalls Land Law—"Dri Jermal"—Revocation of Rights

Where defendant and his people had worked *wato* for half a century, it was not within anyone's power to cut off defendant's *dri jermal* rights without good cause.

Counsel for Appellant:
Counsel for Appellee:

MONNA BUNITAK
BILIMON AMRAM