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REPUBLIC OF MARSHALL ISLANDS

IN THE HIGH COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS

JOURNAL JILLY)	CIVIL ACTION NO. 2014-123
On behalf of RINE MOTLOK,)	
plaintiff)	
v.)	
)	ORDER GRANTING
UTRIK ATOLL LOCAL)	MOTION TO DISMISS
DISTRIBUTION AUTHORITY,)	
defendant)	
_____)	

To: Tiantaake Beero, MLSC, plaintiff's attorney
Witten T. Philippo, defendant's attorney

Journal Jilly, on behalf of the head of his family, Rine Motlok, states that his extended family has been denied nuclear claim-related compensation payments for the years 2005-2012, to which it is entitled as holder of dri jerbal rights on Monkobob weto, Utrik Atoll. In 2013, Jilly obtained a default judgment against the alab of Monkobob weto, in which the court declared that Jilly's family was entitled to these payments. He presented that judgment to the Utrik Atoll Local Distribution Authority (UALDA) in 2013, and the UALDA made a payment for 2013, but has refused to make back payments for 2005 through 2012. Jilly filed this case seeking those payments.

UALDA requests the court dismiss this case for failure to state a claim, on the grounds that this court lacks jurisdiction over this controversy.

I. Does this court have jurisdiction in a dispute over whether certain landowners are entitled to distribution of proceeds under Section 177 of the Compact of Free Association concerning claims for loss or damage to property related to the nuclear testing program?

The Nuclear Claims Tribunal Act 1987 (Act), 42 MIRC 1, was established to provide redress to, among others, Utrik Atoll landowners, for property loss or damage related to the

funds. In his attempt to draw this distinction, Jilly presumably concedes that this court does not have jurisdiction over distribution disputes. But he does not cite any specific authority for his position that the High Court has jurisdiction over an entitlement dispute.⁴ Regardless, a review of specific provisions of the Act demonstrates that Jilly's argument must fail.

The language Jilly uses in his complaint is that the UALDA has *refused* to make payments. Jilly does not allege any facts from which this claim of a refusal to make payments might be construed to be anything other than a determination that Jilly and his extended family are not recipients entitled to those payments. His attempt to draw a distinction between "distribution" and "entitlement," when responding to UALDA's motion to dismiss, is a distinction without meaning under the scheme of the Act. Under the plain language and purpose of the Act, one has a right to receive a "distribution" of funds only if one is "entitled" to those funds. The agency that makes the determination of who is entitled to, and will receive distribution of, funds, is the [UA]LDA, and any dispute concerning that determination must be brought before the Tribunal. Under its constitutional powers, the High Court has jurisdiction to review a government agency's final determination only when not "otherwise provided by law."⁵ Here, the law provides otherwise. The Act clearly limits the High Court's jurisdiction over disputes concerning funds distributed by the Tribunal to specific situations. None of those specific situations are present here.

The language of the Act is clear: as this case is presently postured before the High Court, this court cannot exercise jurisdiction over this dispute, as it concerns the UALDA's determination that Jilly's family is not entitled to a distribution of funds for the years 2005 through 2013.⁶ To the extent it is Jilly's position that this controversy does not concern a final determination over which the Tribunal has expansive authority, the complaint fails to set forth a short and plain statement of a claim showing that Jilly is entitled to relief, as required by MIRCP 8(a)(1) and 8(a)(2).

⁴ Jilly invokes this court's jurisdiction under Article VI, Section 3 of the RMI Constitution. See note 3, *infra*.

⁵ RMI Constitution, Article VI, Section 3(1).

⁶ If Jilly were to claim that the UALDA has found that his family is entitled to funds, i.e. previously determined that they are "recipients," but now declines to honor that previous determination, the court's analysis might be different. But the complaint does not make this claim.

II. When the court entered default judgment in one case against the alab of a weto on Utrik Atoll, does the court in a different case have jurisdiction to enforce that judgment against the Utrik Atoll Local Distribution Authority, which was not a party to the other case?

