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NO. CAAP-25-0000065

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

CAMERON NICE, MARTHA NICE, Petitioners-Appellants, v.
WATANABE ING LLP; AMERICAN SAVINGS BANK, Respondents-Appellees,

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CCV-24-0000097)

SUMMARY DISPOSITION ORDER
(By: Hiraoka, Presiding Judge, and Wadsworth and Guidry, JJ.)

On February 5, 2025, self-represented Petitioners-Appellants Cameron Nice and Martha Nice (together, **the Nices**) filed a document styled as a "motion for reconsideration and motion to dismiss with prejudice a11 orders filed in this case[;] motion for relief of judgement and motion to sanction defendants['] attorney" (**Motion**). (Capitalization altered.) We construe the Motion as a notice of appeal from the following, entered on February 6, 2025, by the Circuit Court of the Fifth Circuit[1/] (**Circuit Court**): (1) the *Order Granting Respondents' Motion to Dismiss Petitioner's Complaint/Request for Preliminary Injunction Filed October 22, 2024, Filed November 21, 2024 [Dkt. 13]*; and (2) the *Final Judgment*. We affirm.

On October 22, 2024, the Nices filed a complaint/request for preliminary injunction in the Circuit Court, seeking to enjoin an alleged fraudulent foreclosure action initiated by Respondent-Appellees American Savings Bank (**ASB**) and Watanabe Ing

[1/] The Honorable Randal G.B. Valenciano presided.

LLP (**WI**) (together, **Respondents**). The Nices attached a demand letter from WI, as ASB's counsel, that notified the Nices of ASB's right to initiate a foreclosure action should they not reinstate their loan by a certain date. Petitioners did not allege that a foreclosure action had actually been filed.[2/] Respondents subsequently filed a motion to dismiss the complaint/request for preliminary injunction (**MTD**) under Hawai‘i Rules of Civil Procedure (**HRCP**) Rules 12(b)(5) and (6). Following a January 14, 2025 hearing, the Circuit Court granted the MTD and entered the *Final Judgment*.

The Nices' opening brief does not comply with Hawai‘i Rules of Appellate Procedure (**HRAP**) Rule 28(b). In particular, the opening brief does not contain "[a] concise statement of the points of error set forth in separately numbered paragraphs[,]" as required by HRAP Rule 28(b)(4). To promote access to justice, we do not automatically foreclose self-represented litigants from appellate review for not complying with court rules. Erum v. Llego, 147 Hawai‘i 368, 380-81, 465 P.3d 815, 827-28 (2020). We address what we discern to be the Nices' arguments.

(1) The Nices contend: "[W]e only wanted to file a TRO to give us time to figure out the next steps but the 5th Circuit Court wrongfully, fraudulently, and illegally blocked us from doing so and continue to refuse to correct it."

In fact, the Nices initiated an action against Respondents by filing the complaint/request for preliminary injunction, designating themselves as "petitioner" and ASB and WI as "respondents." It is irrelevant that they wanted to file a form of action against Respondents styled as a "TRO" to stop a "fraudulent" foreclosure, where all they could allege was that the above-described demand letter had been sent to them. In any event, when the MTD was filed, the Nices did not seek to dismiss the action and they did not file an opposition to the MTD. Additionally, the record contains no hearing transcripts. The appellant has the burden to show error by reference to the record, and has the responsibility to provide adequate

[2/] Respondents assert in their opening brief that no foreclosure action was ever filed against the Nices by Respondents.

transcripts. Bettencourt v. Bettencourt, 80 Hawai‘i 225, 230, 909 P.2d 553, 558 (1995) (quoting Union Bldg. Materials Corp. v. The Kakaako Corp., 5 Haw. App. 146, 151, 682 P.2d 82, 87 (1984)). The Nices have not done so.

Instead, the Nices levy conclusory allegations of fraud, discrimination, and retaliation against the Circuit Court. They aim similar accusations at ASB and WI. They point to no evidence – nothing – in the record supporting their invective. Relatedly, the Nices complain that the court denied their "Ex Parte Motion to Compel Judge Valenciano to Abide by and Enforce All the Rules of the Hawaii Revised Code of Judicial Conduct" (**Motion to Compel the Court**). They make no coherent or discernible argument supporting their contention. On this record, we cannot conclude that the Circuit Court erred in granting the MTD or abused its discretion in denying the Motion to Compel the Court.

(2) The Nices summarily assert: "[A]nd then [WI attorney] Jonathan W.Y. Lai with the help of corrupt Judge Valenciano wrongfully labeled us Vexatious Litigators. This is absolute nonsense, we didn't sue anybody, we were just defending our rights and following the Supreme Court's legal directive to 'Seek Alternative Remedies[.]'"

The opening brief does not state "where in the record the alleged error occurred" and "where in the record the alleged error was objected to or the manner in which the alleged error was brought to the attention of the court . . . ." HRAP Rule 28(b)(4). Moreover, the Nices make no coherent or discernible argument supporting their assertion that they were "wrongfully" determined to be vexatious litigants. HRAP Rule 28(b)(7). We deem the argument waived. Id.

(3) The Nices summarily assert that the Circuit Court and Respondents "harm[ed]" them when "they quashed witness Subpoenas that we needed for our defense . . . ."

Again, the opening brief fails to cite to the record as to where the alleged error occurred and where it was objected to or otherwise brought to the court's attention. HRAP Rule 28(b)(4). Additionally, the Nices make no discernible argument

supporting their assertion or otherwise explain what information they expected specific subpoenaed witnesses to provide that was relevant to the Nices' case. HRAP Rule 28(b)(7). We are not obligated to search the record for information that should have been provided by the appellants. Hawaii Ventures, LLC v. Otaka, Inc., 114 Hawai‘i 438, 480, 164 P.3d 696, 738 (2007) (quoting Lanai Co. v. Land Use Comm'n, 105 Hawai‘i 296, 309 n.31, 97 P.3d 372, 385 n.31 (2004)). We deem the argument waived. HRAP Rule 28(b)(7).

For the reasons discussed above, the February 6, 2025 *Final Judgment* is affirmed.

DATED: Honolulu, Hawai‘i, October 30, 2026.

On the briefs:

Cameron Nice and
Martha Nice,
Self-represented Petitioners-
Appellants.

Jonathan W.Y. Lai
(Watanabe Ing LLP)
for Respondents-Appellees.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge