

**KATOSANG RIMIRCH, Plaintiff-Appellee**

**v.**

**NGIRAIBAI UDUI, Defendant-Appellant**

Civil Appeal No. 177

Appellate Division of the High Court

Palau District

September 13, 1978

Civil appeal from Palau District. The Appellate Division of the High Court, Nakamura, Associate Justice, dismissed the appeal for failure to file brief until some 50 days after extended filing date.

**Appeal and Error—Briefs—Late Filing**

Where appellant's attorney received extension of time for filing brief on appeal and did not file until some 50 days after that time the appeal would be dismissed for failure to diligently prosecute it. (TT Rules App. Proc., R. 20)

*Counsel for Appellee:*

ROMAN TMETUHL

*Counsel for Appellant:*

JOHN O. NGIRAKED

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

NAKAMURA, *Associate Justice*

It appears from the record and file herein that a notice of appeal was filed in this matter on November 12, 1976. It further appears that the Clerk of Courts, Palau District certified the record and said certification was served upon counsel for the appellant on May 3, 1977. Rule 18(b) of Trust Territory Appellate Rules of Procedure provides that the appellant's brief must be filed within sixty (60) days after the notification of the certification of the record by the Clerk for the Trial Division. The record and file herein show that on July 4, 1977, counsel for appellant applied for extension of time within which to file his brief and the

application was granted and the time for extension for filing was extended to July 20, 1977. The record further reveals that counsel for appellant filed his brief on September 8, 1977, some fifty (50) days after July 20, 1977. Counsel for appellant did not apply for any additional extension of time for filing his brief.

It is clear from the foregoing that appellant's brief was untimely filed and it appears that counsel for appellant failed to diligently prosecute this appeal in accordance with applicable rules and the matter should be dismissed pursuant to Rule 20 of Trust Territory Appellate Rules of Procedure. Now therefore,

IT IS HEREBY ORDERED that this matter be and the same is hereby dismissed for failure to diligently prosecute the appeal as provided in Trust Territory Appellate Rules of Procedure.