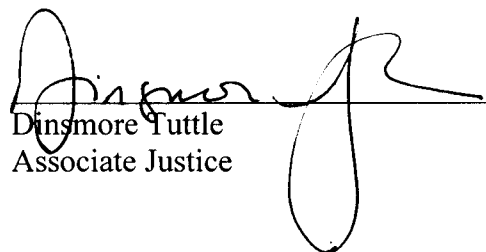
Jilly states, in his complaint, that he seeks to enforce the judgment entered in CA 2012-170.⁷ That judgment entered against Jilly's alab, and UALDA was not a party to that case. Now Jilly seeks to enforce that judgment against UALDA. However, Jilly fails to cite any legal authority, in opposition to the motion to dismiss, for his argument that this court can enforce the previous court order against UALDA in this new case. Jilly's position fails for at least two reasons. No issues were actually litigated in the previous case. The judgment that entered in CA 2012-170 was a default judgment, not a judgment on the merits.⁸ And UALDA was not a party to the previous case. While there are procedural rules that address enforcement of a judgment against parties and non-parties, none have been invoked here.

Under this theory also, Jilly fails to state a claim for which relief can be granted.

Order

Plaintiff has failed to state a claim for which relief may be granted. The motion is granted.

Dated: 3 November 2014


Dinsmore Tuttle
Associate Justice

⁷ "The case at hand is about enforcement of the Judgment in CA No. 2012-170." (Complaint, paragraph 10.)

⁸ *Syverson v. IBM*, 472 F.3d 1072, 1078 (9th Cir.2007).

United States Government's nuclear testing program, as required by Section 177 of the Compact of Free Association Act of 1985.¹ The Act provides, in part:

- A “distribution scheme” is a formal set of criteria and conditions governing the payment of funds. § 102(e)
- “Local Distribution Authority” (LDA) is the local government council, including the Utrik LDA, with the responsibility for distributing funds. § 102(g)
- A “recipient” means those who have been designated to receive a distribution of funds. § 102(l)
- The Tribunal renders final determination of all claims by citizens for loss or damage to property related to the nuclear testing program, and disputes arising from distributions of funds related to those claims. §§ 104(a) and 104(b)
- In order to render a final determination, the Tribunal has expansive authority to decide all claims brought by RMI citizens seeking compensation for loss or damage to property in any way related to the nuclear testing program, or concerning distribution under the Section 177 Agreement. § 105. This authority specifically includes the authority to decide claims challenging an LDA's determination that an individual is not a recipient. §105(d).
- Any claim that challenges the fairness or equity of a distribution scheme, the administration of a distribution scheme, or an LDA's determination that an individual is not a recipient, must be brought before the Tribunal. §§ 124, 125, 126.
- The High Court's jurisdiction over any grievance concerning actions taken by the Tribunal is limited. The High Court does not have jurisdiction to review the Tribunal's final determinations and orders. § 106(3).² The High Court has jurisdiction to answer questions concerning a contested assertion of ownership over property and the nature of ownership only when that question is certified to the High Court by the Tribunal. § 123(10), § 123 (11), and § 126(12).

In his complaint, Jilly alleges his family's claims for compensation payments for 2005 through 2012 were denied by UALDA.³ In response to UALDA's position that the High Court does not have subject matter jurisdiction over disputes concerning Nuclear Claims Tribunal distributions, Jilly argues that this case concerns entitlement to funds, not distribution of those

¹ 41 MIRC Ch. 1.

² The High Court's jurisdiction over cases and controversies is granted in Article VI, Section 3(1) of the Constitution, and is specifically referenced in the Nuclear Claims Tribunal Act at § 106(3). As stated in the Constitution: “The High Court shall be a superior court of record having general jurisdiction over controversies of law and fact in the Republic of the Marshall Islands; . . . shall have original jurisdiction over cases duly filed in the High Court; and shall have appellate jurisdiction over cases originally filed in subordinate courts; and, *unless otherwise provided by law, shall have jurisdiction to review the legality of any final determination by a government agency at the behest of any party aggrieved by such determination.*” (Emphasis added.)

³ The question of limitations on the action is not before the court. 29 MIRC Ch.1, Part VI.