ESTATE OF ROMAN TMETUCHL,
Appellant,

v.

MASAZIRO SIKSEI
Appellee.

CIVIL APPEAL NO. 10-008
Civil Action No. 68-96

Supreme Court, Appellate Division
Republic of Palau

Decided: September 8, 2010[1]

[1] **Appeal and Error**: Standard of Review; **Civil Procedure**: Motion for Relief from Judgment

The Appellate Division reviews the trial court's decision concerning relief under Rule 60(b) for an abuse of discretion. In doing so, the Court is unconcerned with the merits of the underlying judgment from which relief is sought; it evaluates only whether the relief was properly within the trial court's discretion.

[2] **Civil Procedure**: Motion for Relief from Judgment

Because Rule 60(b) is derived from the Federal Rules of Civil Procedure, the Court may refer to pertinent United States authorities.

[3] **Civil Procedure**: Motion for Relief from Judgment

In granting relief from a judgment under Rule 60(b), a trial court may condition or limit the relief upon such terms as are just. Conditions or limitations on relief are within the court's power so long as they are a reasonable exercise of discretion.

[4] **Civil Procedure**: Motion for Relief from Judgment

The trial court must exercise its discretion under Rule 60(b) soundly and in light of the appropriate factors. Whether to grant or limit relief is not "a matter of idiosyncratic choice;" rather, the determination involves taking account of several incommensurable factors, some relating to the particular case and others to the larger system of administered justice.

[5] **Civil Procedure**: Motion for Relief from Judgment

Among the factors potentially relevant to a Rule 60(b) motion are the magnitude and consequences of the judgment, the relative clarity with which it appears that the judgment was unjust, the relative fault of the parties, whether the party seeking relief was diligent, and the equities in the interests of reliance. Other factors relating to the larger system of justice are the degree of diligence and competence expected of counsel, the extent to which the court should rely on the adversary presentations in contrast with seeking a just result on its own initiative, the balance to be struck between finality and correctness of judgments, and the distribution of

[1] The Court finds this case appropriate for submission without oral argument. *See* ROP R. App. P. 34(a).

responsibility for deciding upon relief between the trial court and the appellate court.

[6] **Civil Procedure**: Motion for Relief from Judgment

Whether granting full relief will inequitably disturb an interest of reliance on the judgment is a primary reason for conditioning or limiting relief under Rule 60(b). The very nature of a final judgment in a contested action—particularly one affirmed on appeal—creates reliance on the fact that the dispute involved has been legally terminated. Relief should be denied, or granted only in part, when the effect of granting relief would be to unjustly disturb that stability.

[7] **Civil Procedure**: Motion for Relief from Judgment

Section 74(3) of the Restatement (Second) of Judgments applies to both the initial determination of whether to grant relief from a judgment and the decision whether to limit or condition relief.

[8] **Civil Procedure**: Motion for Relief from Judgment

Whereas a reversal on appeal means that the underlying decision was incorrect from the start, relief from judgment does not affect the judgment's validity during the period prior to relief. An order under Rule 60(b) does not in any way call into question the validity of the judgment or decree from the time of its entry up until the time of the 60(b) order.

[9] **Civil Procedure**: Motion for Relief from Judgment

A court generally is not entitled to grant affirmative obligations in proceeding for relief from judgment, and it is typically within a court's discretion to impose such terms as will place the parties in the status quo.

Counsel for Appellant: Oldiais Ngiraikelau
Counsel for Appellee: David Pugh, Micronesian Legal Services Corp.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; KATHLEEN M. SALII, Associate Justice; RICHARD H. BENSON, Part-time Associate Justice.

Appeal from the Trial Division, the Honorable ALEXANDRA F. FOSTER, Associate Justice, presiding.

PER CURIAM:

The parties in this case have been disputing the ownership of certain mahogany trees for more than twenty years, and this case has been in litigation for over fourteen. The only issue now before this Court is whether the trial court erred when, after granting the Estate of Tmetuchl ("the Estate") relief from a prior judgment, it declined to order Masaziro Siksei to reimburse funds which the Estate had already paid under that judgment. For the reasons that follow, we find no error below.

