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SCAP-23-0000361

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MAHLON C. EZECHA and LEAH DANSBY, fka Leah Ezeoha,
Plaintiffs-Appellants,

vs.

ASSOCIATION OF APARTMENT OWNERS OF NIHILANI AT PRINCEVILLE
RESORT, by and through its Board of Directors,
Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CAAP-22-0000361; CASE NO. 5CCV-21-0000152)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., McKenna, and Eddins, JJ., Circuit Judge
DeWeese and Circuit Judge Park, assigned by reason of vacancies)

This case mirrors Wong v. Ass'n of Apartment Owners of Harbor Square, ___ P.3d ___, 2024 WL 857152 (2024). Because the two cases present the same issue, we vacate the Circuit Court of the Fifth Circuit's grant of summary judgment and remand for further proceedings consistent with Wong.

In November 2006, plaintiffs Mahlon Ezeoha and Leah Dansby bought a condominium governed by the Association of Apartment

Owners of Nihilani at Princeville Resort (AOAO). Ezeoha and Dansby financed the purchase with two mortgage loans.

By 2010, Ezeoha and Dansby had fallen behind on their mortgage payments and association fees. On February 23, 2010, the AOAO initiated a Part I non-judicial foreclosure.

On March 29, 2010, the AOAO held a foreclosure sale. It sold the unit to itself for one dollar, subject to the mortgages on the property.

Years later, the mortgagee, Nationstar Mortgage, foreclosed. On April 4, 2014 and March 5, 2015, Nationstar obtained foreclosure judgments on its two loans. It took title to the unit.

On December 29, 2021, Ezeoha and Dansby sued the AOAO for wrongful foreclosure.

In January 2023, the AOAO moved for summary judgment. It said that because Ezeoha and Dansby owed more on their mortgage than the unit was worth, they could not establish compensatory damages. Ezeoha and Dansby disagreed. They claimed their damages are the unit's market value minus fees owed to the AOAO.

Circuit Court of the Fifth Circuit Judge Randal G.B. Valenciano sided with the AOAO. Citing Lima v. Deutsche Bank Nat'l Tr. Co., 149 Hawai'i 457, 494 P.3d 1190 (2021), the court concluded that the outstanding mortgage debt offset and

eliminated the plaintiffs' compensatory damages. The court granted summary judgment and entered judgment for the AOA.

Ezeoha and Dansby appealed. Then, on September 13, 2023, they requested transfer to this court. Plaintiffs' transfer application recognized that this case presents similar facts and legal questions to Wong.

We accepted transfer on October 13, 2023. We decided Wong on February 29, 2024. Then entered judgment in Wong on April 2, 2024.

The circuit court granted summary judgment on the damages issue before we decided Wong. Wong clarifies how a plaintiff may calculate damages when they sue a condominium association for wrongful foreclosure.

Accordingly, we vacate the circuit court's judgment and remand for further proceedings.

DATED: Honolulu, Hawai'i, April 17, 2024.

Philip W. Miyoshi, Randall K.
Hironaka, Steven K.S. Chung,
and Anthony F.T. Suetsugu
for appellants

John D. Zalewski and
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for appellee

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Wendy M. DeWeese

/s/ Shanlyn A.S. Park

