

NO. CAAP-14-0000499

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KUALOA RANCH, INC., Plaintiff-Appellee,

v.

KUULEI MITCHELL; LAYLA U. BURKE; LAYLA U. KAEHU; DAWN WASSON; JAMES PUA KAAI; LEILEHUALANI K.E.L. KANE; FILSANN KAMAKEEAINA; LINDA KAAIHUE aka LINDA KAMAI; MAY WARREN; LILY BURKE; CLARA GONZAGA; DARLENE K. VAAI (also for) LYLE K. RODRIGUES and MELVIN K. RODRIGUES; PHOEBE P. LOPES; MADELINE L. MAIAVA; GAIL H. WATTS, Defendants-Appellants,

and

NAHOLOWAA (k) aka NAHOLOAA (k) SATABI (k) aka KAPAKI NAHOLOWAA aka LABATI; KAPAU (k); JOHN KAIKEKI; KINI KAIKEKI (w) aka KINI KEKEIKI (w); KALAMA KAAIKEIKI (k) aka KALAMA KEIKEKI (k); KAUI (k); KAOHI (k); ELENA PALEA aka ELENA KULUWAIMAKA aka ELENA KAPAKI; ARCHIBALD KAHELE (k); SAMUEL K. KAHELE (k); CLARA KEALA KAMAKEEAINA (w), aka CLARA KAHELE KAMAKEEAINA (w); ELAINE KALEIPUALA MIOI (w) aka ELAINE GUIEB; PAUL MIOI; JUDITH MIOI; JERRY GUIEB; WILLIAM KAMAKEEAINA; GLENN KAMAKEEAINA; TRISHA MAHEALANI KAMAKEEAINA; PHOEBE P. KALEO (w); JAMES H. KALEO SR.; JAMES H. "KIMO" KALEO JR.; HORACE K. KAMAKEEAINA (k); LILY K. KAMAKEEAINA; HORACE N. "BOZO" KAMAKEEAINA; ALBERT K. KAMAKEEAINA; MAYLISAJoy KAMAKEEAINA; LIZZIE K. KAINA; CLARENCE KAINA JR.; LAVERNE KAINA; LIZZIE KAINA aka ELISABETH ENDO; YOLANDA K. KAINA; KALANI KAINA; MAIKA KAINA (k) aka MIKA WRIGHT; KAUWELA KAINA aka KAUWELA WRIGHT; EMILY GOMES; STELLA K. KAAI; PAUL KAAI; ASHLEY KAAI; WILLIAM KAAI; HAROLD KAAI; LAKEMAHI KAAI; WAYNE KAAI; PAMELA GRAVELY; HIRAM KELIIHOLOKAI KAHELE, SR., (k); MARY K. KAHELE (w); MARY K. KANEALII (w); BENJAMIN KANEALII, JR.; RODNEY P. KAHELE (k); SOLOMON K. KAHELE (k); HIRAM K. KAHELE, JR.; HORACE K. KAHELE; ARCHIE E. KAHELE; EUGENE K. KAHELE; SHIRLEY BUSHE fka SHIRLEY N. KAHELE (w); LARRY BUSHE JR.; NALANI VASQUEZ; LEI BUSHE

