

SABLAN v. SABLAN

**DAVID M. SABLAN, Appellant**  
v.  
**GUADALUPE P. SABLAN, Appellee**  
Civil Appeal No. 331  
Appellate Division of the High Court  
Mariana Islands District  
October 1, 1980

Appeal from an order of the Trial Division of the High Court holding appellant in contempt of court, for failure to comply with post-divorce judgment order. The Appellate Division of the High Court, Nakamura, Associate Justice, held that High Court did not have jurisdiction to enforce its final judgment of divorce, entered prior to the effective date of the Constitution for the Commonwealth of the Northern Marianas, within the territory of the Northern

Marianas, and therefore orders entered by the trial court were vacated and set aside.

**1. Domestic Relations—Divorce—Final Judgment**

A “final judgment” in a divorce action occurs when the decree of divorce is entered.

**2. Courts—Jurisdiction—High Court**

High Court of the Trust Territory does not have jurisdiction to enforce its final judgments entered prior to the effective date of the Constitution for the Commonwealth of the Northern Marianas, within the territory of the Northern Marianas.

---

*Counsel for Appellant:*

WILLIAM M. FITZGERALD, ESQ.,  
CUSHNIE & FITZGERALD, Sai-  
pan, CM 96950

*Counsel for Appellee:*

RAMON G. VILLAGOMEZ, ESQ.,  
Saipan, CM 96950

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

NAKAMURA, *Associate Justice*

This is an appeal from an order entered by the Trial Division of the High Court of the Trust Territory of the Pacific Islands on December 4, 1979, holding appellant in contempt of court.

The salient facts of this case are as follows: On July 29, 1977, appellant (petitioner) filed a Petition for Dissolution of Marriage in the Trial Division of the High Court of the Trust Territory of the Pacific Islands, sitting on Saipan, Northern Mariana Islands. Subsequently, on September 1, 1977, the court entered a Judgment and Decree of Divorce. No appeal being taken, the judgment became final.

On November 14, 1979, a little over two (2) years after the entry of the judgment, appellee (respondent) filed a motion for order to show cause in the Trial Division of the High Court of the Trust Territory of the Pacific Islands, sitting on Saipan, Northern Mariana Islands. A hearing on

said motion was held before the Trial Division of the Trust Territory High Court in Saipan on November 26, 1979. After the hearing, the court entered an order compelling appellant to execute certain deeds as required by the judgment, within seven (7) days from November 26, 1979.

On December 4, 1979, the court, after a hearing, sentenced appellant to serve sixty (60) days in Saipan jail for his failure to comply with the court's order of November 26.

On December 11, 1979, appellant filed a motion for stay of judgment pending appeal in the Trial Division of the High Court and notice of appeal in this Court. The motion was subsequently granted.

The sole issue in this appeal is whether the High Court of the Trust Territory of the Pacific Islands has jurisdiction to enforce its final judgments entered prior to the effective date of the Constitution for the Commonwealth of the Northern Marianas, within the territory of the Commonwealth of the Northern Marianas. We hold that it does not.

It is undisputed that the Northern Mariana Islands as a former District of the Trust Territory of the Pacific Islands fell within the jurisdiction of the Trust Territory High Court until the effective date of the Constitution for the Commonwealth of the Northern Mariana Islands. The Constitution became effective on January 9, 1978.

Part XII of Secretarial Order No. 2989, dated March 24, 1976, provided that:

*Part XII. Judicial Authority:* Until a Judiciary is established for the Northern Mariana Islands in accordance with the Covenant, the Judicial authority of the Government of the Northern Mariana Islands shall remain vested in the High Court of the Trust Territory and such other courts as may be established pursuant to law.

Section 4 of the Schedule on Transitional Matters of the Constitution of the Northern Mariana Islands provides:

*Section 4: Continuity of Judicial Matters.* As of the effective date of the Constitution the Marianas District Court of the Govern-

ment of the Northern Mariana Islands shall become the Commonwealth trial court and the judges serving on the Mariana District Court shall be judges of the Commonwealth Trial Court serving at the pleasure of the governor until the governor appoints judges of the Commonwealth Trial Court under Article IV, Section 4 of the Constitution. Civil and criminal matters pending before the Marianas District Court on the effective date of the Constitution shall become matters pending before the Commonwealth Trial Court. Civil and criminal matters *pending* before the High Court of the Trust Territory of the Pacific Islands on the effective date of the Constitution that involve matters within the jurisdiction of the Commonwealth Trial Court of the United States District Court for the Northern Mariana Islands shall remain within the jurisdiction of the High Court *until finally decided*. (Emphasis added.)

The analysis of the Constitution of the Commonwealth of the Northern Mariana Islands discusses the meaning and interpretation to be afforded to Section 4. It notes, at page 197:

For purposes of this section, civil matters are considered pending if a complaint has been filed in the action . . . . For purposes of classifying matters pending before the High Court, matters which are before the trial division of that court are to be considered as finally decided when a *final judgment is had*. (Emphasis added.)

The threshold question involved in this instance involves the definition of "final judgment" as applied to a divorce action.

There is but one final decree in a divorce suit, although it may consist of different provisions. 27A C.J.S. Divorce § 159.

When an interlocutory judgment has been entered, and the interlocutory period has expired, the court is authorized to enter the final judgment dissolving the marriage. 33 Cal. Jur. 3d Family Law § 676.

A judgment may be final although it does not determine the rights of the parties, if it ends a particular suit, such as a judgment of dismissal, non-suit, or discontinuance, or a judgment abating on action. Also a judgment may be final although further directions may be necessary to carry it into effect, although further

MUNA v. TRUST TERRITORY

proceedings remain to be taken in court to make the judgment effective, *or although the court reserves the right to modify the judgment.* 49 C.J.S. Judgments § 11. (Emphasis added.)

[1, 2] A final judgment was entered by the High Court of the Trust Territory when the decree of divorce was entered on September 1, 1977. The decree in this case was entered before the effective date of the Constitution, to wit: January 9, 1978. To this end, final judgment was had, and the court thereby divested of its authority to act on post-judgment motions.

In view of the foregoing, the orders entered by the trial court on November 26 and December 4, 1979, are hereby VACATED and SET ASIDE.