

Francisco M. DIAZ, et al.
vs.
Ramon L.G. DIAZ

Civil Action No. 81-0058
District Court NMI

Decided November 3, 1982

The strongest ground for reconsideration of a motion is that the court overlooked controlling authority which, if considered, reasonably might have altered the result.

**1. Constitution (NMI) -
Schedule on Transitional Matters
- Judiciary**

It is the intent of the Commonwealth Constitution's Transitional Matters Schedule that a "finally decided" case over which the District Court may take jurisdiction is one in which the Trial Division of the Trust Territory High Court has rendered a final judgment and even though the judgment had been appealed to the Appellate Division of the High Court, the District Court of the Northern Mariana Islands may recognize and reduce the final judgment of the Trial Division of the High Court to a District Court judgment. C.N.M.I. Const., Sch. Trans. Mat. §4.

**2. Civil Procedure - Motions -
Reconsideration**

Because of strong policies favoring finality and judicial economy, courts hesitate to rule more than once on the same motion, but a district court judge has the inherent discretionary authority to modify or to overturn an interlocutory order while it remains interlocutory.

**3. Civil Procedure - Motions -
Reconsideration**

Reconsideration of motion may occur upon the court's initiative.

**4. Civil Procedure - Motions -
Reconsideration**

having been heard on January 1980, no opinion has yet been filed. On the basis of these facts, the Court determined that the matter was still "pending before the High Court" under Section 4, and that therefore plaintiff lacks a final judgment which this Court may recognize and reduce to a District Court judgment. The Court accordingly denied summary judgment to plaintiffs. See Diaz at 3-4.

However, further research at the Court's initiative convinces this Court that the Trial Division's judgment is "final" for Section 4 purposes and that the denial of summary judgment was erroneous. For the reasons explained below, the Court vacates its prior decision and grants summary judgment to plaintiffs.

I.

Section 4 states in relevant part:

Civil and criminal matters pending before the High Court of the Trust Territory of the Pacific Islands on ... (January 9, 1978) that involve matters within the jurisdiction of ... the United States District Court for the Northern Mariana Islands shall remain within the jurisdiction of the High Court until finally decided.

Resolution No. 16 of the Northern Mariana Islands Constitutional Convention (Dec. 6, 1976) adopted the "Analysis of the Constitution of the Commonwealth of the Northern Mariana Islands" (the Analysis) as a guide for resolving future

questions of constitutional construction. The Analysis of Section 4 states in relevant part:

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. Jurisdiction of appeals from such cases will be in the United States District Court for the Northern Mariana Islands sitting as an appellate court or before the Commonwealth appeals court if the federal district court is unavailable to decide appeals of Commonwealth cases. Matters before the High Court on appeal may not be further appealed under Commonwealth law (emphasis added).

Read as a whole, the Analysis language above instructs that a case pending before the High Court's Trial Division on January 9, 1978 is "finally decided" for Section 4 purposes once the Trial Division renders judgment.

[1] The Analysis further instructs that "jurisdiction of appeals from such... (trial division judgments) will be in the United States District Court for the Northern Mariana Islands." It is to be noted also that defendant in this case failed to move to stay the Trial Division judgment during the pendency of the appeal. Clearly then, Section 4 intended that a "finally decided" case over which this Court may take jurisdiction is one in which the Trial Division has rendered a final judgment, and which this District Court may recognize and reduce to a District Court judgment.

II.

[2] Because of strong policies favoring finality and judicial economy, courts hesitate to rule more than once on the same motion. E.g., Metropolitan Liquor Co. v. Heublein, Inc., 50 F.R.D. 73, 75 (E.D.Wisc. 1970). Nevertheless, a district judge has the inherent discretionary authority to modify or to overturn an interlocutory order while it remains interlocutory. Tanner Motor Livery Ltd. v. Avis, 316 F.2d 804, 809 (9th Cir. 1963), cert. denied 375 U.S. 821, 84 S.Ct. 59, 11 L.Ed.2d 55(1963). Thus, the denial of a motion may be reconsidered where, as here, the court which denied the motion has not rendered a final judgment. Pearson v. Dennison, 353 F.2d 24, 28 and n. 5 (9th Cir. 1965). These rules have emerged primarily from cases such as this one in which the order reconsidered was a denial of summary judgment. See Hodgson v. United Mine Workers, 473 F.2d 118, 125-126 n. 38 (D.C. Cir. 1972).

[3,4] In the decisions cited above, reconsideration occurred upon motion by a party rather than upon the court's initiative, as here. That immaterial distinction pales against the important interests of justice and judicial integrity. The strongest ground for reconsideration is that the court overlooked controlling authority which, if considered, reasonably might have altered the result. See New York

Guardian Mortgage Corp. v. Cleland, 473 F.Supp, 409, 420 (S.D.N.Y. 1979). In this instance, the court would have granted summary judgment if it had considered the discussion of Section 4 in the Analysis.¹

Having consulted the Analysis and concluded that the prior decision was erroneous, the Court is constrained to vacate that decision and to grant summary judgment to plaintiffs.²

The Court shall enter an order in accordance with this amended decision.

Nov. 3, 1982
Date


ALFRED LAURETA
United States District Judge

¹Although the Court is ultimately responsible for its prior ruling, it notes that plaintiffs neglected to cite Section 4 or the Analysis in their written and oral motion arguments.

²After this Court initially denied summary judgment, plaintiffs filed an identical judgment recognition action in the Commonwealth Trial Court. On October 28, 1982, the Commonwealth Trial Court denied defendant's motion for summary judgment. Diaz v. Diaz, Civil Action No. 82-221, Order Denying Motion For Summary Judgment, (C.T.C. Oct. 28, 1982). In ruling without considering Section 4 that plaintiffs may now reduce the High Court Trial Division judgment to a Commonwealth Trial Court judgment, the Court noted that "procedural and practical problems" will occur if the High Court's Appellate Division reverses. Id. at 6 fn. In this Court, Federal Rule of Civil Procedure 60(b)(5) would afford defendant an avenue of relief in the event of a reversal.

FILED
Clerk
District Court

NOV 03 1982

For the Northern Mariana Islands
By [Signature]
(Deputy Clerk)

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS
LOCAL TRIAL DIVISION

FRANCISCO M. DIAZ, et al,
Plaintiff,
vs.
RAMON L.G. DIAZ,
Defendant.

CIVIL ACTION NO. 81-0058

ORDER

In accordance with its amended decision on November 3, 1982, the Court: (1) vacates its March 29, 1982 decision denying summary judgment; and (2) grants plaintiffs' motion for summary judgment.

DATED this 3rd day of November, 1982.

[Signature]

ALFRED LAURETA
United States District Judge