aka ALIDA L. DOROTHY; ABAGAIL SOUZA fka ABIGAIL M. KAHELE (w); JACOB K. KAHELE; ISABELLE MAKALII fka ISABELLE L. KAHELE (w); RAMONA L. MEYERS fka RAMONA K. KAHELE (w); TIMOTHY KAHELE; HANNAH K. CORN (w); LIBBY L. CHO; CAROLINE K. LOCQUIAO; TY KAMAKEEAINA; CLYDE P. KAMAKEEAINA; JUNIOR KAMAKEEAINA aka JUNIOR LOCQUIAO; NALANI KAMAKEEAINA aka JANICE N. LOCQUIAO; VICKI MENDIOLA aka VICTORIA MENDEOLA; AUDREY K. BRIDGES; CY M. BRIDGES; KYLE K. BRIDGES; GEORGE K. BRIDGES; STACEY H. BRIDGES (k); GAILENE S. HOOLAULEA BRIDGES STEFFEN; JENNIE K. KAIO; CARL KAIO; STEVEN KAIO; DEBRA STANLEY; DELL-FIN BROOKS; JERILYN FELY; DANIEL LONO KAMAKEEAINA; JOHN S. KAMAKEEAINA; DANIEL KAMAKEEAINA; WAYNE KAMAKEEAINA; STENDER KAMAKEEAINA; CHARLENE KAMAKEEAINA (w); OLGA "NANI" K. TUA; AMALANI TUA (k); ELLEN K.K. BRYANT (w); JOSEPH KEOHO BRYANT; SARAH BRYANT; CHARLES BRYANT; JAMES BRYANT; CALVIN BRYANT; JOHN BRYANT; HERBERT PAKU; ESTHER GILMAN; JEANETTE MEDEIROS; IWANE GRAY; ELLEN BRYANT; WILHEMINA SUPAPO aka WILHELMIN SUPAPO; LAVAINA SEUMANUTAFU; MARY KEHENEKAI YADAO; CHARLES YADAO; CERILO YADAO; JULIE FRIERSON; JENNIE LORENZANA aka JENNIE DOMINGO; LAWRENCE PAI; KALANI AH MAU BISHAW; JOSHUA AH MAU BISHAW; ESTHER KAMAE K. RODRIGUES (w); ALAN K. RODRIGUES KAHELE aka ALAN RODRIGUES; JOLANDA-MAE R. RODRIGUES KAHELE; ROLAND RODRIGUES; JOHN RODRIGUES JR.; LESLIE RODRIGUES; ESTHER GILMAN; CHARLOTTE "KEAHAULANI" UBANDO; GAIL "HUANANI" RODRIGUES; LESLEY RODRIGUES (k); FRANCES KALAMAU; KANAKA CISCO; EDDIE "TIGER" KALAMAU; KEAHAULANI KALAMAU (w); KALONA KALAMAU (w); DONNALYN DEMELLO; DARNELLE DEMELLO; JACOB K. KAHELE (k); LANA GAIL HEINRICH; SAMUEL KELIIHOLOKAI KAHELE SR.; GEORGIANA KAHELE; PEARL LEIMOMI MONTERO; ELIZABETH KAPUAOKALANI FERRER; SOLOMON P. PALEA (k); FRANCIS KUHAUPIO PIHANUI PALEA (k); DAISY KEANINI VALES (w), aka DAISY PALEA VALES (w) aka DAISY CAMBRA VALES (w); MAY H. VILLACRUZES (w); AUGUST K. CAMBRA, SR.; BREDE CAMBRA; STELLA R. MAKU; AUGUST K. CAMBRA, JR.; VERNA H. SCHUBERT; RICHARD R. VALES (k); JULIANA SAMPOANG; Their heirs or assigns, Defendants-Appellees,

and

DOE DEFENDANTS 1-100; AND ALL WHOM IT MAY CONCERN, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 13-1-0038)

ORDER DENYING MARCH 28, 2014 HRAP RULE 40 MOTION
FOR RECONSIDERATION OF MARCH 21, 2014 DISMISSAL ORDER
(By: Foley, Presiding Judge, Fujise and Ginoza JJ.)

Upon review of (1) the March 21, 2014 order dismissing appellate court case number CAAP-14-0000499 for lack of appellate

jurisdiction, (2) the March 28, 2014 motion for reconsideration of the March 21, 2014 dismissal order pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (3) the record, it appears that we did not overlook or misapprehend any points of fact or law when we entered the March 21, 2014 dismissal order.

In their motion for reconsideration, Movants argue that their appeal is valid because HRAP Rule 4(a)(2) authorizes premature appeals. However, HRAP Rule 4(a)(2) authorizes premature appeals only when the circuit court eventually enters a final judgment. In the instant case, the circuit court has not yet entered a final judgment, and, thus, HRAP Rule 4(a)(2) does not apply.

"We are required to determine if we have jurisdiction in each appeal." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "An appellate court has . . . an independent obligation to ensure jurisdiction over each case and to dismiss the appeal *sua sponte* if a jurisdictional defect exists." State v. Bohannon, 102 Hawai'i 228, 234, 74 P.3d 980, 986 (2003) (quoting State v. Graybeard, 93 Hawai'i 513, 516, 6 P.3d 385, 388 (App. 2000)).

The March 21, 2014 dismissal order does not preclude the parties from a subsequent timely appeal once the circuit court enters an appropriate final judgment.

Therefore,

IT IS HEREBY ORDERED that the March 28, 2014 HRAP Rule 40 motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, April 4, 2014.

Presiding Judge

Associate Judge

Associate Judge