

NO. CAAP-18-0000754

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

LANCE KAMUELA GOMES AND PUNOHU NALIMA KEKAUALUA, III,
LINEAL DESCENDANTS, PERSONS OF INTEREST AND HEIRS-AT-LAW
FOR LCA 7714B APANA 6RP 7813, DOES 1-333, INCLUSIVE,
Plaintiffs-Appellants,

v.

OLU PUA GARDENS LLC; MCBRYDE SUGAR COMPANY LLC; A&B PROPERTIES,
INC.; KUKUIULA DEVELOPMENT CO., LLC; KUKUIULA DEVELOPMENT LLC,
KUKUIULA VILLAGE LLC; MAKALII PLANTATION; SCHMANSKI FAMILY TRUST
1994; SUNSET STRIP PROPERTIES LLC, JAMIE MASADA & TIMOTHY ALLEN
DICK; ROBINSON FAMILY PARTNERS; DOES PERSONS AND PARTIES AND
ENTITIES 1-1000, INCLUSIVE, Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CIVIL NO. 18-1-0104)

SUMMARY DISPOSITION ORDER

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

Plaintiffs-Appellants Lance Kamuela Gomes (**Gomes**) and Punohu Nalimu Kekauualua, III (**Kekauualua**), pro se, appeal from the Final Judgment in favor of Defendants-Appellees McBryde Sugar Company, LLC, a Delaware Limited Liability Company (**McBryde Sugar Co.**); A & B Properties Hawaii, LLC, a Delaware Limited Liability Company, Successor to A & B Properties, Inc., a Hawaii Corporation; Kukui'ula Development Company (Hawaii), LLC, a Hawaii Limited Liability Company; Kukui'ula Development, LLC, a Hawaii Limited Liability Company; Kukui'ula Village LLC, a

Delaware Limited Liability Company; Alexander & Baldwin, LLC, a Delaware Limited Liability Company, Successor to A&B-Hawaii, Inc., a Hawaii Corporation; Olu Pua Gardens LLC; Makalii Plantation; Schmanski Family Trust 1994; Sunset Strip Properties, LLC; Jamie Masada; Timothy Allen Dick; and Robinson Family Partners (collectively, **Defendants**), entered on October 19, 2018, in the Circuit Court of the Fifth Circuit (**Circuit Court**).¹ The Final Judgment was entered pursuant to the Circuit Court's order that dismissed with prejudice Gomes and Kekaulua's "Complaint to Quiet Title and for Injunctive and Declaratory Relief" filed on July 20, 2018 (**Complaint**).

As discerned from the Opening Brief, Gomes and Kekaulua argue on appeal that the Circuit Court lacked jurisdiction and thus the Final Judgment has no effect because the State of Hawai'i has no lawful existence, and, therefore, "no Authority".

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, as well as the relevant case law, we resolve Gomes and Kekaulua's argument as follows, and affirm.

For procedural context, on July 20, 2018, Gomes and Kekaulua filed the Complaint in which they alleged to be lineal descendants of Moses Kekuaiwa and asserted an action to determine claims of ownership "to the Lands of Wahiawa, Kona, Kauai; and the Lands of Koloa, Kona, Kauai"; disputed Defendants' undivided fee simple ownership of numerous properties; and accused Defendants of committing war crimes and genocide.

On August 20, 2018, McBryde Sugar Co. and a subset of Defendants filed a "Motion to Dismiss Complaint" (**motion to dismiss**) for Gomes and Kekaulua's failure to state a claim upon

¹ The Honorable Kathleen N.A. Watanabe presided.

which relief can be granted.² On September 4, 2018, Gomes and Kekaulua filed a "Motion to Set Jury Trial and in Opposition to Defendants Motion to Dismiss."

On October 2, 2018, the Circuit Court heard oral argument on the motion to dismiss. The Circuit Court orally granted the motion to dismiss and deemed as moot Gomes and Kekaulua's motion to set jury trial. On October 19, 2018, the Circuit Court entered the "Order Granting Defendants McBryde Sugar Company, LLC, et al.'s Motion to Dismiss Complaint", the "Order Denying [Gomes and Kekaulua's] Motion to Set Jury Trial", and the Final Judgment. Gomes and Kekaulua timely appealed.

Gomes and Kekaulua's argument challenging the Circuit Court's jurisdiction is without merit. The Hawai'i Supreme Court has held that: "[W]hatever may be said regarding the lawfulness of its origins, the State of Hawai'i is now, a lawful government. Individuals claiming to be citizens of the Kingdom and not of the State are not exempt from application of the State's laws." State v. Kaulia, 128 Hawai'i 479, 487, 291 P.3d 377, 385 (2013) (internal citation, quotation marks, brackets, and ellipses omitted) (quoting State v. Fergerstrom, 106 Hawai'i 43, 55, 101 P.3d 652, 664 (App. 2004), affirmed, 106 Hawai'i 41, 101 P.3d 225 (2004)).

Further, in this case, Gomes and Kekaulua initiated this action in the Circuit Court by filing and serving their Complaint on Defendants, and thus they sought to invoke the Circuit Court's jurisdiction. See, e.g., In re Guardianship of Carlsmith, 113 Hawai'i 211, 225, 151 P.3d 692, 706 (2006) (citing Kim Poo Kum v. Sugiyama, 33 Haw. 545, 555, 1935 WL 3386, at **4 (1935) (holding that the "voluntary general appearance" by one party before the court in opposition to an application by another party to make it a party defendant, together with its subsequent appearance before the same court at the hearing on appeal

² Olu Pua Gardens filed a substantive joinder to the motion to dismiss on September 10, 2018.

"demanding the right to be permitted to introduce evidence upon the issues" therein, "was wholly inconsistent with any other attitude on the part of [the first party] ... than a complete and voluntary surrender and submission to the general jurisdiction of the court for all purposes"); cf. Young v. Chong, 24 Haw. 95, 96, 1917 WL 1556, at **1 (1917) (ruling that defendants in that case "appeared generally and thereby waived all objections ... as to the summons ... and submitted themselves to the jurisdiction of the ... [court]"[.])).

Gomes and Kekaulua's argument that the Circuit Court lacked authority or jurisdiction fails. Because this was Gomes and Kekaulua's sole argument on appeal, we do not address the merits of the Circuit Court's dismissal of Gomes and Kekaulua's quiet title action.

Therefore, IT IS HEREBY ORDERED that the Circuit Court of the Fifth Circuit's Final Judgment in favor of Defendants entered on October 19, 2018, is affirmed.

DATED: Honolulu, Hawai'i, May 29, 2020.

On the briefs:

Lance Kamuela Gomes,
Punohu Nalima Kekaulua III,
Self-Represented Plaintiffs-
Appellants.

Charles A. Price,
James M. Yuda,
for Olu Pua Gardens LLC.

Wayne Nasser,
Bejamin M. Creps,
for Kukuiula Development
Company (Hawaii), LLC.

/S/ Lisa M. Ginoza
Chief Judge

/s/ Derrick H.M. Chan
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge