

NOT FOR PUBLICATION

NO. 25057

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

GLADYS L. HALM, Plaintiff-Appellee, v.
LUCILLE SANCHEZ, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CIV. NO. 1RC01-5224)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Foley, JJ.)

Defendant-Appellant Lucille Sanchez (Lucille) appeals from the order entered on March 11, 2002, by Judge David L. Fong, summarily denying Lucille's "Motion for Reconsideration or New Trial" untimely filed on March 11, 2002.

Back on March 27, 2001, Plaintiff-Appellee Gladys L. Halm (Halm), by a written Housing Assistance Payments Contract (HAPC), leased Unit A-2 at 1638 Democrat Street, Honolulu, Hawai'i 96819, to Lucille for a term from March 27, 2001, through March 31, 2002. Although the HAPC lists both Lucille and her son, Dino C. Sanchez (Dino), as tenants, Lucille is the only tenant who signed the HAPC.

On August 7, 2001, Halm alleged Lucille's failure to comply with rules of occupancy and filed a complaint to terminate the HAPC.

NOT FOR PUBLICATION

On August 21, 2001, Lucille filed a motion for continuance in which she wrote, "I am sick with the flu and need to rest. I have an answer and counterclaim against Gladys Halm. I have headaches and body aches and feel too weak and sick to make it through trial tomorrow." This motion was denied and the trial was held on August 22, 2001.

On August 23, 2001, Lucille filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which she wrote, "Judge Fong did not give me a fair trial. He said all my evidence wasn't [relevant]. I had good evidence. I have no place to live. I have no money. My landlord's son has threatened my life. She [my landlord] is retaliating against me." This motion was denied without a hearing.

On August 24, 2001, the court entered a "Judgment for Possession" and a "Writ of Possession."

On August 27, 2001, at 8:35 a.m., Lucille filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which she wrote:

I did not get a fair trial. I have good and convincing evidence. I didn't break any house rules. My landlord's son threatened my life. I am prosecuting. I also reported drugs on her property. She's making this up to get revenge. I have no place to live and have no money. I'm filing for a new trial. I have a 1 year lease which ends March 31, 2002. My son Dino is 30 years old and he's a tenant on my lease. She did not file a claim against him.

Lucille further wrote that she "did not receive proper written notice from my landlord giving me the correct amount of days to

mend the problem with my landlord" and "I have valid counterclaims and affirmative defenses to this eviction." This motion was denied without a hearing.

On August 27, 2001, at 1:16 p.m., Lucille filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which she wrote:

I did not break any house rules to Gladys Halm. She lied. I have good and convincing evidence and would like a fair trial. Gladys Halm's son Gilbert Halm threatened to kill me. I want to prosecute. Mrs. Halm wants me off her property because of this and because of my letters to her of harrassment [sic], drugs and drug dealing, on her property.

Lucille further wrote that she "did not receive proper written notice from my landlord giving me the correct amount of days to mend the problem with my landlord" and "I have valid counterclaims and affirmative defenses to this eviction." This motion was denied without a hearing.

On August 27, 2001, at 3:38 p.m., Lucille filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which she wrote:

I did not break any house rules to Gladys Halm. She lied. I have good and convincing evidence and would like a fair trial. Gladys Halm's son Gilbert Halm threatened to kill me. I want to prosecute. Mrs. Halm wants me off her property because of this and because of my letters to her of harrassment [sic], drugs and drug dealing, on her property. I can prove this. I need time to move out of my unit.

Lucille further wrote that she "did not receive proper written notice from my landlord giving me the correct amount of days to mend the problem with my landlord" and "I have valid

NOT FOR PUBLICATION

counterclaims and affirmative defenses to this eviction." This motion was denied without a hearing.

On August 29, 2001, at 2:21 p.m., Dino filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which he wrote:

We did not break any of the house rules[.] [Halm's] son Gilbert Halm threatened to kill my mom. That's not right. I would like a fair trial. The landlord does not fix any thing in our home. She said we can have pets and the landlord [saw] our pets when we first moved in she said it was OK. Gladys Halm did not file a claim against me, only my mom. I'm on the rental agreement. Only one of us needs to sign the rental agreement.

(Emphasis in original.) Dino further wrote that he "did not receive proper written notice from my landlord giving me the correct amount of days to mend the problem with my landlord" and "I have valid counterclaims and affirmative defenses to this eviction." (Emphasis in original.) This motion was denied without a hearing on the ground that the "filing person [is] not a party to this lawsuit."

On August 30, 2001, Lucille filed an "Ex Parte Motion to Stay Execution of Writ of Possession and Judgment for Possession" in which she wrote:

I did not break any house rules with Gladys Halm. She is retaliating against me. I sent her letters of harrassment [sic], drugs, and drug dealing, on her property. And because her son Gilbert Halm threatened to kill me and I am prosecuting. I have good and convincing evidence and I want a fair trial. I have a one year lease. Doug Haiia, a drug dealer, lied under oath. And accused me of things I don't do.

