REMEDIES

Although retroactive application of a decision holding a state tax unconstitutional would impose hardship on a state where funds collected under the tax have already been committed, such a result is not inequitable where the state legislature pushed on with the tax act despite the strong resistance of business people to the tax in the form of petition and establishment of an escrow account to hold contested payments, and a veto message by the governor of the state, and there is no indication that the legislature seriously considered the constitutionality of the legislation. Innocenti v. Wainit, 2 FSM R. 173, 186 (App. 1986).

A promissory note executed by a governor, not authorized by law, and for which no appropriation of funds was made, and which failed to meet the requirements of the state financial management act is unenforceable against the state. Truk v. Maeda Constr. Co. (I), 3 FSM R. 485, 487 (Truk 1988).

A promissory note executed by the governor which is unenforceable against the state is not ratified although the legislature appropriated funds for a state debt committee which included the amount of the note, since the committee is not required to pay the promisee of the note, and since the promisee is not the allottee of the appropriation. Truk v. Maeda Constr. Co. (I), 3 FSM R. 485, 487 (Truk 1988).

Although the court is powerless to compel Chuuk State to honor its lease agreement it has full power to restore unlawfully held property to its rightful owner as a remedy for forcible entry and unlawful detainer. Billimon v. Chuuk, 5 FSM R. 130, 136-37 (Chk. S. Ct. Tr. 1991).

Under Civil Rule 54(c) the court has full authority except in default judgments, to award the party granted judgment any relief to which it is entitled whether that party prayed for it or not. Billimon v. Chuuk, 5 FSM R. 130, 137 (Chk. S. Ct. Tr. 1991).

Where the court cannot compel the state to honor an illegal and/or unconstitutional lease it can order the state to restore the illegally held land, with any and all public improvements removed, to its rightful owner who may also be entitled to damages. Billimon v. Chuuk, 5 FSM R. 130, 137 (Chk. S. Ct. Tr. 1991).

The equitable remedy of specific performance is one where the court orders a breaching party to do that which he has agreed to do, thereby rendering the non-breaching party the exact benefit which he expected. The remedy is available when money damages are inadequate compensation for the plaintiff – when damages cannot be computed or when a substitute cannot be purchased. Ponape Constr. Co. v. Pohnpei, 6 FSM R. 114, 126 (Pon. 1993).

Where entitlement to customary relief has been proven and the means to execute such a remedy are within the trial court's authority and discretion, the trial court should as a matter of equity and constitutional duty grant the relief. Wito Clan v. United Church of Christ, 6 FSM R. 129, 133 (App. 1993).

Where a remedy exists, the FSM Supreme Court has general power under the Judiciary Act of 1979 to effect that remedy. Amayo v. MJ Co., 10 FSM R. 433, 435 (Pon. 2001).

It is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it. AHPW, Inc. v. FSM, 12 FSM R. 114, 122 (Pon. 2003).

There is no property right that is recognized by the law of the FSM as "damages." Damages is a legal term of art that refers generally to a remedy which may be granted by the court to a party in a civil action. Ehsa v. Kinkatsukyo, 16 FSM R. 450, 456 (Pon. 2009).

Injunctive relief is a remedy available in proper cases. FSM v. GMP Hawaii, Inc., 16 FSM R. 479,

486 (Pon. 2009).

A court cannot order as relief a de facto practice that is actually contrary to law, even if it has been the usual practice. Carlos Etscheit Soap Co. v. McVey, 17 FSM R. 176, 179 (Pon. 2010).

An improper sale by a fiduciary (estate administrator) that has already taken place can be vacated, but not if the buyer was a bona-fide purchaser because, when property of an estate has been transferred to a bona-fide purchaser for value, the latter is protected even if the fiduciary was acting improperly. The beneficiaries' remedy is not to void the transaction but to seek damages for the personal representative's breach of his fiduciary duty. Mori v. Hasiguchi, 19 FSM R. 16, 22 (Chk. 2013).

Someone who has wrongfully sold property to a bona fide purchaser for value without notice can be compelled to buy a replacement if this is reasonably possible. Sometimes damages are the only appropriate remedy. Either way, the rightful heir's remedy is against estate administrator. If it were any other way, then anyone who ever bought property after it had been inherited and distributed by a Pohnpei probate court final order could never be certain that his or her title would not be taken away by a future final probate court order that the distributee seller was not the proper distributee. Mori v. Hasiguchi, 19 FSM R. 16, 23 (Chk. 2013).

A wrongfully discharged employee is entitled to the equitable remedy of reinstatement to his former position. Reinstatement is appropriate even if the position has been filled by another employee since, if a replacement's existence constituted a complete defense against reinstatement, then reinstatement could be effectively blocked in every case simply by immediately hiring an innocent third-party after the unlawful discharge has occurred, thus rendering the reinstatement remedy's deterrent effect a nullity. Manuel v. FSM, 19 FSM R. 382, 392 (Pon. 2014).

Since the plaintiff formed a series of valid and enforceable contracts with the defendant, the plaintiff cannot find relief in equity. Etse v. Pohnpei Mascot, Inc., 19 FSM R. 468, 478 (Pon. 2014).

Under a trespass cause of action, the trespasser is liable for his intentional failure to remove from the land a thing he has a duty to remove. Pohnpei v. M/V Ping Da 7, 20 FSM R. 75, 78 (Pon. 2015).

When no valid contract exists between the parties because of a lack of definite terms, a party may recover for the benefit conferred upon another pursuant to other legal remedies under the law of contracts. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

When the plaintiffs' basic claim is that the state defendants deprived them of their property (the land on which an embassy sits) without just compensation, they would have a viable remedy of monetary damages assessed against the Pohnpei state defendants if they prove that claim, but no remedy against the embassy since it is immune. Estate of Gallen v. Governor, 21 FSM R. 457, 462 (Pon. 2018).

– Election of Remedies

Under the doctrine of election of remedies, a plaintiff cannot pursue two or more remedies which are inconsistent with each other, i.e. the assertion of one remedy directly contradicts or repudiates the other. The test is whether the assertion of one remedy involves the negation or repudiation of the other at a time when full knowledge of the facts would indicate a choice between the forms of redress. Mid-Pacific Constr. Co. v. Semes (II), 6 FSM R. 180, 183 (Pon. 1993).

Election of remedies as a bar to a plaintiff's action does not apply in a case where plaintiff had no knowledge or reason to know of fraud affecting his choice of action or where his original choice was based unknowingly on false information. Mid-Pacific Constr. Co. v. Semes (II), 6 FSM R. 180, 184 (Pon. 1993).

– Quantum Meruit

In an action by a party who performed work for the benefit of the state and who seeks quantum meruit relief because no valid obligation of state funds existed, that relief by summary judgment cannot be granted when the party's own authorities show that the party must overcome the presumption of knowledge of the requirements of government contracting to demonstrate good faith, and no evidence on this issue was included in the motion for summary judgment, even though the work done and the charges made were reasonable, and even though there was no evidence of bad faith, collusion or fraud. Truk v. Maeda Constr. Co. (II), 3 FSM R. 487, 489 (Truk 1988).

A party completing projects is not entitled to quantum meruit recovery against the state when the contracts were done at the instance of the governor who had no authority to obligate the funds of the state, when the contracts did not purport to obligate the funds of the state, in which the governor promised to use his best efforts to find funds to pay for work performed, when the party accepted the risk that the governor might not be able to find funds, and when the governor promised payment when and if funds were available, even though the work performed was satisfactory, the charges were reasonable, and the work benefitted the state. Truk v. Maeda Constr. Co. (III), 3 FSM R. 489, 493-94 (Truk 1988).

The amount of compensation a public employee receives is not based on quasi-contract doctrines such as quantum meruit or unjust enrichment, but instead is set by law, even if the actual value of the services rendered by a public officer is greater than the compensation set by law. Sohl v. FSM, 4 FSM R. 186, 192 (Pon. 1990).

The doctrine of unjust enrichment generally applies where there is an unenforceable contract due to impossibility, illegality, mistake, fraud, or another reason and requires a party to either return what has been received under the contract or pay the other party for it. The unjust enrichment doctrine is based on the idea one person should not be permitted unjustly to enrich himself at the expense of another. Etscheit v. Adams, 6 FSM R. 365, 392 (Pon. 1994).

A claim for unjust enrichment will not lie where a party's efforts to reclaim the family's land were necessary in order for him to preserve any claim he personally had to that land and there is no evidence that he expended additional efforts or expense for the rest of the family beyond what he had to do to protect his own interests. Etscheit v. Adams, 6 FSM R. 365, 392 (Pon. 1994).

Quantum meruit is an equitable doctrine, based upon the concept that no one who benefits by the labor and materials of another should be unjustly enriched thereby. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 558 (Pon. 2000).

The essential elements of recovery under quantum meruit include: 1) valuable services rendered or materials furnished; 2) to a person sought to be charged; 3) which services or material were used and enjoyed by the person sought to be charged; and 4) under such circumstances as reasonably notified the person sought to be charged that the person performing the services expected payment. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 558 (Pon. 2000).

As a matter of law, the presence of an express written contract, which clearly sets forth the obligations of the parties, precludes a party from bringing a claim under quantum meruit. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 558 (Pon. 2000).

The settled rule that the statute of limitations begins to run upon the accrual of a cause of action applies in actions on implied and quasi contracts. When compensation for services is to be made on a certain date, the statute of limitations on an implied or quasi contract begins to run at that time. E.M. Chen & Assocs. (FSM), Inc. v. Pohnpei Port Auth., 9 FSM R. 551, 559 (Pon. 2000).

Quantum meruit is an equitable doctrine, based on the concept that no one who benefits by the labor

and materials of another should be unjustly enriched thereby; under those circumstances, the law implies a promise to pay a reasonable amount for the labor and materials furnished, even absent a specific contract therefor. The doctrine of unjust enrichment has been recognized in the FSM. Adams v. Island Homes Constr., Inc., 11 FSM R. 218, 232 (Pon. 2002).

A motion to amend a complaint to add an unjust enrichment claim will be denied when it is based upon a defendant's failure to abide by the alleged agreements' terms because these are express agreements, and unjust enrichment is a theory applicable to implied contracts. Adams v. Island Homes Constr., Inc., 11 FSM R. 218, 232 (Pon. 2002).

The doctrine of unjust enrichment only applies where there is no enforceable contract; the doctrine of restitution may not be applied where there is a contract; and the doctrines of implied contract and quantum meruit do not apply where there is an enforceable written contract. Esau v. Malem Mun. Gov't, 12 FSM R. 433, 436 (Kos. S. Ct. Tr. 2004).

If a defendant had had capabilities and resources equal to the transaction it undertook – then when it did not perform its contract, the plaintiff may well have had an adequate remedy in suing it on its contract to supply outboard motors, but when it was never a viable business entity, but a shell enterprise the purpose of which was to funnel the money to the other defendant, under all the case's facts and circumstances, the plaintiff should be permitted to "follow the money." Precluding the plaintiff from doing so would result in the other defendant's unjust enrichment at the plaintiff's expense. Ponape Island Transp. Co. v. Fonoton Municipality, 13 FSM R. 510, 516 (App. 2005).

Quantum meruit, or unjust enrichment, is the equitable doctrine that in the absence of an enforceable contract, someone who receives something from another at the expense of the one conferring the benefit should either pay for it or return it. Actouka Executive Ins. Underwriters v. Simina, 15 FSM R. 642, 651 (Pon. 2008).

Unjust enrichment relates to the doctrine of implied contracts, which is to say that the court will, in the absence of a legally enforceable contract, imply a contract in law in the absence of a contract in fact in order to avoid unjust enrichment. Neither the concept of unjust enrichment or the closely associated idea of an implied contract apply where there is an enforceable written contract, since an express contract and implied contract for the same thing cannot govern a legal relationship at the same time. Actouka Executive Ins. Underwriters v. Simina, 15 FSM R. 642, 651-52 (Pon. 2008).

The elements of a cause of action for quantum meruit are that 1) valuable goods or services are provided 2) to someone against whom recovery is sought 3) when the goods or services are enjoyed or used by the one against whom recovery is sought 4) under such circumstances that notified the person that the one performing the services or providing the goods expected payment. The fact that Chuuk did not know that its insurance broker had paid the premiums relates to the quantum meruit claim's fourth element, which is whether the benefit conferred by the in-force policies was enjoyed by Chuuk under circumstances such that Chuuk knew that the insurance broker expected payment. Since it is beyond question that Chuuk knew that the broker expected payment because Chuuk acknowledged in writing that the premiums were owed, the notice requirement to Chuuk is met by Chuuk's express acknowledgment that it owed the premiums pursuant to its enforceable contract with the broker. Accordingly, Chuuk's contention that it is not liable because it did not know that the broker had advanced the premiums on its behalf is without merit. Actouka Executive Ins. Underwriters v. Simina, 15 FSM R. 642, 654 (Pon. 2008).

As the vessels' owner, and as a named insured under the policies along with the four states, the FSM received a benefit as a result of the fleet insurance coverage, but in order to establish a claim for quantum meruit, the insurance broker must demonstrate that the FSM was unjustly enriched by the benefit of the broker paying the premium for Chuuk. But the agreement between Chuuk and the FSM was that FSM would permit Chuuk to use vessels that the FSM owned and Chuuk, in return, would pay for insurance coverage for those vessels; so by advancing the insurance premium, the broker met

Chuuk's obligation to the FSM in this regard. The primary benefit conferred by the insurance premium payments went to Chuuk, and not to the FSM, since Chuuk was also an insured along with the FSM under the policies and it was Chuuk's, not the FSM's, obligation to provide coverage for the vessels. To suggest that when Chuuk failed to meet its obligation to the FSM to insure the vessels, the FSM became liable for the premiums on the vessels is to lose sight of the fact that the vessels were being operated by Chuuk and for Chuuk's benefit on the condition that Chuuk provide the insurance. The broker's remedy for the premium nonpayment is against Chuuk, who breached its agreement with the FSM by failing to pay for the premiums. The broker's remedy does not extend to the FSM. Actouka Executive Ins. Underwriters v. Simina, 15 FSM R. 642, 655 (Pon. 2008).

6 F.S.M.C. 702(3) waives the FSM's sovereign immunity only for claims, whether liquidated or unliquidated, upon an express or implied contract with the FSM. But, although the equitable doctrine of unjust enrichment operates in the absence of an enforceable contract when a party has received something of value and neither paid for it or returned it, unjust enrichment is a theory applicable to implied contracts. Thus, depending upon the facts of a case, 6 F.S.M.C. 702(3) does not bar an unjust enrichment claim since it does waive the FSM's sovereign immunity for implied (as well as express) contract claims. FSM v. GMP Hawaii, Inc., 16 FSM R. 601, 605 (Pon. 2009).

If there was a valid contact, a court cannot use an implied contract and an unjust enrichment analysis because the doctrines of unjust enrichment and implied contract do not apply when there is a valid, enforceable written contract. The unjust enrichment doctrine applies only when there is an unenforceable contract due to impossibility, illegality, mistake, fraud, or other reason and is based on the idea one person should not be permitted to unjustly enrich himself at another's expense. Kosrae v. Edwin, 18 FSM R. 507, 514 (App. 2013).

Unjust enrichment is an equitable doctrine that relates to the doctrine of implied contracts in that the court will, in the absence of a legally enforceable contract, imply a contract in law in the absence of a contract in fact in order to avoid unjust enrichment. Kosrae v. Edwin, 18 FSM R. 507, 514 (App. 2013).

When the trial court concluded that Kosrae was liable because there was an implied contract and because Kosrae was unjustly enriched, it must necessarily have also concluded that there was no valid enforceable contract since if there were an express contract, the implied contract and unjust enrichment doctrines would not apply. Kosrae v. Edwin, 18 FSM R. 507, 514 (App. 2013).

When the appellees did not officiously thrust their services as vice-principals on Kosrae but had applied for the vice-principal position; thought they had been hired for the position (and did not know their contracts were invalid); and then performed the duties required by that position and as they were instructed by their superiors, Kosrae was unjustly enriched and therefore should compensate the appellees. Kosrae v. Edwin, 18 FSM R. 507, 515 (App. 2013).

As a matter of law, the presence of an express written contract, which clearly sets forth the parties' obligations, precludes a party from bringing a claim under quantum meruit. Adams Bros. Corp. v. SS Thorfinn, 19 FSM R. 1, 12 (Pon. 2013).

When there are two express written contracts in which the parties' obligations are clearly set out: 1) the salvage contract between the vessel owner and the salvor and 2) the contract between insurer and the salvor that the insurer would pay the salvor the amounts due under the salvage contract on the presentation of an invoice and when there are additional, probably oral contracts for the $26,607.50 preparation work the salvor agreed to do that was outside the salvage contract's scope of work, the defendants are, with the exception of the $26,607.50 preparation work, entitled to summary judgment on the salvor's quantum meruit claims. Adams Bros. Corp. v. SS Thorfinn, 19 FSM R. 1, 12 (Pon. 2013).

As a matter of law, the presence of an express written contract, which clearly sets forth the parties' obligations, precludes a party from bringing a claim in equity under quantum meruit. Smith v. Nimea, 19 FSM R. 163, 172 (App. 2013).

When no contract exists for lack of definite terms, the court may use its equity power to fashion a remedy under the restitution doctrine. The unjust enrichment doctrine also applies when there is an unenforceable contract. It is based upon the idea that one person should not be permitted unjustly to enrich himself at the expense of another. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

The unjust enrichment doctrine is based on the idea that one person should not be permitted unjustly to enrich himself at another's expense. The generally accepted elements of an unjust enrichment cause of action are: 1) the plaintiff conferred a benefit on the defendant, who has knowledge of the benefit, 2) the defendant accepted and retained the conferred benefit, and 3) under the circumstances it would be inequitable for the defendant to retain the benefit without paying for it. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

The "unjust enrichment" doctrine generally refers to the situation where someone takes part performance under contract that is void for impossibility, illegality, mistake, fraud, or some other reason. The, even though there is no enforceable contract, the doctrine requires the individual to either return what has been received under the contract or pay the other party for it. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

To maintain an action for unjust enrichment or for money had and received or for restitution, the recipient of the money had and received must be shown to be unjustly enriched. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

When there is no proof of a contract or part performance based on impossibility, illegality, mistake, fraud, or some other reason, an unjust enrichment or restitution claim is without merit. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

– Restitution

Where no contract existed for lack of definite terms, the court may use its inherent equity power to fashion a remedy under the doctrine of restitution. Jim v. Alik, 4 FSM R. 198, 200 (Kos. S. Ct. Tr. 1989).

