

**Electronically Filed
Intermediate Court of Appeals
CAAP-17-0000729
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NO. CAAP-17-0000729

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

THE ASSOCIATION OF APARTMENT OWNERS OF
COUNTRY CLUB HAWAII, INC., Plaintiff-Appellee, v.
VINH LE, Defendant-Appellant, In Propria Persona

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH HILO DIVISION
(CIVIL NOS. 3RC15-1-1296, 3RC15-1-1297, and 3RC15-1-1298)

ORDER DISMISSING APPEAL

(By: Fujise, Presiding Judge, Hiraoka and Wadsworth, JJ.)

Upon review of the record, it appears that:

(1) On October 19, 2017, self-represented Defendant-Appellant Vinh Le (Le) filed the notice of appeal;

(2) On December 13, 2017, the district court clerk filed the record on appeal, and the appellate clerk notified the parties that the statement of jurisdiction and opening brief were due on or before December 26, 2017, and January 22, 2018, respectively;

(3) Le did not file either document or request an extension of time;

(4) On May 4, 2018, the appellate clerk notified Le that the time for filing the statement of jurisdiction and opening brief had expired, the matter would be called to the court's attention on May 14, 2018, for appropriate action, which could include dismissal of the appeal, pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rules 12.1(e) and 30, and Le may request relief from default by motion;

(5) The appellate clerk mailed the December 13, 2017 notice of entering case on calender and the May 4, 2018 default notice to Le at the address indicated in the record on appeal. The United States Postal Service returned both of the notices, marked "Deceased, Unable to Forward";

(6) On October 30, 2018, the court ordered appellate counsel for Plaintiff-Appellee Association of Apartment Owners of Country Club Hawaii, Inc. (Country Club Hawaii) to confirm whether Le is deceased and, if so, whether a special administrator or personal representative has been appointed; and

(7) On November 29, 2018, Country Club Hawaii filed a suggestion of death upon the record, under HRAP Rule 43(a), indicating Le passed away in November 2017. Country Club Hawaii's counsel separately filed a declaration indicating there does not appear to be a special administrator or personal representative for Le's estate, "or any person to contact in that regard"; and

(8) The court will dismiss the appeal for failure to file the statement of jurisdiction and opening brief, and based upon Le's death and there being no substitute for Le.

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

DATED: Honolulu, Hawai'i, June 2, 2021.

/s/ Alexa D.M. Fujise
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge