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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

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**BONG HO KANG and YOUNG MI
KANG,**

Plaintiffs,

vs.

**MANUEL OKAZAKI DUENAS,
MONETTE ROSE GUERRERO
DUENAS, and CANDELARITA ROSE
GUERRERO DUENAS,**

Defendants.

Civil Case No. CV0159-25

**DECISION AND ORDER DENYING
DEFENDANT MONETTE ROSE
GUERRERO DUENAS' MOTION FOR
JUDGMENT ON THE PLEADINGS**

This matter came before the Honorable Dana A. Gutierrez on July 28, 2026, upon the Motion for Judgment on the Pleadings Pursuant to Rule 12(c) ("Motion") filed by Defendant Monette Rose Guerrero Duenas ("Monette"). At the hearing, attorney Jon R. Ramos appeared on behalf of Monette, and attorney Delia Lujan Wolff appeared on behalf of plaintiffs Bong Ho Kang and Young Mi Kang ("Plaintiffs"). At the conclusion of the hearing, the Court took the matter under advisement. Now, upon consideration of the pleadings, oral arguments, and applicable law, the Court hereby issues this Decision and Order **DENYING** the Motion.

BACKGROUND

On March 6, 2025, Plaintiffs filed a Verified Complaint against Manuel Okazaki Duenas ("Manuel"), and Manuel's two daughters, Candelarita Rose Guerrero Duenas ("Candelarita") and Monette (collectively, "Defendants"). *See* V. Compl. (Mar. 6, 2025). The complaint alleges, in brief, that Plaintiffs and Defendants are neighbors; that during Typhoon Mawar in May 2023, a

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large tree fell from Defendants' property (hereafter, "193 Bien Avenida")¹ onto Plaintiffs' property; and that the treefall caused physical damage to Plaintiffs' property and required costly debris removal services. *See id.* at 3–4. The complaint alleges that the damage resulted from Defendants' failure to properly maintain the tree and that Defendants are thus liable under theories of negligence, gross negligence, and premises liability. *See id.* at 5–10. The complaint also seeks punitive damages, alleging that Defendants' failures to maintain the tree, help remove the fallen tree, and contribute financially to removal services demonstrate they "expressly or implicitly acted (and continued to act) with malice." *Id.* at 6.

The complaint alleges that Manuel and Candelarita—but not Monette—reside at 193 Bien Avenida. V. Compl. at 2. The complaint alleges only that Monette "has a mailing address" in California. *Id.* But the complaint also alleges that "[o]n November 11, 2011, Defendant Manuel transferred title of 193 Bien Avenida to Defendant Monette and Defendant Candelarita, subject to Defendant Manuel's life estate. A Deed of Gift with the Reservation of a Life Estate was recorded at the Department of Land Management on December 2, 2011." *Id.*; *id.*, Ex. 1 at 1 (Deed of Gift and Reservation of Life Estate, Dec. 2, 2011).

Thereafter, the Defendants filed separate Answers. *See* Answer of Manuel Okazaki Duenas (Mar. 31, 2025); Answer of Candelarita Rose Guerrero Duenas (Apr. 24, 2025); Monette Rose Guerrero Duenas' Answer to Complaint (Sept. 15, 2025). Then on November 25, 2025—after the pleadings had closed—Monette filed her Motion pursuant to Guam Rule of Civil Procedure ("GRCP") 12(c). Monette argues she cannot be held liable in this case as a matter of law. *See generally* Motion (Nov. 25, 2025). She argues that the allegations in the complaint, even taken as

¹ Also described as "Lot No. 27, Block Number 11 Tract Number 232, (Portion of old Lot numbers 4 and 14, Block 23. and portion of old Dorado Sr., Consolidated with lot 15, Block 23). *See* V. Compl, Ex. 1 at 1 (Deed of Gift and Reservation of Life Estate, Dec. 2, 2011).

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true, fail to plead that Monette was a “party in possession [or] responsible for managing [193 Bien Avenida] and exercising reasonable care[;]” instead, it pleads that she is a remainderman to 193 Bien Avenida. *See id.* at 3–5. Monette argues that as a matter of law, a remainderman has no right to possess, control, or manage the property during the life tenant’s lifetime, which means she could not have owed or breached any duty of care to the Plaintiffs based on the condition of the property. *See id.* at 5–8.

Plaintiffs filed an Opposition, emphasizing Guam’s liberal notice pleading standard under GRCP 8(a). *See* Opposition at 2–3 (Dec. 23, 2025).² Plaintiffs argue that their complaint alleges that Monette exercised “management and control” of 193 Bien Avenida at the time of the treefall, and that this fact must be taken as true for purposes of this Motion. *Id.* at 3–5. Monette filed a Reply, re-emphasizing her position that “as remainderman, Defendant Monette does not have the ability to manage or control the property while the life tenant, Defendant Manuel, is alive” *See* Reply at 5 (Feb. 3, 2026).

On July 28, 2026, the Court heard oral arguments on the motion and subsequently took the matter under advisement.

DISCUSSION

1. Legal Standard

GRCP 12(c) provides that “[a]fter the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings.” GRCP 12(c).³ A judgment on

² GRCP 8(a) requires only a “short and plain statement of the claim.” In Guam, “a complaint need only provide ‘fair notice of what the plaintiff’s claim is and the grounds upon which it rests.’” *Ukau v. Wang*, 2016 Guam 26 ¶ 22 (quoting *Conley v. Gibson*, 355 U.S. 41, 45 (1957)). Guam does not follow the heightened “*Twombly / Iqbal*” pleading standard now required in the federal courts. *See id.* ¶ 27.

³ This portion of GRCP 12(c) is substantively similar to Federal Rule of Civil Procedure 12(c). “[F]ederal decisions that construe the federal counterparts to the Guam Rules of Civil Procedure are persuasive authority.” *Gov’t of Guam v. O’Keefe ex rel. Est. of Torres*, 2018 Guam 4 ¶ 9.

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the pleadings is appropriate “when there is no issue of material fact in dispute, and the moving party is entitled to judgment as a matter of law.” *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009). Hence, “the defendant will not succeed on a motion under Rule 12(c) if there are allegations in the plaintiff’s pleadings that, if proved, would permit recovery on his claim.” 5C Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1368 (3d ed.).

A GRCP 12(c) motion is evaluated under the same general standards as a GRCP 12(b)(6) motion. *See Ramos v. Docomo Pacific, Inc.*, 2012 Guam 20 ¶ 7 (“[A] motion for judgment on the pleadings . . . is subject to the same standard of review as a motion to dismiss under Rule 12(b)(6).”); *Gregg v. Hawaii, Dep’t of Public Safety*, 870 F.3d 883, 887 (9th Cir. 2017) (describing the two motions as “functionally identical”). Upon a defendant’s GRCP 12(c) motion, the Court accepts all well-pleaded facts in the complaint as true, construes the complaint in the light most favorable to the plaintiffs and resolves all doubts in their favor, and examines whether it appears beyond doubt that there is “no set of facts” the plaintiffs could prove to support their claims. *Compare Port Auth. Of Guam v. Guam Indus. Servs., Inc.*, 2026 Guam 2 ¶ 27 (standards for evaluating Rule 12(b)(6) motions) with 5C *Fed. Prac. & Proc.* § 1368 (noting federal courts apply these same standards for Rule 12(c) motions).

But while the evaluative standards for GRCP 12(b)(6) and GRCP 12(c) motions are the same, the motions themselves differ in important ways. *See Murphy v. Dep’t of Air Force*, 326 F.R.D. 47, 48–50 (D.D.C. 2018) (explaining distinctions between the motions). “The principal difference between motions filed pursuant to Rule 12(b) and Rule 12(c) is the time of filing.” *Dworkin v. Hustler Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). But another important difference is that a successful GRCP 12(c) motion typically results in the entry of a final judgment, which carries preclusive effect. *See* 5C *Fed. Prac. & Proc.* § 1368. Thus, unlike a GRCP 12(b)(6)

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motion, a GRCP 12(c) motion “requires the court to consider and decide the *merits* of the case, on the assumption that the pleadings demonstrate that there are no meaningful disputes as to the facts” *Murphy*, 326 F.R.D. at 48 (emphasis added). Accordingly, “[f]ederal courts generally hesitate to grant judgment on the pleadings, because ‘hasty or imprudent use of this summary procedure by the courts violates the policy in favor of ensuring to each litigant a full and fair hearing on the merits of his claim or defense.’” *Carrasco v. Fiore Enterprises*, 985 F. Supp. 931, 934 (D. Ariz. 1997) (quoting 5C *Fed. Prac. & Proc.* § 1368)); see *Baumann v. District of Columbia*, 744 F. Supp. 2d 216, 221 (D.D.C. 2010) (a Rule 12(c) motion must be treated “with the greatest of care.”) (citation omitted).

2. The Motion is Denied Because Material Facts Remain in Dispute

In her Motion, Monette does not appear to contend that the complaint fails to plead *any* viable claim sounding in negligence, gross negligence, or premises liability—she contends only that the complaint fails to plead a viable claim *against her*. Monette reasons that she holds only a remainder interest in 193 Bien Avenida, and as such, she did not “have the ability to manage or control the property” during Manuel’s lifetime. Motion at 2. Monette argues the case against her “hangs on a single *legal* determination: whether [] Monette, as remainderman of [] Manuel’s life estate, is the party in possession or responsible for managing the property and exercising reasonable care.” *Id.* at 3 (emphasis added).

However, the complaint alleges that at all relevant times, 193 Bien Avenida was “under Defendants’ management, control, and ownership.” V. Compl. at 5. If this allegation is understood as one of well-pleaded fact, the Court must accept it as true. See 5C *Fed. Prac. & Proc.* § 1368 (“For purposes of the court’s consideration of the Rule 12(c) motion, all of the well pleaded factual allegations in the adversary’s pleadings are assumed to be true and all contravening assertions in

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the movant's pleadings are taken to be false.”). And if the Court accepts this allegation as true, then Monette's argument—in effect, that the allegation is not true—would fail. The question, then, is whether this is an allegation of fact that must be accepted as true, or whether it is an allegation of a “legally impossible fact,” which need not be accepted as true. *See 5C Fed. Prac. & Proc.* § 1368 (“Although a moving party, for purposes of the Rule 12(c) motion, concedes the accuracy of the factual allegations in his adversary's pleading, he does not admit . . . legally impossible facts.”).

Monette first argues, and the Court agrees, that the complaint pleads that she is a remainderman of 193 Bien Avenida. The complaint alleges, and it appears undisputed, that as of 2011, Monette and Candelarita own 193 Bien Avenida subject to Manuel's life estate. V. Compl. at 2; *see also id.*, Ex. 1 (Deed of Gift with Reservation of a Life Estate); *id.*, Ex. 3 (Ownership and Encumbrance Report). In May 2023, since Manuel's life estate had not terminated, Monette held only a remainder interest in 193 Bien Avenida. *See* 21 GCA § 3109 (“When a future estate, other than a reversion, is dependent on a precedent estate, it may be called a remainder.”); *cf. In re Certificate of Title No. 134940*, 2021 Guam 19 ¶ 52 (noting party who deeded property to children subject to life estate had “gifted her remainder interest” to the children).

Monette next argues that as a remainderman, she could not have possessed or controlled the property. Motion at 1–2.⁴ The general rule is that “[t]he life tenant is entitled to possession, control, and enjoyment of the premises to the exclusion of remaindermen or reversioners.” 31 C.J.S. *Estates* § 44; *see* 21 GCA § 1221 (“A future interest entitled the owner to the possession of

⁴ Monette also argues she could not have possessed or controlled the property “by virtue of living in California, at least as early as November 2011, as evidenced by the Deed.” Motion at 6. However, the Deed only shows that Monette lived in California *in* November 2011, not that she still lived there in May 2023. Further, the complaint alleges that, at the time of its filing (March 2025), Monette had a mailing address in California; it does not allege that she lived in California in May 2023. V. Compl. at 2. If Monette indeed lived in California in May 2023, that fact will likely be relevant to whether she possessed or controlled 193 Bien Avenida at that time. But since that fact is not established in the complaint or its exhibits, it cannot be taken as true here.

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the property only at a future period.”). It is therefore true that during Manuel’s life estate, Monette was not entitled to *seize* possession control of 193 Bien Avenida—but it does not follow that she was legally unable to *receive* possession or control of the property. A life tenant can voluntarily relinquish or release their right to exclusive possession and control of a property. *See* 31 C.J.S. *Estates* § 44. Moreover, the Court is aware of no authority providing that a life tenant cannot delegate their power to manage their estate. *Cf.* 21 GCA § 9101 (“The owner of a life estate may use the land in the same manner as the owner of a fee simple.”). Thus, Manuel (as life tenant) would have had the right to prevent Monette (as remainderman) from controlling or managing 193 Bien Avenida during his lifetime, but Manuel was not required to exercise that right, and Monette was not precluded from assuming control or management of the property if Manuel permitted her to do so. In short, it is not impossible as a matter of *law* for Monette to have actually exercised control or management over the property.

It may turn out to be impossible as a matter of *fact* for Monette to have exercised control or management. The Court here makes no finding as to whether Manuel in fact relinquished his right to exclusive control or management of the property. The point is simply that Plaintiffs’ allegation that Monette controlled or managed the property is an allegation of (possible) fact. As such, the Court must accept it as true for purposes of this motion. And with that allegation assumed true, there is a conceivable set of facts Plaintiffs could adduce to show that Monette is liable in negligence, gross negligence, and/or premises liability. Accordingly, the Court will not grant judgment on the pleadings. Monette is not precluded from advancing a similar argument at a later stage of the case, once the evidence (or lack thereof) regarding her alleged management or control of the property has been developed.

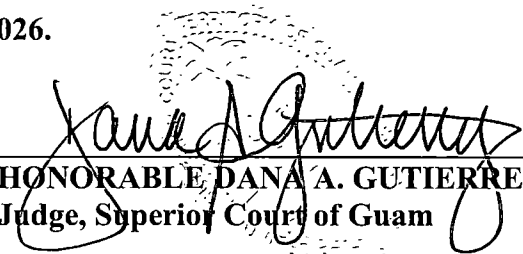
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CONCLUSION

For the foregoing reasons, the Court **DENIES** Defendant Monette's Motion for Judgment on the Pleadings.

SO ORDERED this 26th day of October, 2026.



HONORABLE DANA A. GUTIERREZ
Judge, Superior Court of Guam