Restitution is a remedy which returns the benefits already received by a party to the party who gave them where the court can find no contract. Jim v. Alik, 4 FSM R. 198, 201 (Kos. S. Ct. Tr. 1989).

The doctrine of unjust enrichment has been expanded to cover cases where there is an implied contract, but a benefit officiously thrust upon one is not considered an unjust enrichment and restitution is denied in such cases. Etscheit v. Adams, 6 FSM R. 365, 392 (Pon. 1994).

The purpose of the remedy of restitution is not to compensate the non-breaching party for reliance expenditures, but rather to prevent unjust enrichment of the breaching parties by forcing them to give up what they have received under the contract. Therefore defendants who breached an enforceable option agreement must return the $12,500 consideration, not because it is a loss attributable to the breach, but because the defendants would be unjustly enriched if they were allowed to keep the consideration after failing to live up to their end of the option agreement. Kihara Real Estate, Inc. v. Estate of Nanpei (III), 6 FSM R. 502, 507 (Pon. 1994).

As a general rule, where money is paid under a mistake of fact, and payment would not have been made had the facts been known to the payor, such money may be recovered even though the person to whom the money was paid under a mistake of fact was not guilty of deceit or unfairness, and acted in good faith, nor does the payor's negligence preclude recovery. The fact that money paid by mistake has been spent by the payee is generally insufficient to bar restitution to the payor. Bank of Hawaii v. Air Nauru, 7 FSM R. 651, 653 (Chk. 1996).

Restitution is a quasi-contract action based on a tort that is an alternative remedy to a tort action for damages. Bank of Hawaii v. Air Nauru, 7 FSM R. 651, 653 (Chk. 1996).

Refund of taxes paid pursuant to an unconstitutional ordinance is an action for restitution, not damages. The principles governing recovery of payment which preclude recovery of voluntary payments are applicable to the recovery of tax payments. The "voluntary payment rule" has barred recovery in restitution. The general rule is that money paid voluntarily under a claim of right to the payment, and with knowledge of the facts by the person making the payment, cannot be recovered back on the ground that the claim was illegal. Chuuk Chamber of Commerce v. Weno, 8 FSM R. 122, 125 (Chk. 1997).

The reason the voluntary payment rule bars recovery in restitution of unlawful taxes is that litigation should precede payment. It thus does not apply to payments made after the commencement of litigation because the rule ceases with the reason on which it is founded. Chuuk Chamber of Commerce v. Weno, 8 FSM R. 122, 125-26 (Chk. 1997).

A person who has discharged more than his proportionate share of a duty owed by himself and another, as to which neither had a prior duty of performance, and who is entitled to contribution from the other is entitled to reimbursement, limited to the proportionate amount of his net outlay properly expended. Senda v. Semes, 8 FSM R. 484, 495 (Pon. 1998).

Contribution is an equitable doctrine based on principles of fundamental justice. When any burden ought, from the relationship of the parties to be equally borne and each party is in aequali jure, contribution is due if one has been compelled to pay more than his share. The right to contribution is not dependent on contract, joint action, or original relationship between the parties; it is based on principles of fundamental justice and equity. Senda v. Semes, 8 FSM R. 484, 495 (Pon. 1998).

The right to sue for contribution does not depend upon a prior determination that the defendants are liable. Whether they are liable is the matter to be decided in the suit. To recover a plaintiff must prove both that there was common burden of debt and that he has, as between himself and the defendant, paid more than his fair share of the common obligations. Senda v. Semes, 8 FSM R. 484, 496 (Pon. 1998).

In a civil case where defendants seeks to advance Pohnpeian customary practice as a defense to a claim of equitable contribution, the burden is on the defendants to establish by a preponderance of the evidence the relevant custom and tradition. Senda v. Semes, 8 FSM R. 484, 497 (Pon. 1998).

Allowing a contribution claim between parties who are relatives, and who are equally liable under a duly promulgated regulation for a corporation's debts, is consistent with the customary principle that relatives should assist one another. Senda v. Semes, 8 FSM R. 484, 499 (Pon. 1998).

A contention that custom and tradition as a procedural device may prevent an equitable claim for contribution based on violation of a regulation governing the formation of corporations is an insufficient defense as a matter of law. Senda v. Semes, 8 FSM R. 484, 499 (Pon. 1998).

The date of accrual for a contribution cause of action is the day the judgment was entered. Obviously a prerequisite to any successful contribution action based on a judgment is the judgment itself. The limitations period for a contribution action is six years. Senda v. Semes, 8 FSM R. 484, 500-01 (Pon. 1998).

In the case of indemnity the defendant is liable for the whole damage springing from contract, while in contribution the defendant is chargeable only with a ratable proportion founded not on contract but upon equitable factors measured by equality of burden. Senda v. Semes, 8 FSM R. 484, 505 (Pon. 1998).

A party jointly and severally liable for a corporation's debts is not liable for contribution for a subsidiary's debt paid by a guarantor when the corporation was not a coguarantor of the subsidiary's

loan. Senda v. Semes, 8 FSM R. 484, 506 (Pon. 1998).

Equity does not dictate that a setoff for the amount of a defendant's stock subscription be allowed against a contribution claim when the person claiming the setoff received by far the greatest benefit from the failed corporation while it was operating. Senda v. Semes, 8 FSM R. 484, 507 (Pon. 1998).

When C.P.A. Reg. 2.7 imposes the same degree of liability on all incorporators, and the parties' plan from the beginning was to share profits equally, balancing the equities favors a three-way, equal split of the debt burden on a contribution claim. Senda v. Semes, 8 FSM R. 484, 507-08 (Pon. 1998).

A person who has discharged more than his proportionate share of a duty owed by himself and another and who is entitled to contribution from the other is entitled to reimbursement limited to the proportionate amount of his net outlay properly expended. When incurred interest expense is part of his net outlay properly expended, the other should contribute toward the interest expense. Senda v. Semes, 8 FSM R. 484, 508 (Pon. 1998).

