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SCAP-13-0002732

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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VIRENDRA NATH, NANCY MAKOWSKI, KRISHNA NARAYAN,  
and SHERRIE NARAYAN,  
Plaintiffs-Appellees,

vs.

THE RITZ-CARLTON HOTEL COMPANY, L.L.C., THE RITZ-CARLTON  
DEVELOPMENT CO., INC., MARRIOTT INTERNATIONAL, INC.,  
MARRIOTT VACATIONS WORLDWIDE CORPORATION, MARRIOTT  
OWNERSHIP RESORTS, INC., THE RITZ-CARLTON  
MANAGEMENT COMPANY, L.L.C., MARRIOTT TWO FLAGS, LP,  
and MH KAPALUA VENTURE, LLC,  
Defendants-Appellants,

and

KAPALUA BAY, LLC, MAUI LAND & PINEAPPLE CO., INC.,  
KAPALUA REALTY CO., LTD., EXCLUSIVE RESORTS, LLC, MLP  
KB PARTNER, LLC, EXCLUSIVE RESORTS CLUB I HOLDINGS, LLC,  
EXCLUSIVE RESORTS DEVELOPMENT COMPANY, LLC, ER  
KAPALUA INVESTORS FUND HOLDINGS, LLC, ER KAPALUA  
INVESTORS FUND, LLC, KAPALUA BAY HOLDINGS, LLC, ET AL.,  
Defendants-Appellees.

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APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CAAP-13-0002732; CIV. NO. 11-1-0216)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Nakayama, McKenna, and Pollack, JJ.,  
and Circuit Judge Alm, in place of Wilson, J., recused)

This appeal concerns the arbitrability of certain

"purchase-based" claims pursuant to an arbitration provision contained in the Declaration of Condominium Property Regime of Kapalua Bay Condominium. The questions presented in the underlying appeal are controlled by our recent decision in Narayan v. Marriott (Narayan I), No. SCWC-12-819, at 16 (Hawai'i June 3, 2015) (pub. op.), where we held "that the arbitration provision contained in the condominium declaration is unenforceable because the terms of the various condominium documents are ambiguous with respect to the Homeowners' intent to arbitrate."

Pursuant to our analysis in Narayan I, the circuit court's July 12, 2013 order denying Defendants the Ritz-Carlton Hotel Company, L.L.C., the Ritz-Carlton Development Co., Inc., Marriott International, Inc., Marriott Vacations Worldwide Corporation, Marriott Ownership Resorts, Inc., the Ritz-Carlton Management Company, L.L.C., Marriott Two Flags, LP, and MH Kapalua Venture, LLC's motion to compel arbitration is affirmed.

DATED: Honolulu, Hawai'i, June 30, 2015.

Bert T. Kobayashi, Jr.,  
Lex R. Smith,  
Joseph A. Stewart,  
and Maria Y. Wang for  
defendants-appellants

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

Terence J. O'Toole,  
Judith Ann Pavey, and  
Andrew J. Lautenbach for  
plaintiffs-appellees

/s/ Richard W. Pollack

/s/ Steven S. Alm

