

NOT FOR PUBLICATION

NO. 26169

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

EM. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

WELLS FARGO BANK MINNESOTA, N.A. FKA NORWEST BANK
MINNESOTA, N.A. as TRUSTEE OF AMRESKO RESIDENTIAL
SECURITIES CORPORATION MORTGAGE LOAN TRUST 1998-1,
UNDER THE POOLING AND SERVICING AGREEMENT DATED
SEPTEMBER 1, 1999, Plaintiff-Appellee, v. JOHN
CHARLES HAYWORTH, Defendant-Appellant, and JOHN
and MARY DOES 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civil No. 02-1-1396)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Nakamura and Fujise, JJ.)

Defendant-Appellant, John Charles Hayworth (Hayworth) appeals from the September 24, 2003 Judgment as to "Findings of Fact, Conclusions of Law and Order Granting Plaintiff's Motion for Summary Judgment on Complaint Filed on June 7, 2002" in the Circuit Court of the First Circuit (circuit court)¹ entered in favor of Plaintiff-Appellee Wells Fargo Bank Minnesota, N.A. fka Norwest Bank Minnesota, N.A., as Trustee of AMRESKO Residential Securities Corporation Mortgage Loan Trust 1998-1, Under the Pooling and Servicing Agreement dated September 1, 1999 (Wells Fargo).

¹ The Honorable Karen N. Blondin presided.

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After careful review of the issues raised and the arguments made by the parties, as well as the record of the proceedings before the circuit court, and the relevant case law, we resolve Hayworth's points on appeal as follows:

1) The circuit court was correct in its determination that there were no genuine issues of material fact and that Wells Fargo was entitled to judgment as a matter of law. Miller v. Manuel, 9 Haw. App. 56, 65, 828 P.2d 286, 292 (1991); Hawai'i Rules of Civil Procedure Rule 56(e).

2) As Hayworth's right to rescind expired upon the foreclosure sale of the property in question as provided in 12 Code of Federal Regulations § 226.23(a)(3) and the authoritative commentary thereto, the circuit court was correct in concluding Hayworth had no right to or in the property.

3) Hayworth's challenge to the circuit court's Findings of Facts and Conclusions of Law is foreclosed by Hawaii Cmty. Fed. Credit Union v. Keka, 94 Hawai'i 213, 216 n.3, 11 P.3d 1, 4 n.3 (2000).

Therefore,

IT IS HEREBY ORDERED that the Circuit Court of the First Circuit's September 24, 2003 Judgment as to "Findings of

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Fact, Conclusions of Law and Order Granting Plaintiff's Motion for Summary Judgment on Complaint Filed on June 7, 2002" is affirmed.

DATED: Honolulu, Hawai'i, June 15, 2006.

On the briefs:

Gary Victor Dubin,
for Defendant-Appellant.

Bernie K. Watanabe

Acting Chief Judge

Robert E. Chapman and
Mary Martin
(Stanton Clay Chapman Crumpton
& Iwamura),
for Plaintiff-Appellee.

Craig H. Nakamura

Associate Judge

Alana D. S. Fijine

Associate Judge