Where no contract existed, a court may use its inherent equity power to fashion a remedy under the doctrine of restitution. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 195 (Kos. S. Ct. Tr. 2001).

The doctrine of unjust enrichment generally applies where there is an unenforceable contract. It requires a party to either return what has been received or pay the other party for it. The unjust enrichment doctrine is based on the idea one person should not be permitted unjustly to enrich himself at the expense of another. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 195 (Kos. S. Ct. Tr. 2001).

Restitution is a remedy which returns the benefits already received by a party to the party who gave them where the court can find no contract. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 195 (Kos. S. Ct. Tr. 2001).

Evidence that, sometime before defendant's marriage, the plaintiff did have some limited intimate contact on one occasion with the woman who later became the defendant's wife, does not serve as a defense to the plaintiff's claim of unjust enrichment and to recover restitution for the defendant's stopping construction of the plaintiff's house. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 196 (Kos. S. Ct. Tr. 2001).

The trial court has wide discretion in determining the amount of damages in contract and quasi-contract cases involving equitable doctrines, such as promissory estoppel and restitution. The plaintiff may be compensated for the injuries by awarding compensation for the expenditures made in reliance on the promise. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 196 (Kos. S. Ct. Tr. 2001).

Claimed expenditures for food and beverages will not be awarded when the purchase and consumption of these items was not dependent upon the defendant's promise, and labor costs will not be allowed as damages when there was no evidence presented at trial that the plaintiff paid any person a specific sum for labor. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 196 (Kos. S. Ct. Tr. 2001).

Pre-judgment interest is not appropriate and a claim for it will be denied when there was no agreement involving a promise to pay money, when the plaintiff was not deprived of funds that he was entitled to because there was no contract made between the parties to pay money, and when the plaintiff was awarded damages based upon the equitable doctrine of promissory estoppel for the plaintiff's expenditures made in reliance on a promise. Kilafwakun v. Kilafwakun, 10 FSM R. 189, 197 (Kos. S. Ct. Tr. 2001).

Where no contract existed for lack of definite terms, the court may use its inherent equity power to fashion a remedy under the doctrine of restitution. Youngstrom v. Mongkeya, 11 FSM R. 550, 554 (Kos. S. Ct. Tr. 2003).

The court has wide discretion in the award of damages in restitution cases to achieve fairness. Once a claimant's entitlement to damages is established, the amount of damages is an issue for the finder of

fact. Youngstrom v. Mongkeya, 11 FSM R. 550, 555 (Kos. S. Ct. Tr. 2003).

When the plaintiff has already paid the full amount of costs for which both the plaintiff and defendant are equally responsible, the defendant is liable to the plaintiff for half of those costs. Youngstrom v. Mongkeya, 11 FSM R. 550, 555 (Kos. S. Ct. Tr. 2003).

When the parties have failed to make an enforceable contract due to the lack of definite terms, the court may use its equity power to grant a remedy under the doctrine of restitution. Restitution is a remedy which returns the benefits already received to the party who gave those benefits. Livaie v. Weilbacher, 11 FSM R. 644, 648 (Kos. S. Ct. Tr. 2003).

Restitution is a doctrine by which the court returns the benefits received by one party. Livaie v. Weilbacher, 11 FSM R. 644, 648 (Kos. S. Ct. Tr. 2003).

When the plaintiff is entitled to restitution for the value of landfill hauled from his property, he will be paid at the market value per cubic yard. Livaie v. Weilbacher, 11 FSM R. 644, 648 (Kos. S. Ct. Tr. 2003).

The unjust enrichment doctrine is based on the idea that one person should not be permitted unjustly to enrich himself at another's expense. The generally accepted elements of an unjust enrichment cause of action are: 1) the plaintiff conferred a benefit on the defendant, who has knowledge of the benefit, 2) the defendant accepted and retained the conferred benefit, and 3) under the circumstances it would be inequitable for the defendant to retain the benefit without paying for it. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 345 (Pon. 2004).

Unjust enrichment is an equitable remedy, and generally requires that the party who accepted and retained a benefit pay that benefit back to the party who conferred it. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 346 (Pon. 2004).

While the doctrine of unjust enrichment has not been explicitly discussed or adopted, Pohnpei state law and Micronesian custom and tradition dictate that a party who has benefitted unjustly from another should, under certain circumstances, be made to repay that benefit. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 346 (Pon. 2004).

There is no impediment to a plaintiff recovering for unjust enrichment, when the plaintiff has proven that one or more defendant knowingly accepted a benefit from the plaintiff and was unjustly enriched at plaintiff's expense. The plaintiff was undoubtedly wronged when it paid $54,000 for 27 outboard motors, and only received 13 of the motors, and since the defendants received this money and converted it to other purposes, it would be unjust to permit them to retain that benefit. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 346 (Pon. 2004).

Even though there is evidence of a contract between the plaintiff and a defendant, the equitable remedy of unjust enrichment will be applied to permit the plaintiff to recover from another defendant, when it is apparent that the first defendant was created only to circumvent second's obligations under its distributorship agreement and the second defendant ultimately was the party that received the bulk of the money. It would be unjust indeed to permit it to retain a benefit it received, merely because it received the benefit through a shell company that was created merely so that the plaintiff's check could be cashed and the money paid over to it. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 346 (Pon. 2004).

When individuals were unjustly enriched by the plaintiff in the amount of $3,500, and the plaintiff elected to sue on an equitable claim of unjust enrichment, rather than for breach of contract, and when, by their own testimony, the individuals personally made money on the transaction, and the plaintiff received only one-half of the motors it purchased, it would be inappropriate to not hold the defendants responsible, as individuals and as the company's principals, for their dealings with the plaintiff which damaged the plaintiff. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 346-47 (Pon.

2004).

When a defendant admitted that it had been "paid in full" for the 27 outboard motors the plaintiff purchased, but it only delivered 13 of the motors, the defendant has been unjustly enriched in the amount the plaintiff paid for 14 of the 27 motors, minus the amount that was converted by others. Fonoton Municipality v. Ponape Island Transp. Co., 12 FSM R. 337, 347 (Pon. 2004).

