

NO. 27835

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

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STATE OF HAWAII

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PIONEER MILL COMPANY, LLC, Plaintiff-Appellee, v. DAVID K. KAPU, PAUL KEKAI KAPU, PAULINE MAPUANA KEKAI LUKELA, and VICTORIA Q. WHITE, Defendants-Appellants, and KAHULIKAA (k); KEALOHA (w), wife of Makini; heirs or assigns; and ALL WHOM IT MAY CONCERN, Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(Civ. No. 05-1-0097(1))

SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding J., Foley, and Fujise, JJ.)

In this quiet-title case, Defendants-Appellants David K. Kapu, Paul Kekai Kapu, Pauline Mapuana Kekai Lukela, and Victoria Q. White (collectively, Kapu Defendants) appeal (1) the order entered by the Circuit Court of the Second Circuit (the circuit court)¹ on February 16, 2006 granting the motion for summary judgment filed by Plaintiff-Appellee Pioneer Mill Company, LLC (Plaintiff or Pioneer Mill) on September 29, 2005² (the Summary Judgment Order); and (2) the Final Judgment entered by the circuit court on February 23, 2006 in favor of Pioneer Mill and against "all named Defendants, their heirs and assigns, and all unknown persons claiming an interest in said real property" (the Final Judgment), determining that Pioneer Mill "is the owner in fee simple of Apana 3 of Land Commission Award 6400, Land Patent 8286, to Kapu, situate at Puunau, Lahaina, Maui, within TMKs (2) 4-6-13-6 and 4-6-14-1" ('Āpana 3).

¹ The Honorable Joel E. August presided.

² We note that the "Order Granting Plaintiff's Summary Judgment Motion, Filed September 9, 2005" refers to the wrong filing date for the summary judgment motion.

Kapu Defendants raise two points of error. First, they argue that the circuit court erred in granting Pioneer Mill's motion for summary judgment because genuine issues of material fact existed regarding Pioneer Mill's paper-title and adverse-possession claims to 'Āpana 3. Second, Kapu Defendants contend that the circuit court erred by failing to provide any findings of fact or conclusions of law in its Summary Judgment Order.

We resolve Kapu Defendants' points of error as follows:

(1) No transcripts of the proceedings below were ordered for this appeal, and it is unclear whether the circuit court based its Summary Judgment Order and Final Judgment on Pioneer Mill's paper-title or adverse-possession claim to 'Āpana 3. Nevertheless, based on our review of the record on appeal, the briefs submitted by the parties and the statutory and case law relevant to the issues on appeal, and having duly considered the arguments and issues raised by the parties, we conclude that the circuit court did not err in granting Pioneer Mill's motion for summary judgment.

Pioneer Mill established a prima facie case of adverse possession to 'Āpana 3. The declarations attached to Pioneer Mill's motion for summary judgment indicate that Pioneer Mill openly, notoriously, continuously, and exclusively used 'Āpana 3 for sugar cane cultivation from 1963 to 1999. In addition, "there is a presumption of hostility where all the other elements of adverse possession have been met[,]" Wailuku Agribusiness Co. v. Ah Sam, 114 Hawai'i 24, 37, 155 P.3d 1125, 1138 (2007), and "if the presumption of hostility remains unrebutted by the nonmovant, the presumption of hostility would satisfy the movant's burden of proving the element of hostility." Id. at 34, 155 P.3d at 1135. Since the record indicates that Kapu Defendants failed to rebut the presumption of hostility, the

circuit court did not err in concluding that Pioneer Mill was entitled to judgment as a matter of law based upon its claim of adverse possession to 'Āpana 3.

(2) The circuit court was not required to make any findings of fact or conclusions of law in ruling on Pioneer Mill's motion for summary judgment. Pursuant to Hawai'i Rules of Civil Procedure (HRCP) Rule 52(a), "[f]indings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in subdivisions (b) and (c) of this rule." HRCP Rule 56 specifically deals with summary judgment. Moreover, subdivisions (b) and (c) of HRCP Rule 52 are inapplicable. Consequently, the circuit court's failure to enter findings of fact or conclusions of law was not error. See, e.g., Hawaii Cmty. Fed. Credit Union v. Keka, 94 Hawai'i 213, 217 n.3, 11 P.3d 1, 5 n.3 (2000) (holding that "the circuit court was not required to enter any findings of fact in ruling on the [appellee's] motion [sic] summary judgment" based upon HRCP Rule 52).

Accordingly, we affirm the Summary Judgment Order and the Final Judgment entered by the circuit court.

DATED: Honolulu, Hawai'i, September 5, 2007.

On the briefs:

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