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2007 OCT 24 PM 1:30

EM RIMANDO
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STATE OF HAWAII

NO. 28616

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

AMERICAN SAVINGS BANK, F.S.B., Plaintiff-Appellee,

vs.

JOSHUA P.K. PA and SAMUEL K. PA, JR., Defendants.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1RC06-1-5122)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we do not have jurisdiction over Defendants-Appellants Joshua P. K. Pa and Samuel K. Pa, Jr.'s (the Pa Appellants), appeal from the Honorable Hilary Benson Gangnes's November 20, 2006 judgment in favor of Plaintiff-Appellant American Savings Bank, F.S.B. (Appellee American Savings Bank), because the Pa Appellants' June 28, 2007 notice of appeal is invalid and untimely.

Under HRS § 605-2 (1993) and HRS § 605-14 (1993), persons who are not licensed to practice law in Hawai'i "are not permitted to act as attorneys and represent other natural persons in their causes." Oahu Plumbing and Sheet Metal, Ltd. v. Kona Construction, Inc., 60 Haw. 372, 377, 590 P.2d 570, 573 (1979) (citation and footnote omitted). A person named Leland Pa is the only person who signed the Pa Appellants' June 28, 2007 notice of appeal. Leland Pa is not licensed to practice law in the State

of Hawai'i. Therefore, the Pa Appellants' June 28, 2007 notice of appeal is invalid.

However, even if the Pa Appellants had signed the June 28, 2007, notice of appeal, the notice of appeal was not filed within thirty days after entry of the November 20, 2006 judgment, as Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP) required. Furthermore, the Pa Appellants did not file their post-judgment motion for reconsideration within ten days after entry of the November 20, 2006 judgment, as Rule 59 of the District Court Rules of Civil Procedure required, and, thus, the Pa Appellants did not extend the time period for filing a notice of appeal pursuant to HRAP Rule 4(a)(3). And even if the Pa Appellants had filed their post-judgment motion for reconsideration in a timely manner, the Pa Appellants did not file the June 28, 2007 notice of appeal within thirty days after the district court denied the Pa Appellants' post-judgment motion for reconsideration on December 7, 2007, as HRAP Rule 4(a)(3) required. Therefore, the Pa Appellants' June 28, 2007 notice of appeal is untimely. The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the appellate courts cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice thereof is authorized to change the

jurisdictional requirements contained in Rule 4 of [the HRAP].").

Accordingly,

IT IS HEREBY ORDERED that appellate court case number 28616 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 24, 2007.

Mum Edmund

Chief Judge

Bernie K A Watanabe

Associate Judge

Ausa D In Fijir

Associate Judge