The doctrine of unjust enrichment only applies where there is no enforceable contract; the doctrine of restitution may not be applied where there is a contract; and the doctrines of implied contract and quantum meruit do not apply where there is an enforceable written contract. Esau v. Malem Mun. Gov't, 12 FSM R. 433, 436 (Kos. S. Ct. Tr. 2004).

The doctrine of unjust enrichment generally applies where there is an unenforceable contract due to impossibility, illegality, mistake, fraud, or another reason and requires a party to either return what has been received under the contract or pay the other party for it. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130 (Chk. 2005).

The unjust enrichment doctrine is based on the idea one person should not be permitted unjustly to enrich himself at another's expense and this doctrine has been expanded to cover cases where there is an implied contract. The generally accepted elements of an unjust enrichment cause of action are: 1) the plaintiff conferred a benefit on the defendant, who has knowledge of the benefit, 2) the defendant accepted and retained the conferred benefit, and 3) under the circumstances it would be inequitable for the defendant to retain the benefit without paying for it. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130 (Chk. 2005).

The classic situation to which the unjust enrichment doctrine is applied is where there is an unenforceable contract due to impossibility, illegality, mistake, fraud, or another reason and the doctrine requires a party to either return what has been received under the contract or pay the other party for it. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130 (Chk. 2005).

There was no classic unjust enrichment situation when there was no contract, unenforceable or otherwise, between the plaintiff and the bank and no implied contract between the two and when the plaintiff did not confer a benefit on the bank that the bank had knowledge of, accepted and retained, because not only was there no contract between the plaintiff and the bank, but also because the plaintiff had no contact with the bank at all and was not in privity with the bank. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130 (Chk. 2005).

When a borrower did not pay the money to the bank under the mistaken belief that it owed the bank money because it actually did owe the bank money and when it did not mistakenly pay to the bank money that it owed to another, the money was not paid to the bank by mistake as that term is used in unjust enrichment cases – often referred to as an action for money had and received. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130 (Chk. 2005).

There is a certain limited instance where a plaintiff may recover under an unjust enrichment theory from a third party with which he has had no contact, either directly or through its agents. The requisite "privity" does exist between a plaintiff and such a defendant when that defendant has received money from another fraudulently obtained by the latter only when the recipient was aware of the fraud. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 130-31 (Chk. 2005).

Money received in the regular course of business from one who fraudulently or feloniously obtained it from another may not be recovered by the true owner from the recipient, even though the latter received it in payment of an antecedent debt and parted with no new consideration for the same, if he had no knowledge of the fraud or of the felony. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 131 (Chk. 2005).

A defendant bank, having received money from a debtor to it in the regular course of business to pay an antecedent debt which the debtor unquestionably owed to it and having no reason to believe or knowledge that the money might have been fraudulently obtained, is not liable to pay restitution to the plaintiff under the unjust enrichment doctrine. Rudolph v. Louis Family, Inc., 13 FSM R. 118, 131 (Chk. 2005).

When no contract exists for lack of definite terms, the court may use its inherent equity power to fashion a remedy under the doctrine of restitution. Restitution is the proper remedy when no enforceable contract exists. It requires the benefitted party to return what was received or to pay the other party for it. Livaie v. Weilbacher, 13 FSM R. 139, 143 (App. 2005).

When the Plaintiff seeks as a component of restitution, ground rent for his quarry and argues that ground rent is "normally compensated in similar contracts," but did not present any evidence during the June 2003 trial nor at the April 14, 2005 hearing in support of his claim for ground rent and did not offer any "similar contracts" to establish that ground rent is "normally compensated" for the use of land for a quarry, the plaintiff's request for restitution for ground rent must be denied. Livaie v. Weilbacher, 13 FSM R. 206, 208 (Kos. S. Ct. Tr. 2005).

When no contract exists for lack of definite terms, the court may use its inherent equity power to fashion a remedy under the doctrine of restitution and where no contract exists for lack of an agreed sale price, restitution is applicable. The doctrine of unjust enrichment generally applies when there is an unenforceable contract. It is based on the idea that one person should not be permitted unjustly to enrich himself at the expense of another. DJ Store v. Joe, 14 FSM R. 83, 85 (Kos. S. Ct. Tr. 2006).

When the defendant took the cement mixer in April 2001 and has maintained continuous possession and use for nearly five years without any payment to the plaintiff, the defendant has unjustly enriched himself through continued possession and use of the cement mixer, especially in his construction business, which has generated income for defendant. The defendant is thus liable to the plaintiff for restitution of the cement mixer's value. DJ Store v. Joe, 14 FSM R. 83, 85-86 (Kos. S. Ct. Tr. 2006).

When no contract exists for lack of definite terms, the court may use its equity power to fashion a remedy under the doctrine of restitution. The doctrine of unjust enrichment also applies where there is an unenforceable contract. It is based upon the idea that one person should not be permitted unjustly to enrich himself at the expense of another. Heirs of Nena v. Sigrah, 14 FSM R. 283, 285 (Kos. S. Ct. Tr. 2006).

When the defendant's expenses are equivalent to the defendant's rental income, the defendant has not been unjustly enriched and is therefore not liable to the plaintiffs under the doctrines of restitution and unjust enrichment. Heirs of Nena v. Sigrah, 14 FSM R. 283, 286 (Kos. S. Ct. Tr. 2006).

When the parties have failed to make an enforceable contract due to the lack of definite terms, the court may use its equity power to grant a remedy under the doctrine of restitution. Restitution is a remedy which returns the benefits already received to the party who gave those benefits. Once a claimant's entitlement to damages is established, the amount of damages is an issue of fact for the finder of fact. The trial court has wide discretion in determining the amount of damages in quasi-contract and contract cases involving equitable doctrines, such as restitution. Hartman v. Krum, 14 FSM R. 526, 531 (Chk. 2007).

When a plaintiff makes a claim for damages, he has a duty to mitigate those damages, which means that a plaintiff who has taken reasonable steps to minimize the amount of his damages may recover the amount of those expenses. A court will not compensate an injured party for a loss that he could have avoided by making appropriate efforts, in the eyes of the court, to the circumstances. Under the general principle of mitigation of damages, a plaintiff is not encouraged to maximize his recovery by siting on his rights. Hartman v. Krum, 14 FSM R. 526, 531 (Chk. 2007).

When the defendant is responsible for returning a cement mixer to the plaintiffs in a similar condition as when he took it, but it would be too difficult to have the cement mixer fixed, the court must look at an alternative and award the plaintiffs an amount for the replacement of their used cement mixer. Hartman v. Krum, 14 FSM R. 526, 531 (Chk. 2007).

When there is no enforceable contract, a court may use its inherent equity power to fashion a remedy under doctrines such as unjust enrichment or detrimental reliance. The doctrine of unjust enrichment is based on the idea that one person should not be unjustly enriched at the expense of another. It usually applies when a party has partly performed under a contract that is later void for mistake, fraud, illegality, impossibility, or some other reason, or where there is an implied contract. Generally, the person must either return what has been received under the contract or pay for it. Siba v. Noah, 15 FSM R. 189, 195 (Kos. S. Ct. Tr. 2007).

When the plaintiff performed his part of the agreement by providing goods and cash to the a defendant believing the boundary of his land would be extended and he timely filed a subdivision request with the Land Commission and completed building a house on the land, in expectation of receiving title; when the defendant accepted the goods and cash and another defendant received title to the land from that defendant and others, including the portion the plaintiff was to receive; and when the other defendant accepted title to both parcels, but knew that the plaintiff was entitled to a portion of the land and had requested the subdivision, applying the doctrine of unjust enrichment, the other defendant has been unjustly enriched at the plaintiff's expense. To end the other defendant's unjust enrichment, the remedy is to issue title to the plaintiff for the portion of the land he was to receive in 1987 and leave title to the remaining land with the other defendant. An application of the doctrine of detrimental reliance affords the same remedy. Siba v. Noah, 15 FSM R. 189, 196 (Kos. S. Ct. Tr. 2007).

When the court concludes that there was a contract between the plaintiff and the defendant, it will do not address the plaintiff's alternative claims under unjust enrichment and promissory estoppel. George v. George, 15 FSM R. 270, 273 (Kos. S. Ct. Tr. 2007).

When the court concludes that there was a contract between the plaintiff and the defendant, it will do not address the plaintiff's alternative claims under unjust enrichment and promissory estoppel. George v. Albert, 15 FSM R. 323, 326 (Kos. S. Ct. Tr. 2007).

An unjust enrichment or restitution claim cannot be maintained until money has been paid to or received by the person alleged to be unjustly enriched or has been paid in error to someone who should not retain it. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 6 (Pon. 2011).

A plaintiff seeking to maintain an action for unjust enrichment as the result of having paid money on a judgment must first have that judgment vacated or reversed before that plaintiff can pursue an unjust enrichment or restitution claim. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 7 (Pon. 2011).

If, when a judgment that a party has paid is reversed on appeal or otherwise set aside, that party then has a restitution or unjust enrichment cause of action, then it follows that when a judgment has been affirmed on appeal and not otherwise set aside, that party does not have cause of action for restitution or unjust enrichment for sums paid on the judgment. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 7 (Pon. 2011).

If a plaintiff has not had the judgment set aside or reversed, then the plaintiff's unjust enrichment claim fails to state a claim on which relief can be granted since the plaintiff cannot allege that it would be inequitable for the defendant to retain the benefit without paying for it because the plaintiff cannot truthfully allege that the judgment has been set aside. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 7 (Pon. 2011).

To maintain an action for unjust enrichment or for money had and received or for restitution, the recipient of the money had and received must be shown to be unjustly enriched. Unless and until a judgment on which the plaintiffs have paid the money is vacated or reversed that is something the

plaintiffs are manifestly unable to do. They thus fail to state a claim for unjust enrichment or restitution when the judgment has not been set aside and remains valid and enforceable. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 7 (Pon. 2011).

Plaintiffs who did not make any payments of their own cannot seek the restitution of any funds or allege unjust enrichment since they have not paid any funds. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 7-8 (Pon. 2011).

A constructive trust is a remedy for an unjust enrichment or restitution cause of action and when the plaintiffs fail to state a claim for unjust enrichment or restitution, there can be no basis to employ a constructive trust remedy. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 8 (Pon. 2011).

Although the plaintiffs' argument for restitution which asserts that an earlier judgment should not be enforced does not explicitly say so, the court must consider the case to be an independent action for relief from judgment joined with, and thus presuming success on the independent action for relief, an action for unjust enrichment and restitution with the necessary element of the prior judgment having been set aside to be accomplished in the same action. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 8 (Pon. 2011).

Some authorities indicate that after a judgment is reversed a timely demand for restitution of the judgment payment must first be made and that its refusal is a prerequisite for an unjust enrichment suit. This is sensible because the courts should not be burdened with an unjust enrichment lawsuit if the former judgment holder will return the payment after a demand for it. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 8 n.3 (Pon. 2011).

An unjust enrichment claim has not accrued (and may never accrue) when the prerequisite for the unjust enrichment claim – having an earlier judgment set aside – still has not occurred and may never occur. AHPW, Inc. v. Pohnpei, 18 FSM R. 1, 9 (Pon. 2011).

A trial court has wide discretion in determining the amount of damages in contract and quasi-contract cases involving equitable doctrines, such as promissory estoppel and restitution and the plaintiff may be compensated for the injuries by awarding compensation for the expenditures made in reliance on the promise. Chuuk v. Actouka Executive Ins. Underwriters, 18 FSM R. 111, 120 (App. 2011).

When the equities involved include that the plaintiff falsely informed Chuuk that the marine insurance policy was not in effect when, in fact, it was in effect because the net premium had been paid to the insurer, promissory estoppel may instead be a better measure of the damages than implied contract or unjust enrichment. Chuuk v. Actouka Executive Ins. Underwriters, 18 FSM R. 111, 120 (App. 2011).

Lawyers are accustomed to seeing the word "restitution" in connection with the "rescission" or cancellation of a contract because when a contract is rescinded, each party is entitled to be restored what he gave the other, or in other words, is entitled to restitution. Killion v. Nero, 18 FSM R. 381, 385 (Chk. S. Ct. Tr. 2012).

Rescission will normally be accompanied by restitution on both sides. It is the general rule that rescission will be granted only on the condition that the party asking it restore to the other party, substantially, the consideration received. Killion v. Nero, 18 FSM R. 381, 385 (Chk. S. Ct. Tr. 2012).

