expense is not allowed as a deduction from the gross receipts.

Accordingly, it is held that for the purposes of slot machine operations, gross revenue, for the purposes of 77 TTC secs. 251(7) and 258, is the amount actually taken from the machines by the owner/taxpayer less the amount of fill or money put in the machine by the owner/taxpayer and less the amount of money paid to players directly from the machines, commonly known as "jackpot payouts."

The judgment of the Trial Court is reversed in part and confirmed in part as indicated above.

CRARY, Temporary Judge, concurring. I concur with Justice Hefner's opinion in which Chief Justice Burnett concurs on the authority of Section 258 of Title 77, which prescribes that tax shall be paid "* * * upon that portion of the amount of gross revenue earned by every business subject to the provisions of this chapter * * *." [Emphasis added.] I am unable to agree with the conclusion set forth in the opinion as to what constitutes the "gross revenue" where the operators of slot machines are involved.

ISAO SATO, Plaintiff-Appellant
v.
SHIRO BEDUL, Defendant-Appellee
Civil Appeal No. 193
Appellate Division of the High Court
Palau District

May 15, 1978

Appeal from Trial Division of the High Court. The Appellate Division of the High Court, Burnett, Chief Justice, affirmed.

1. Appeal and Error-Evidence-Weight

Reweighing of the evidence is not a proper function of an appellate court.

SATO v. BEDUL

2. Appeal and Error-Findings and Conclusions-Tests

Appellate court is prohibited from setting aside a finding of fact of a trial court unless it is clearly erroneous. (6 TTC § 355)

Counsel for Appellant: Counsel for Appellee: JOHN O. NGIRAKED JOHNSON TORIBIONG

Before BURNETT, Chief Justice, NAKAMURA, Associate Justice, and GIANOTTI, Associate Justice

BURNETT, Chief Justice

Appeal was taken from judgment of the Trial Division, Palau. Pursuant to Rule 19, Appellate Rules, the Court has elected on its own motion to consider the matter without oral argument.

Appellee has filed no brief, but moved to dismiss, claiming that appellant's brief was filed late and that it fails to comply with Rule 17 in form and content.

We find the brief to have been timely filed. The record shows that counsel was served with Notice of Certification of the record on August 1, 1977, and his brief filed within the sixty days allowed by Rule 18b, on September 29, 1977.

Appellant's brief clearly does not comply with the requirements of Rule 17, but that fact does not mandate dismissal, which remains with the discretion of the Court. We have regularly allowed considerable latitude to the efforts of Trial Assistant counsel, and are reluctant to impose severe sanctions for failure in formal compliance with the Rules.

We deny the motion to dismiss, but, upon examination of the entire record, find no merit to the appeal.

The land in dispute is Tochi Daicho Lot No. 1784, located in Ollei, Ngerchelong Municipality, which the Court found was registered in the name of Ngirakoranges, as individual property, and so held at the time of his death in 1944.

Appellant claimed under Ngirakoranges pursuant to an alleged oral will. The Trial Court made a specific finding of fact that there had been no will.

[1, 2] Appellant thus seeks to have this Court reweigh the evidence. That is not a proper function of an Appellate Court; we have regularly so held, and are prohibited from setting aside a finding of fact of the Trial Division "unless clearly erroneous." 6 TTC sec. 355.

We find ample evidence in the record to sustain the Court's findings, and no error of any nature.

THE JUDGMENT IS AFFIRMED.

In the Matter of the Estate of JOSE S. IGISAIAR

Civil Appeal No. 211
Appellate Division of the High Court
Mariana Islands District
June 5, 1978

Appeal regarding distribution of assets of estate. The Appellate Division of the High Court, per curiam, held that determination below would not be set aside as it was not clearly erroneous.

Appeal and Error-Findings and Conclusions-Tests

Determination of trial court would not be set aside where it was not clearly erroneous. (6 TTC § 355(2))

Counsel for Appellant: Counsel for Appellee: DOUGLAS F. CUSHNIE, ESQ. MICHAEL A. WHITE, ESQ.

Before HEFNER, Associate Justice, NAKAMURA, Associate Justice, and GIANOTTI, Associate Justice

PER CURIAM

This appeal concerns the distribution of two major assets of the estate of Jose S. Igisaiar. The original petition