

NO. CAAP-17-0000447

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9
MASTER PARTICIPANT TRUST, Plaintiff-Appellee,
v.

RANDALL M.L. YEE, AS SPECIAL ADMINISTRATOR FOR THE
ESTATE OF OLIVER H. CUMMINGS, SR.; RANDALL M.L. YEE,
AS SPECIAL ADMINISTRATOR FOR THE ESTATE OF
LAURA E.M.K. CUMMINGS, Defendants-Appellees,
and

OLIVER CUMMINGS JR., SUCCESSOR TRUSTEE UNDER
THE OLIVER H. CUMMINGS, SR. TRUST DATED
OCTOBER 26, 2006 and OLIVER H. CUMMINGS, JR.,
SUCCESSOR TRUSTEE UNDER THE LAURA E.M.K. CUMMINGS
TRUST DATED OCTOBER 26, 2006, Defendant-Appellant,
and

JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS 1-50;
DOE CORPORATIONS 1-50; DOE ENTITIES 1-50; and
DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 13-1-0858(2))

SUMMARY DISPOSITION ORDER

(By: Ginoza, Chief Judge, Leonard and Chan, JJ.)

In this judicial foreclosure action, we construe Defendant-Appellant Oliver H. Cummings, Jr.'s (**Cummings**) appeal as challenging a Judgment entered pursuant to an "Order Confirming Foreclosure Sale, Approving Commissioner's Report, Allowance of Commissioner's Fees, Attorneys' Fees, Costs,

Directing Conveyance and for Writ of Ejectment", both filed by the Circuit Court of the Second Circuit (**Circuit Court**)¹ on June 7, 2017, in favor of Plaintiff-Appellee U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust (**U.S. Bank**).² Cummings also challenges an "Order Granting Commissioner's Motion for Leave to Sell Property Without Open Houses and for Instructions Filed on December 14, 2016" filed by the Circuit Court on May 26, 2017.

On appeal,³ Cummings asserts that he denies the jurisdiction of the Circuit Court and this court regarding the matters in this case under the laws of the Kingdom of Hawai'i. He thus contends that this case should be dismissed.

In State v. Kaulia, 128 Hawai'i 479, 291 P.3d 377 (2013), the defendant contested the jurisdiction of the courts of the State of Hawai'i, claiming the existence of the Hawaiian Kingdom and that he was immune from the jurisdiction of the state courts. Id. at 486-87, 291 P.3d at 384-85. The Hawai'i Supreme

¹ The Honorable Peter T. Cahill presided.

² Cummings' Notice of Appeal was filed, *pro se*, on May 30, 2017, after the Circuit Court verbally announced, on May 3, 2017, that it would be granting U.S. Bank's motion to confirm the sale of the foreclosed property, but before the Circuit Court entered the Judgment confirming the sale on June 7, 2017. See Hawai'i Rules of Appellate Procedure Rule 4(a)(2) ("If a notice of appeal is filed after announcement of a decision but before entry of the judgment or order, such notice shall be considered as filed immediately after the time the judgment or order becomes final for the purpose of appeal.").

³ The Notice of Appeal was signed by Cummings and indicates he is appearing *pro se*. The Civil Appeal Docketing Statement filed on June 1, 2017, lists Nelson K. Armitage as "Counsel for Appellants." The Jurisdictional Statement filed for Cummings on August 4, 2017, is unsigned but states that it is submitted by Nelson K. Armitage Sr., Wayne Armitage, Jim Kimmel, and Russell Kahookele. The Certificate of Service for the Jurisdictional Statement is signed by Cummings and Nelson K. Armitage Sr. The Opening Brief for Cummings, filed on October 12, 2017, is unsigned but contains at the end the name of Nelson K. Armitage Sr., and the Certificate of Service for the Opening Brief is signed by Cummings and Nelson K. Armitage Sr. Given the above, we note with regard to Nelson K. Armitage Sr., Wayne Armitage, Jim Kimmel, and Russell Kahookele that "natural persons are not permitted to act as 'attorneys' and represent other natural persons in [t]heir causes." Oahu Plumbing & Sheet Metal, Ltd. v. Kona Const., Inc., 60 Haw. 372, 377, 590 P.2d 570, 573-74 (1979) (citing Hawaii Revised Statutes (**HRS**) §§ 605-2 and 605-14 (1976)). HRS § 605-17 (2016) provides that: "Any person violating sections 605-14 to 605-16 shall be guilty of a misdemeanor."

Court ruled that "we reaffirm that '[w]hatever may be said regarding the lawfulness' of its origins, 'the State of Hawai'i . . . is now, a lawful government.'" Id. at 487, 291 P.3d at 385 (quoting State v. Fergerstrom, 106 Hawai'i 43, 55, 101 P.3d 652, 664 (App. 2004), aff'd, 106 Hawai'i 41, 101 P.3d 225 (2004)).

THEREFORE, we affirm the Judgment and "Order Confirming Foreclosure Sale, Approving Commissioner's Report, Allowance of Commissioner's Fees, Attorneys' Fees, Costs, Directing Conveyance and for Writ of Ejectment", both entered on June 7, 2017, as well as the "Order Granting Commissioner's Motion for Leave to Sell Property Without Open Houses and for Instructions Filed on December 14, 2016", entered on May 26, 2017, all by the Circuit Court of the Second Circuit.

DATED: Honolulu, Hawai'i, June 5, 2019.

On the briefs:

Chief Judge

Oliver H. Cummings, Jr.,
Defendant-Appellant, pro se.

Associate Judge

Peter T. Stone,
Charles R. Prather,
(TMLF Hawaii LLC)
for Plaintiff-Appellee.

Associate Judge