When rescinding a contract, ordering substitutionary restitution is possible – the defendant can often be made to return the money value of the property he obtained because, on rescission, a plaintiff is entitled to the return of her property or to its value if its reconveyance cannot be had. Killion v. Nero, 18 FSM R. 381, 385-86 (Chk. S. Ct. Tr. 2012).

When the defendant built family residences on part of the land and has occupied them at least since sometime in the early 1990s, requiring such longtime occupants to change residence and rebuild

elsewhere and take compensation for the houses is burdensome. Equity would not favor giving the plaintiff the choice of paying the defendant for his houses instead of the defendant paying for the land. Killion v. Nero, 18 FSM R. 381, 386 (Chk. S. Ct. Tr. 2012).

When the parties had agreed to a land exchange and the defendant has built houses on the land he received but the plaintiff did not receive any land because the defendant did not have the land to exchange, instead of returning the land to the plaintiff and having the plaintiff pay the defendant the value of the houses the defendant built the most equitable remedy (and the easiest for the court to fashion) is monetary compensation to the plaintiff for the value of the land that he did not receive in an exchange agreement that provided that he was to receive in exchange land of an equal amount to the land transferred to the defendants. To effectuate justice, the defendants should pay the plaintiff the value of the land the defendants received. Killion v. Nero, 18 FSM R. 381, 386 (Chk. S. Ct. Tr. 2012).

Unjust enrichment is a theory applicable to implied contracts. The unjust enrichment doctrine covers cases where there is an implied contract. But if a benefit is officiously thrust upon another, it is not considered an unjust enrichment and restitution is denied in such cases. Kosrae v. Edwin, 18 FSM R. 507, 515 (App. 2013).

The equitable doctrine of unjust enrichment operates in the absence of an enforceable contract. Johnny v. Occidental Life Ins., 19 FSM R. 350, 360 (Pon. 2014).

Unjust enrichment relates to the doctrine of implied contracts, which is to say that in order to avoid unjust enrichment the court will, in the absence of a legally enforceable contract, imply a contract in law in the absence of a contract in fact. Neither the concept of unjust enrichment or the closely associated idea of an implied contract apply when there is an enforceable written contract, since an express contract and implied contract for the same thing cannot govern a legal relationship at the same time. Johnny v. Occidental Life Ins., 19 FSM R. 350, 360 (Pon. 2014).

The doctrine of unjust enrichment does not apply when there is a legally binding agreement in the form of life and cancer insurance policies that the parties agreed to and executed. Johnny v. Occidental Life Ins., 19 FSM R. 350, 360 (Pon. 2014).

Money withheld from wages for social security and income taxes does not count as restitution to the FSM of funds fraudulently converted from Compact sector grant money. FSM v. Muty, 19 FSM R. 453, 461 (Chk. 2014).

When no contract exists for lack of definite terms, the court may use its equity power to fashion a remedy under the restitution doctrine. The unjust enrichment doctrine also applies when there is an unenforceable contract. It is based upon the idea that one person should not be permitted unjustly to enrich himself at the expense of another. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

The unjust enrichment doctrine is based on the idea that one person should not be permitted unjustly to enrich himself at another's expense. The generally accepted elements of an unjust enrichment cause of action are: 1) the plaintiff conferred a benefit on the defendant, who has knowledge of the benefit, 2) the defendant accepted and retained the conferred benefit, and 3) under the circumstances it would be inequitable for the defendant to retain the benefit without paying for it. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

When the court can find no contract, restitution is a remedy which returns the benefits already received by a party to the party who gave them. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

When the parties have failed to make an enforceable contract due to the lack of definite terms, the court may use its equity power to grant a remedy under the restitution doctrine. Restitution is a remedy

which returns the benefits already received to the party who gave those benefits. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 18 (Pon. 2016).

When a court finds a lack of an enforceable contract, and no evidence was submitted to support the plaintiff's request for interest, the plaintiff may not recover on a claim for 1.5% interest per month based on the parties' unenforceable agreement. Pohnpei Transfer & Storage, Inc. v. Shoniber, 21 FSM R. 14, 19 (Pon. 2016).

When no contract exists for lack of definite terms, the court may use its equity power to fashion a remedy under the doctrine of restitution. The doctrine of unjust enrichment also applies where there is an unenforceable contract. It is based upon the idea that one person should not be permitted unjustly to enrich himself at the expense of another. Pelep v. Mai Xiong Inc., 21 FSM R. 182, 191 (Pon. 2017).

When the court can find no contract, restitution is a remedy which returns the benefits already received by a party to the party who gave them. Pelep v. Mai Xiong Inc., 21 FSM R. 182, 191 (Pon. 2017).

The unjust enrichment doctrine cannot be applied when there is an enforceable contract between the parties. Gallen v. Moylan's Ins. Underwriters (FSM) Inc., 21 FSM R. 380, 386 (App. 2017).

The "unjust enrichment" doctrine generally refers to the situation where someone takes part performance under contract that is void for impossibility, illegality, mistake, fraud, or some other reason. The, even though there is no enforceable contract, the doctrine requires the individual to either return what has been received under the contract or pay the other party for it. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

To maintain an action for unjust enrichment or for money had and received or for restitution, the recipient of the money had and received must be shown to be unjustly enriched. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

When there is no proof of a contract or part performance based on impossibility, illegality, mistake, fraud, or some other reason, an unjust enrichment or restitution claim is without merit. FSM v. Mikel, 22 FSM R. 33, 37 (Chk. 2018).

When the insureds received refunds through their employer, as what should occur only for group insurance policies, not individual insurance policies, and when the insurer instructed the employer to stop all employee payroll deductions for supplemental group life insurance, the insurer did not convert the insureds' money and was not unjustly enriched. Barnabas v. Individual Assurance Co., 22 FSM R. 252, 257 (Pon. 2019).

When a debtor has paid a creditor's invoice that included usurious interest, the debtor is entitled to restitution of all the usurious interest "late fees" paid. Yoruw v. FSM Dep't of Educ., 22 FSM R. 596, 599 (Yap 2020).

Money paid under a mistake of fact may be recovered as restitution to the payor. Yoruw v. FSM Dep't of Educ., 22 FSM R. 596, 599 (Yap 2020).