

CHUUK STATE SUPREME COURT TRIAL DIVISION

SHIGETO CORPORATION, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LAND COMMISSION STATE OF CHUUK, )  
 )  
 Defendant. )  
 )

CSSC CV CASE NO. 076-2010

ORDER DENYING PLAINTIFF'S MOTION FOR COSTS

Repeat R. Samuel  
Associate Justice

Hearing: July 14, 2014  
Decided: September 3, 2014

APPEARANCES:

For the Plaintiff: Stephen V. Finnen, Esq.  
P.O. Box 1450  
Kolonias, Pohnpei FM 96941

For the Defendant: Daieko Robert  
State Prosecutor  
Office of the Attorney General  
P.O. Box 1050  
Weno, Chuuk FM 96942

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HEADNOTES

Costs – When Taxable

The general rule is that the prevailing party is entitled to costs per Rule 54(d), but Rule 54(d) also provides that "costs against the State of Chuuk, its officers, and agencies shall be imposed only to the extent permitted by law." Shigeto Corp. v. Land Comm'n, 19 FSM R. 542, 543 (Chk. S. Ct. Tr. 2014).

Costs – When Taxable

When no written documentation was submitted to show that the plaintiff would be entitled to recover its costs if the plaintiff prevailed against the state agency in a civil suit and when no statute authorizes a plaintiff to recover costs on a breach of contract claim against the State of Chuuk, the court will deny the plaintiff's motion for costs. Shigeto Corp. v. Land Comm'n, 19 FSM R. 542, 543-44 (Chk. S. Ct. Tr. 2014).

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COURT'S OPINION

REPEAT R. SAMUEL, Associate Justice:

I. INTRODUCTION

A "Motion for Costs" ("Motion") was filed by the Plaintiff, Shigeto Corporation, on August 14, 2013, pursuant to Rule 54(d) of the Chuuk State Rules of Civil Procedure. No opposition was filed by the Defendant, Land Commission State of Chuuk.

II. ISSUE

The question before the Court is whether the Plaintiff is entitled to costs pursuant to Rule 54(d).

III. APPLICABLE LAW

The general rule is that the prevailing party is entitled to costs per Rule 54(d). However, Rule 54(d) also provides that "*costs against the State of Chuuk, its officers, and agencies shall be imposed only to the extent permitted by law.*" Thus, under Rule 54(d), costs cannot be awarded against the State of Chuuk, except when authorized by statute. See e.g., Udot Municipality v. FSM, 10 FSM Intrm. 498, 501, 502 (Chk. 2002) (While costs are allowed as of course to a prevailing party, costs against the FSM, its officers, and agencies are imposed only when authorized by statute.).

IV. FACTS

On July 16, 2010, the Plaintiff filed a complaint for breach of contract against the Defendant, Land Commission State of Chuuk.

The breach of contract claim involves a Toyota Hi-Lux 4x2 Pick Up ("Vehicle"). Compl. ¶ 4. As set forth in the complaint, the Plaintiff states that it delivered the Vehicle to the Defendant; however, to date, the Defendant has failed to pay the Plaintiff the purchase price of \$15,744.75, plus sales tax of \$787.24, for a total of \$16,531.99 ("Unpaid Balance"). An invoice dated September 7, 2001 was attached as Exhibit A to the Complaint. In addition, a demand letter dated July 28, 2005, regarding the Unpaid Balance was attached as Exhibit B to the Complaint. No other written documentation was submitted.

At a hearing held on July 14, 2014, trial counselor, Daieko Robert was instructed to submit a proposed payment schedule re the Unpaid Balance by September 15, 2014.

V. APPLICATION OF FACTS AND LAW

This case involves a breach of contract claim against the Defendant for failure to pay the Unpaid Balance in connection with the purchase and delivery of the Vehicle. Per a review of the case file, no written documentation was submitted to show that the Plaintiff would be entitled to recover costs in the event that Plaintiff prevailed against the Defendant in a civil suit. Additionally, there is no statute authorizing the Plaintiff to recover costs against the State of Chuuk based on a breach of contract claim. See Udot Municipality, 10 FSM Intrm. at 501, 502 (While costs are allowed as of course to a prevailing party, costs against the FSM, its officers, and agencies are imposed only when authorized by statute.). Accordingly, the Plaintiff is not entitled to any costs pursuant to Rule 54(d).

VI. CONCLUSION

Based on the foregoing, it is hereby ORDERED that the Plaintiff's Motion for Costs is DENIED.

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CHUUK STATE SUPREME COURT TRIAL DIVISION

IN THE MATTER OF THE ESTATE OF	)	CSSC PROBATE NOS. 48-97; 50-97; and 4-98
RAYMOND SETIK,	)	
	)	
Deceased,	)	
	)	
MARIANNE SETIK,	)	
	)	
Petitioner.	)	
_____	)	

ORDER

Repeat R. Samuel  
Associate Justice

Decided: September 3, 2014

APPEARANCE:

For the Petitioner: Marstella E. Jack, Esq.  
P.O. Box 2210  
Kolonias, Pohnpei FM 96941

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HEADNOTES

Civil Procedure – Injunctions

To obtain a temporary restraining order or a preliminary injunction, a petitioner must show: 1) the possibility of irreparable injury; 2) the balance of possible injuries between the parties; 3) the petitioner's likelihood of success on the merits; and 4) any impact on the public interest. In re Estate of Setik, 19 FSM R. 544, 546 (Chk. S. Ct. Tr. 2014).

Civil Procedure – Injunctions

While a temporary restraining order may issue without notice and expires within 14 days unless extended by the court for good cause or by consent of the restrained party, a preliminary injunction cannot issue without notice and usually remains in effect until a final determination on the merits. In re Estate of Setik, 19 FSM R. 544, 546 (Chk. S. Ct. Tr. 2014).

Civil Procedure – Injunctions – Irreparable Harm

The possibility that the FSM Court will issue an order denying stay motions and/or affirming on appeal the decision to sell the property does not constitute the possibility of irreparable injury required for the issuance of a temporary restraining order. An unwelcome outcome is among the everyday risks