

NO. CAAP-16-0000425

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KAHUKU VILLAGE ASSOCIATION, INC., Plaintiff-Appellee,
v.
DON GRAYCOCHEA and SUZETTE GRAYCOCHEA, Defendants-Appellants,
and
JOHN ERRETT, et al., Counterclaim Plaintiffs-Appellees,
and
KAHUKU VILLAGE ASSOCIATION, INC., a Hawai'i non-profit
corporation (KVA), et al., Counterclaim Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 12-1-2984)

ORDER DISMISSING APPEAL

(By: Leonard, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of the record here and in Office of
Disciplinary Counsel v. Anthony P. Locricchio, No.
SCAD-16-0000218,¹ it appears that:

(1) On May 24, 2016, Defendants-Appellants Don
Graycochea and Suzette Graycochea (the Graycocheas) filed the
notice of appeal, through counsel, Anthony P. Locricchio
(Locricchio);

(2) On May 26, 2016, the appellate clerk notified the
Graycocheas to pay the filing fees or file a motion for leave to
proceed on appeal in forma pauperis before June 6, 2016;

^{1/} The court takes judicial notice of the documents filed in Office of
Disciplinary Counsel v. Locricchio, No. SCAD-16-0000218.

(3) The Graycocheas did not respond to the May 26, 2016 notice;

(4) On August 1, 2016, the appellate clerk entered a default of the record on appeal, informing the Graycocheas that the time to docket the appeal expired on July 25, 2016, they had not paid the filing fee or obtained an order allowing them to proceed on appeal in forma pauperis, the matter would be brought to the court's attention on August 11, 2016, for action that may include dismissal of the appeal, and they could seek relief from default by motion;

(5) On August 18, 2016, the Graycocheas filed what the court ultimately construed as a motion for relief from default and extension of time for the record on appeal;

(6) On October 18, 2016, the Hawai'i Supreme Court disbarred Locricchio, which ultimately became effective December 26, 2016;

(7) Pursuant to Rule 2.16(b) of the Rules of the Supreme Court of the State of Hawai'i, Locricchio was required to promptly notify his clients of his disbarment;

(8) On July 20, 2017, the court granted the August 18, 2016 motion in part, and ordered the Graycocheas either to pay the appellate filing fee or file in the underlying case a motion for leave to proceed on appeal in forma pauperis within twenty days from the order. The court cautioned the Graycocheas that failure to pay the filing fee or file a motion for leave to proceed on appeal in forma pauperis may result in the appeal being dismissed. The court noted that because the supreme court had disbarred Locricchio, the Graycocheas were proceeding pro se, unless substitute counsel entered an appearance. The court ordered the appellate clerk to contact the circuit court clerk to ascertain the Graycocheas' mailing address(es) from the record in the underlying case, and serve the order on them by mail. The appellate clerk mailed the order to the Graycocheas at the address provided by the circuit court clerk, but the U.S. Postal Service returned the envelopes, marked "Return to Sender, No Such Number, Unable to Forward";

(9) The Graycocheas have not inquired about the status of this case, provided the court with their current contact information, as required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 25(f), paid the appellate filing fees or obtained a fee waiver, or taken any further action in this appeal; and

(10) An appeal may be dismissed where the record on appeal has not been prepared because the appellant failed to pay the required fees or obtain an order allowing the appellant to proceed *in forma pauperis*. HRAP Rule 11(b)(2), (c)(2).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that the appellate clerk shall mail this order to the Graycocheas at the address in the record in the underlying case, Civil No. 12-1-2984, previously obtained from the Clerk of the Circuit Court of the First Circuit.

DATED: Honolulu, Hawai'i, February 16, 2018.

Presiding Judge

Associate Judge

Associate Judge