

NO. 23123

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ROSITA MANZONILLO VALLEJO, LUCENA TOLENTINO VALLEJO,
BEVERLY TOLENTINO VALLEJO-SANDERSON and HERBERT TOLENTINO
VALLEJO, Plaintiffs-Appellees,

vs.

VIRGILIO VALENTIN IBARRA, JR., and ROGER BALANZA GUILLERMO,
Defendants-Appellants,

vs.

INTERNATIONAL SAVINGS AND LOAN ASSOCIATION, LIMITED;
NORTHWEST FINANCIAL HAWAI'I, INC.; STANDARD FINANCIAL CORP.;
JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS 1-50;
DOE CORPORATIONS 1-50; DOE ENTITIES 1-50
AND DOE GOVERNMENTAL UNITS 1-50, Defendants-Appellees.

ROGER BALANZA GUILLERMO,
Third-Party Plaintiff-Appellant,

vs.

DAVID KNIE and B & B REALTY, INC.,
Third-Party Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civil No. 95-2767-08)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

The defendant/third-party plaintiff-appellant Roger Balanza Guillermo appeals from the judgment of the first circuit court, the Honorable Kevin S.C. Chang presiding, filed on December 28, 1999. Guillermo contests the circuit court's orders: (1) granting the plaintiffs-appellees Rosito Manzonillo

Vallejo, Lucena Tolentino Vallejo, Beverly Tolentino Vallejo-Sanderson and Herbert Tolentino Vallejo's [hereinafter, "the Vallejo family"] motion for summary judgment and interlocutory decree of foreclosure, filed on April 15, 1997; (2) granting the Vallejo family's motion for summary judgment as to Guillermo's counterclaim, filed on April 15, 1997; (3) granting the third-party defendants-appellees B & B Realty, Inc. and David Knie's [hereinafter, "Knie/B&B"] motion for summary judgment, filed on April 15, 1997; and (4) denying Guillermo's motion for reconsideration of Knie/B&B's motion for summary judgment, filed on September 22, 1997. On appeal, Guillermo argues that the circuit court erred in: (1) finding that there were no genuine issues of material fact when granting summary judgment and an interlocutory decree of foreclosure in favor of the Vallejo family; (2) finding that there were no genuine issues of material fact when granting summary judgment in favor of the Vallejo family as to Guillermo's counterclaim and in favor of Knie/B&B as to the third-party complaint filed by Guillermo; and (3) denying Guillermo's motion for reconsideration of Knie/B&B's motion for summary judgment.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that: (1) Guillermo has failed to preserve any points of error on appeal, pursuant to Hawai'i Revised Statutes (HRS) § 641-2 and Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4), for purposes of challenging the circuit court's order granting the Vallejo family's motion for summary judgment and decree of foreclosure, see Okuhara v. Broida, 51 Hawai'i 253, 255, 456 P.2d 228, 230 (1969); Leary v. Poole, 5 Haw. App. 596,

599, 705 P.2d 62, 65 (1985); (2) the circuit court did not err in granting the Vallejo family's motion for summary judgment as to Guillermo's counterclaim and Knie/B&B's motion for summary judgment as to the third-party complaint, because Guillermo failed to raise any genuine issues of material fact as to his claims of fraud and/or misrepresentation; and (3) the circuit court did not abuse its discretion in denying Guillermo's motion for reconsideration of Knie/B&B's motion for summary judgment, because Guillermo failed to supply any new evidence in support of his motion for reconsideration, see Pancakes of Hawai'i, Inc. v. Pomare Properties Corp., 85 Hawai'i 286, 296-97, 944 P.2d 83, 93-94 (1997). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, May 24, 2002.

On the briefs:

Roger Balanza Guillermo,
Pro se Defendant-Appellant,
Third-Party Plaintiff-
Appellant

Kerry M. Komatsubara, Paul H. Sato,
for the Plaintiffs-Appellees,
Rosito Manzonillo Vallejo,
Lucena Tolentino Vallejo,
Beverly Tolentino Vallejo-
Sanderson and Herbert Tolentino
Vallejo

James H. Hershey, for the
Third-Party Defendants-Appellees
David Knie and B & B Realty, Inc.