Espangel and Ucheliou Clan v. Tirso, et al., 3 ROP Intrm. 282 (1993)

ESEBEI ESPANGEL,
Appellant/Cross Appellant,

and

UCHELIOU CLAN,
Appellant/Cross Appellant,

v.

VALENTINE TIRSO, et al.,
Appellees - Appellants.

CIVIL APPEAL NO. 11-87

Supreme Court, Appellate Division
Republic of Palau

Opinion
Dated: August 24, 1993

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; and LARRY W. MILLER, Associate Justice.

PER CURIAM:

This appeal was argued in August 1989 before a panel consisting of the late Chief Justice Nakamura and then Associate Justices Sutton and O'Brien. That panel decided the appeal in a lengthy opinion issued on May 16, 1991. *Espangel v. Tirso*, 2 ROP Intrm. 315 (1991). On May 28, 1991, appellant/cross appellant Espangel filed a petition for rehearing. That petition was denied in an order issued by the same panel on August 2, 1991. Nearly a year later, and fourteen months after the decision of this Court had been issued, appellant Espangel, represented by new counsel, filed a second petition for rehearing, followed soon after by a motion to stay the judgment pending the determination of its petition.

⊥283 Petitions for rehearing should be granted exceedingly sparingly, and only in those cases where this Court's original decision obviously and demonstrably contains an error of fact or law that draws into question the result of the appeal. Successive petitions for rehearing, if proper at all, should, at a minimum, meet the same standard.

The reasons for disfavoring such petitions has been explained by a past justice of the United States Supreme Court in language precisely suited to the present situation:

> "It ought to be understood, or at least believed, whether it is true or not, that this Court, being a Court of last resort, gives great consideration to cases of

> importance and involving consequences like this, and there should be a finality somewhere." *See Cahill v. New York, New Haven & Hartford R. Co.* , 351 U.S. 183, 186 (1956) (dissenting opinion).

Here, there can be no question that the panel that decided this case, having taken it under advisement for more than a year, having issued a decision that fully explains the rationale for the result reached, and having considered anew and rejected appellant's initial petition for rehearing, gave it "great consideration". For this panel to disturb its ruling would require the most compelling circumstances.

Those circumstances are not present here. The second petition for rehearing filed on behalf of appellant points to no obvious error, but instead seeks the reconsideration of established law, principally this Court's adherence to the Tochi Daicho presumption first recognized by the courts of the Trust Territory. *See generally Ngiradilubch v. Timulch* , 1 ROP Intrm. 625, 627-29 (1989). Without questioning the permissibility of an appeal which asks this Court in ⊥284 good faith to reconsider and overturn its past decisions, we believe that such a request is wholly out of place in a petition for rehearing and certainly in a second such petition.

Appellant's second petition for rehearing and motion for stay are denied.