Lucille further wrote that she "did not receive proper written notice from my landlord giving me the correct amount of days to

NOT FOR PUBLICATION

mend the problem with my landlord" and "I have valid counterclaims and affirmative defenses to this eviction." This motion was denied without a hearing.

Lucille complied with the Writ of Possession on September 1, 2001.

On February 27, 2002, Lucille filed a "Motion to Set Aside Judgment" in which she wrote:

Gladys Halm retaliated against me and evicted me because of my 2 letters to her of drugs and drug dealing on her property and to stop the harrassment [sic] against me, dated July 1, and July 12, 2001 and because I made a statement to the police about her son Gilbert Halm threatening my life and it was sent to the prosecutor's office. I did not break any house rules. All my rights as a tenant at 1638 A2 Democrat Street was [sic] violated. I was threatened and felt threatened all the time I lived there. She knew I had pets before I moved into her unit and signed a letter of permit. She did not give me a 45 day notice. My son Dino Sanchez was on the same rental agreement. He is an adult. She did not put his name on the summary possession, summons dated Aug. 7, 2001. We had a one year lease. My section 8, rent subsidy has been terminated because I was evicted of an unfair judgement against me. I want a fair trial. I have good and convincing evidence.

Although it appears that this motion was heard and denied on March 11, 2002, it appears that no order has been entered.

On March 11, 2002, Lucille filed "Defendant's Motion to Recuse Judge David L. Fong" in which she alleged Judge Fong's "bias" against her. Although it appears that this motion was heard and denied on April 1, 2002, it appears that no order has been entered.

On March 11, 2002, Lucille filed a "Motion for Reconsideration or New Trial" in which she wrote:

Gladys Halm retaliated against me and evicted me because of my 2 letters to her of drugs and drug dealing on her property and to

NOT FOR PUBLICATION

stop the harrassment [sic] against me dated July 1, and July 12, 2001 and because I made a statement to the police about her son Gilbert Halm threatening my life and it was sent to the prosecutor's office. I did not break any house rules. All my rights as a tenant at 1638 A2 Democrat Street was [sic] violated. I was threatened and felt threatened all the time I lived there. She knew I had pets before I moved into her unit and signed a letter of permit. She did not give me a 45 day notice. My son Dino Sanchez was on the same rental agreement. He is an adult. She did not put his name on the summary possession, summons dated Aug 7, 2001. We had a one year lease. My section 8, rent subsidy has been terminated because I was evicted of an unfair judgement against me. My answer and counterclaim was [sic] dismissed. I had a valid answer and counterclaim with good and convincing evidence. I want a fair trial.

(Emphasis in original.) When this motion was filed on March 11, 2002, Judge Fong had already stamped and signed his denial on the hand-printed ground that "movant does not meet minimum legal requirements for reconsideration[.]"

On April 9, 2002, Lucille filed a Notice of Appeal of the March 11, 2002 order denying her March 11, 2002 "Motion for Reconsideration or New Trial."

It appears that no transcripts of any court proceedings have been made a part of the record on appeal in this case.

In her opening brief and reply brief, Lucille repeats all of the allegations and arguments she previously wrote in her various motions. She also adds a few more allegations.

Lucille's March 11, 2002 "Motion for Reconsideration or New Trial" implicitly sought, pursuant to Hawai'i Rules of Civil Procedure (HRCP) Rule 59(a) (2003), to "open the judgment" and "the entry of a new judgment" or, pursuant to HRCP Rule 59(e) (2003), "to alter or amend" the judgment.

NOT FOR PUBLICATION

HRCP Rule 59 states, in relevant part, as follows:

(b) *Time for motion.* A motion for a new trial shall be filed no later than 10 days after entry of the judgment.

. . . .

(e) *Motion to alter or amend judgment.* Any motion to alter or amend a judgment shall be filed no later than 10 days after entry of the judgment.

The judgment Lucille's March 11, 2002 "Motion for Reconsideration or New Trial" challenged was the Judgment for Possession entered on August 24, 2001. We hold that Lucille's March 11, 2002 "Motion for Reconsideration or New Trial" was untimely, unauthorized, and validly denied on that basis.

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by the parties,

IT IS HEREBY ORDERED that the district court's March 11, 2002 order denying Lucille's March 11, 2002 "Motion for Reconsideration or New Trial," from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, November 17, 2003.

On the briefs:

Lucille Sanchez,
Defendant-Appellant, *pro se.*

Gladys L. Halm,
Plaintiff-Appellee, *pro se.*