BACKGROUND

The facts are outlined thoroughly in various opinions of this Court, *see Estate of Tmetuchl v. Siksei,* 14 ROP 129 (2007); *Estate of Tmetuchl v. Aimeliik State*, 13 ROP 176 (2006); *Tmetuchl v. Siksei*, 7 ROP Intrm. 102 (1998), and we limit our discussion to those relevant here.

In 1988, Roman Tmetuchl harvested several mahogany trees on land that Masaziro Siksei claimed was his. Siksei sued Tmetuchl in 1996 seeking damages for the fallen trees. In defense, Tmetuchl contended that the trees were located on property owned by Aimeliik State, which had authorized him to cut them. After hearing from both sides, the first trial court found in Siksei's favor and ordered Tmetuchl to pay $65,000 plus interest, and the Appellate Division affirmed. *Id.* Tmetuchl passed away some time after the judgment, and his estate started making regular payments in satisfaction of the debt.

In 1999, the Estate filed a lawsuit against Aimeliik State seeking indemnification for wrongly permitting Tmetuchl to cut trees on Siksei's property. Aimeliik State defended using the same theory Tmetuchl had propounded in the first lawsuit: that Aimeliik was the true owner of the land containing the mahogany trees. In direct conflict with the first court's findings, the second trial court[2] held that the trees actually *were* located on Aimeliik State property. Therefore, on February 25, 2005, the trial court ruled that Aimeliik State was not required to indemnify Tmetuchl's Estate for the damages it owed to Siksei under the prior judgment in Civil Action No. 68-96.

The result of these inconsistent judgments was that the Estate was obligated to pay damages to Siksei under the first, yet unable to recover the money from Aimeliik State under the second. In other words, one court held that Siksei owned the trees, while another held they were Aimeliik State property. In light of this conflict, the Estate filed a motion for relief from the first judgment, pursuant to Rule 60(b)(6) of the ROP Rules of Civil Procedure. The Estate, however, improperly filed its motion in the second trial court, rather than the first (which was the court that issued the judgment from which relief was sought). The motion was denied because of this error, and the Appellate Division affirmed but left open the possibility of a properly filed motion in the original trial court. *Aimeliik State*, 13 ROP 176.

The Estate filed a second Rule 60(b)(6) motion, this time in the original trial court. That court determined that the circumstances cited in support of the motion were not extraordinary, and it also noted that Siksei was not a party to the second lawsuit between the Estate and Aimeliik State and was therefore not bound by that judgment. The trial court therefore denied the Estate's motion for relief.

The Appellate Division, however, reversed that ruling on June 22, 2007. *Estate of Tmetuchl*, 14 ROP 129. The Court noted that if Aimeliik State in fact owned the mahogany trees, then the Estate had been paying significant damages for lawful conduct, and Siksei has been unjustly enriched by receiving compensation for trees that he did not own. *Id.* at 131. The Court therefore held that "the unfairness of these inconsistent judgments rises to the level of an extraordinary circumstance under Rule 60(b)(6)," and it concluded that the Estate "should have been granted relief from the final judgment." *Id.* The Court reversed and

[2] Justice R. Barrie Michelson presided over the first case, Civil Action No. 68-96. Justice Larry Miller presided over the second case, Civil Action No. 99-226.

remanded for further proceedings.

On February 20, 2009, the trial court[3] granted the Estate's Rule 60(b) motion, thereby complying with the Appellate Division's mandate on remand. On May 18, 2009, the Estate filed a motion for reimbursement of the money it had already paid Siksei in reliance on the original judgment against Tmetuchl, which totaled $94,500 as of July 27, 2007.[4] Siksei opposed the motion on May 27, arguing that he had not been a party to the second lawsuit, Civil Action No. 99-226, and that it would be unfair to hold him to the factual determinations made in that case. No court of law had ever issued a judgment against enforceable against *him* finding that he did not own the land in question.

The trial court therefore scheduled a third trial to determine the proper ownership of the mahogany trees. On February 2, 2010, the trial court issued its decision, finding that the land upon which the mahogany trees once stood belonged to Aimeliik State, not Siksei, and that Tmetuchl (now the Estate) was therefore not liable to Siksei.

The court then addressed the $94,500 that the Estate had already paid Siksei under the previous judgment. The court found that Siksei had reasonably relied on the original judgment in Civil Action No. 68-96 for more than twelve years, as he had a right to do. The court found that ordering reimbursement at this late stage would "inequitably disturb an interest of reliance on the judgment." (citing Restatement (Second) of Judgments § 74(3)). In support of this finding, the court cited several of Siksei's prior statements that he spent the money and does not have sufficient funds to repay it should the court order him to do so.[5] The court therefore limited the Estate's relief by ordering that it need not make any future payments to Siksei,[6] but also held that Siksei was not required to reimburse the Estate for the $94,500 already paid under the prior judgment. It is this final conclusion that is the subject of this appeal.

ANALYSIS

Unlike much of this case's "tortuous procedural journey," as the court below phrased it, this appeal presents just one

[3] Justice Alexandra F. Foster presided over this matter after the Appellate Division's latest remand.

[4] On that date, the parties agreed to suspend further payments until this matter is resolved.

[5] The trial court cited Siksei's brief opposing the Estate's most recent Rule 60(b) motion, filed February 2, 2009, as well as Siksei's brief opposing the Estate's first Rule 60(b) motion, filed on October 18, 2006.

[6] The total amount that the Estate still would owe under the original judgment is substantial, although unclear. In his June 7, 2000, Complaint to open Tmetuchl's estate, Masaziro claimed that the amount owed was more than $135,000. Civ. Act. No. 00-103. On December 31, 2001, the Estate purportedly owed $141,883.07 ($65,000.00 of principal and $76,883.07 in interest). Even using the number provided in 2001—a truly conservative calculation—and subtracting the $94,500 already paid, the Estate was relieved of paying Siksei at least $50,000, without factoring interest.

discreet issue: whether the trial court erred by refusing to order Siksei to reimburse the Estate for the $94,500 it has already paid under the judgment in Civil Action No. 68-96, from which relief was later granted. To be clear, the following are *not* at issue: whether relief from the prior judgment in Civil Action No. 68-96 was proper under Rule 60(b); the true ownership of the land upon which the disputed mahogany trees once stood; and the value of the trees or any other amount of damages. The Court must accept, therefore, that "extraordinary circumstances" merited relief from the prior judgment; that the mahogany trees were *not* located on Siksei's property; and that to date the Estate has paid $94,500 in damages it would not have owed had the first judgment never existed. What remains is a difficult determination implicating two strong and legitimate competing interests: the Estate's right to recover money it paid for a tort a subsequent judgment held it did not commit versus Siksei's right to rely upon a final judgment. The answer, as explained below, comes down to the proper conceptualization of Rule 60(b) and the true meaning of "relief" from judgment.

[1, 2] We review the trial court's decision concerning relief under Rule 60(b) for an abuse of discretion. *Sowei Clan v. Sechedui Clan*, 13 ROP 124, 128 (2006); *Masang v. Ngerkesouaol Hamlet*, 13 ROP 51, 54 (2006). In doing so, we are unconcerned with the merits of the underlying judgment from which relief is sought; we evaluate only whether the relief was properly within the court's discretion. *See Sowei Clan*, 13 ROP at 128. Because Rule 60(b) is derived from the Federal Rules of Civil Procedure, the Court may refer to pertinent United States authorities. *Id.* at 127 n.4 (2006); *Secharmidal v. Tmekei*, 6 ROP Intrm. 83, 85 n.1 (1997). In addition to challenging the trial court's discretion in awarding partial relief from the judgment in Civil Action No. 68-96, the Estate claims that the trial court violated its mandate on remand and that it was entitled to a hearing before denial of its motion for reimbursement. These are questions of law that we review de novo. *See Estate of Rechucher v. Seid*, 14 ROP 85, 88-89 (2007).

A.

Rule 60(b) of the Palau Rules of Civil Procedure permits a court to relieve a party from a final judgment for five enumerated reasons and "any other reason justifying relief from the operation of the judgment." ROP R. Civ. P. 60(b)(6). In our previous opinion, we described the general standards for determining whether relief is appropriate under Rule 60(b)(6) and concluded that such relief was warranted for the judgment in Civil Action No. 68-96. *See* 14 ROP 129. We therefore remanded the matter to the trial court to grant such relief as it saw fit.

[3] In granting relief from a judgment under Rule 60(b), it is settled that a trial court may condition or limit the relief "upon such terms as are just." ROP R. Civ. P. 60(b); *see also* 11 Wright & Miller, *Federal Practice and Procedure: Civil 2d* § 2857 (2d ed. 1995); 12 *Moore's Federal Practice*, § 60.22[2] (Matthew Bender 3d ed.). Conditions or limitations on relief "are within the court's power so long as they are a reasonable exercise of discretion." 11 Wright & Miller, *supra*, § 2857.

[4, 5] The trial court, of course, must exercise this discretion soundly and in light of the appropriate factors. *See* Restatement (Second) of Judgments § 74 cmt. g (1982). Whether to grant or limit relief is not "a matter of idiosyncratic choice;" rather, the determination "involves taking account of several incommensurable factors, some relating to the particular case and others to the larger system of administered justice." *Id.* Among the factors potentially relevant to the individual case are the magnitude and consequences of the judgment, the relative clarity with which it appears that the judgment was unjust, the relative fault of the parties, whether the party seeking relief was diligent, and the equities in the interests of reliance. *Id.* Those factors relating to the larger system of justice are "the degree of diligence and competence expected of counsel . . . , the extent to which the court should rely on the adversary presentations in contrast with seeking a just result on its own initiative, the balance to be struck between finality and correctness of judgments, and the distribution of responsibility for deciding upon relief between the trial court and the appellate court." *Id.*; *see also Delay v. Gordon*, 475 F.3d 1039, 1044 (9th Cir. 2007) (noting the direct tension between the judicial system's interest in finality and its desire to reach a fair outcome when a problem with a prior judgment becomes apparent). In light of the variety of factors, "the criteria for granting relief cannot be stated in categorical terms," Restatement (Second) of Judgments § 74 cmt. g, and a court should consider all pertinent circumstances.

[6] Of particular concern in this case is Siksei's reasonable reliance on the prior judgment in Civil Action No. 68-96. Whether granting full relief "will inequitably disturb an interest of reliance on the judgment" is a primary reason for conditioning or limiting such relief. Restatement (Second) of Judgments § 74(3); *see also* 12 *Moore's Federal Practice*, § 60.22[2] ("Relief from a judgment may be inappropriate if parties have relied on it or if circumstances are such that setting it aside would cause prejudice to a party."). The very nature of a final judgment in a contested action—particularly one affirmed on appeal—"creates reliance on the fact that the dispute involved has been legally terminated." Restatement (Second) of Judgments § 74 cmt. f. To protect this interest, the opposing party must act diligently in seeking relief from a judgment, and substantial "plans and acts in reliance on the judgment . . . become considerations that ought to give stability to the judgment. Hence it is that relief should be denied, or granted only in part, when the effect of granting relief would be to unjustly disturb that stability." *Id.*

[7] The Estate avers that § 74(3) of the Restatement applies only to the initial determination of whether to grant or deny relief from a judgment. Because this Court had already determined that relief from the judgment in Civil Action No. 68-96 was warranted, *see Estate of Tmetuchl*, 14 ROP 129, the Estate argues that the provision was no longer applicable in deciding the issue of reimbursement before the trial court. The Court disagrees. The section is entitled "Denial *or Limitation* of Relief" (emphasis added), and subsection (3) expressly notes that when an interest of reliance "can be adequately protected by giving the applicant limited or conditional relief, the relief will be

shaped accordingly." Restatement (Second) of Agency § 74(3). The Court finds no reason why the guidelines in § 74(3) should not apply to the trial court's decision to limit relief, just as they applied to this Court's initial determination whether such relief is warranted at all.

[8] Finally, a litigant must remain apprised of the distinction between *relief* from judgment and *reversal* or modification on direct appeal.[7] Whereas reversal on appeal means that the underlying decision was incorrect from the start, relief from judgment does not affect the judgment's validity during the period prior to relief. *See Balark v. City of Chi.*, 81 F.3d 658 (7th Cir. 1996). As the Seventh Circuit put it, "the fact that a court may exercise an extraordinary power to relieve the parties of a judgment's consequences . . . does not make the judgment any less final." *Id.* at 663. "An order under Rule 60(b) does not in any way call into question the validity of the judgment or decree from the time of its entry up until the time of the 60(b) order. The 60(b) order operates prospectively only, as the language of the rule itself makes clear." *Id.*

[9] In comparing a Rule 60(b) order with an order to revise a judgment after a direct appeal, the *Balark* court also stated:

> If a district court judgment is reversed on appeal, the effect of the appellate court ruling is that the judgment was never correct to begin with. If a judgment has been paid immediately, it must be refunded. This is why devices such as supersedeas bonds and injunctions or stays pending appeal exist: so that the parties can protect their respective positions while the fate of the district court judgment is still uncertain. In the case of final judgments embodying injunctive relief, the injunction governs the parties' behavior unless and until it either expires of its own force or relief under Rule 60(b) is granted. . . The fact that the decree may eventually expire or may be modified or terminated pursuant to Rule 60(b) does not mean that it was not valid while it lasted.

[7] The Estate appears to blur this line in its brief, in which it cites § 74 of the Restatement (Second) of Restitution to support the proposition that restitution should have been ordered as a matter of course. First, that section and its accompanying comments speak almost solely of a judgment which has been reversed, vacated, or set aside following a direct appeal. Second, even if § 74 applied to relief from a judgment, it expressly states that restitution should not be ordered if it "would be inequitable or the parties contract that payment is to be final," and the commentary goes on to explain that even a *reversing* tribunal (such as an appellate court) "can itself direct restitution either *with or without conditions*." Restatement (First) of Restitution § 74 and cmt. a (emphasis added). These provisions, therefore, merely beg the question of whether the trial court reasonably found that ordering Siksei to reimburse the Estate would be inequitable. The Court finds § 74 inapplicable and not altogether helpful in resolving the issue before it.

Id.[8] The distinction is important because "relief" from a judgment is just as it sounds—it simply relieves a party from the obligations under the existing judgment and typically operates prospectively; indeed, a court is not entitled to grant any affirmative obligations in such a proceeding. *See* 12 *Moore's Federal Practice*, § 60.25 ("Rule 60(b) is available only to set aside a prior order or judgment; a court may not use Rule 60 to grant affirmative relief in addition to the relief contained in the prior order or judgment."). Furthermore, it is clear that when a court is considering limited relief from a judgment, it is typically within its discretion to impose such terms as will place the parties in the status quo. 11 Wright & Miller, *Federal Practice & Procedure: Civil 2d* § 2864 ("[T]he court may exercise its power under clause (6) on conditions that will place the parties in status quo.").

B.

With these principles in mind, we turn to the circumstances of this case. As the above law suggests, the true goal of fashioning relief from judgment is to balance, as fairly as possible, the obvious interest in reaching the correct, true, or just result against the judicial system's interest in finality of its judgments—and a litigant's reliance thereon. This is not an easy feat. Our court system is an adversarial one, and justice therefore operates solely against those parties who appear before it in any given proceeding, on the terms and within the bounds of their pleadings, evidence, and arguments. The best a trial court can do is to hear and thoughtfully consider each party's case and, in the end, reach what it believes to be the fairest, most just result under the applicable law.

In this case, the various trial courts performed these duties to the best of their abilities. That the first trial court determined that the mahogany trees were located on Siksei's property, whereas the second trial court found that Aimeliik State owned them, does not render either result "right" or "wrong" in the eyes of the law. Different parties appeared in each case and presented different evidence, witnesses, and arguments. And putting aside the question of which outcome was factually "correct," the subsequent judgment in favor of Aimeliik State certainly does not render the first any less *valid* or *final*. Siksei fully litigated his claims against Tmetuchl, prevailed, and obtained a binding judgment from a court of law (which was affirmed on appeal). Siksei had every right to rely on that judgment's finality, and this is precisely what both he and the Estate did for many years—the Estate paid, and Siksei received, a substantial sum of money under the judgment.

Under the law cited above, the trial court did not abuse its discretion in refusing to order Siksei to reimburse the $94,500 which the Estate has already paid under the original judgment in Civil Action No. 68-96. First, the starting line is that relief from judgment is typically just that—relief—and does not wholly invalidate a prior judgment as reversal on direct appeal would. Moving to the factors from the Restatement, the trial court was

[8] Although the *Balark* court was addressing relief from an injunction, the Court finds that the same principle applies to a monetary judgment such as that involved in this case.

within its discretion in crafting the appropriate relief. The "relative clarity with which it appears that the judgment was unjust" in the present case is minimal, at best. Although this Court ultimately found that enforcing the first judgment against the Estate would in fact be unjust, that result was far from clear. This was not a case, for example, in which a "flaming gun" piece of evidence came to light to reveal a clear answer; it just so happened that subsequent trial courts found to the contrary of the ruling in Civil Action No. 68-96. As for the relative fault of the parties, the Estate is in the present position through its own litigation mishaps—particularly its failure to join Aimeliik State as a party to the initial proceeding in Civil Action No. 68-96. No one knows what the outcome would have been had Aimeliik State been joined initially, but the Estate certainly would not be faced with conflicting judgments. As it now stands, the Estate has already been permitted to seek enforcement of the trial court ruling more favorable to it. Furthermore, had the Estate filed its initial Rule 60(b) motion for relief in the proper court, it could have sped things along and avoided several payments under the original judgment. Last is the most important factor—Siksei's reliance on the prior judgment. The Estate's Rule 60(b) motion did not swiftly follow the first judgment in this case. The Estate paid its obligation under the judgment for more than ten years before seeking relief. Siksei had every right to spend that money, as it had contested and won its lawsuit against the Estate. To order repayment at this point would inequitably undermine the reliance interest in this matter.

One last argument by the Estate merits brief mention. The Estate contends that the previous appellate panel passed on the issue of reimbursement and therefore foreclosed the trial court's discretion to limit relief on remand. Specifically, the Estate argues that the Appellate Division's opinion implicitly considered the relevant factors in § 74(3) of the Restatement (Second) of Judgments, ordered the trial court to grant relief from judgment, and imposed only one condition on that relief—that there be a third trial over the ownership of the mahogany trees. Thus, according to the argument, the Appellate Division supposedly explored the possibility of limited relief but declined to impose it, stripping the Trial Division of its discretion to condition the relief. In our prior opinion, however, we merely held that relief from judgment was warranted. As a result of such relief, there would be no binding judgment as between the Estate and Siksei concerning ownership of the mahogany trees, necessitating a third trial on that factual issue. This Court's only order was that "the Estate should have been granted relief from the final judgment." *Estate of Tmetuchl*, 14 ROP at 131. In that same opinion, however, we also noted that the unfairness in the conflicting judgments "warrants revisiting the ownership of the trees to settle this matter fairly." *Id.* In conclusion, we only vacated the Trial Division's denial of the Estate's Rule 60(b)(6) motion and remanded for further proceedings. The Trial Division was within its discretion to consider the appropriate equitable factors and fashion a conditional or limited relief from the prior judgment, if it believed that this was the just result. It did not exceed its authority on remand, and the sole issue in this appeal is whether it exercised such discretion soundly and reasonably.

The Court is sympathetic to the Estate's plight. If the "true" facts were that Aimeliik State owned the land upon which the disputed mahogany trees were located (as two trial courts have now found), then the Estate has paid a substantial sum over the years under an incorrect judgment. But simply because that judgment might have been factually incorrect does not make it *invalid*. The Estate and Siksei fully litigated this matter, and the first trial court simply reached a different conclusion than the second. Furthermore, a substantial amount of the original judgment in Civil Action No. 68-96 remains outstanding and owed by the Estate (by this Court's most conservative estimate, at least $50,000, and likely much more). By fashioning the relief as it did, the trial court still relieved the Estate of paying that substantial remaining obligation. "[T]he test on abuse of discretion review is not whether the district court might have decided differently, but whether the court's denial [or limitation] of the [moving party's] Rule 60(b) motion was unreasonable." *Eskridge v. Cook County*, 577 F.3d 806, 810 (7th Cir. 2009).

CONCLUSION

We find nothing unreasonable about the trial court's limitation on the Estate's relief from judgment in Civil Action No. 68-96, and we therefore **AFFIRM.**