

*** NOT FOR PUBLICATION ***

NO. 25846

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CHALON INTERNATIONAL OF HAWAI'I, INC., a Hawai'i corporation,
Plaintiff-Appellee

vs.

JOSEPHINE RABAGO, Defendant-Appellant

and

PARADISE PRAWNS, INC. (Lessee), et al., Defendants

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 00-1-0413)

ORDER DISMISSING APPEAL

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

Upon review of appellant's statement of jurisdiction, appellee's motion to dismiss appeal and the record, it appears that the judgment entered on September 19, 2001 was the appealable final judgment in Civil No. 00-1-0413. The time for appealing the judgment was not extended by the motion for new trial filed on August 22, 2002, more than ten days after entry of the September 19, 2001 judgment. See HRAP 4(a)(3). The May 20, 2003 notice of appeal, filed twenty months after judgment was entered, is an untimely appeal of the September 19, 2001 judgment. See HRAP 4(a)(1) ("[T]he notice of appeal shall be filed within 30 days after entry of the judgment or appealable order."). Thus, we lack jurisdiction over this appeal. See HRAP 26(b); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128

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(1986) (The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, September 16, 2003.