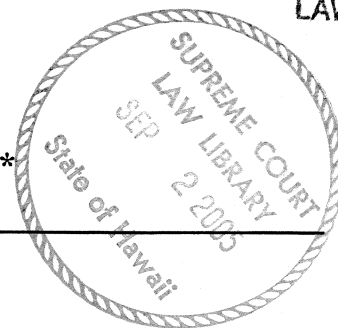


*** NOT FOR PUBLICATION ***



NO. 25887

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CENTURY 21 LIBERTY HOMES,
Plaintiff/Counterclaim Defendant-Appellee,

vs.

LINDA A. REDDISH,
Defendant/Counterclaimant-Appellant.

NORMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2005 SEP - 1 PM 1:33

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIV. NO. 1RC01-8542)

ORDER DISMISSING APPEAL

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

Defendant/counterclaimant-appellant Linda Reddish appeals pro se from the District Court of the First Circuit's November 19, 2002 final order¹ (1) decreeing that summary possession was obtained by plaintiff/counterclaim defendant-appellee Century 21 Liberty Homes; and (2) dismissing Reddish's counterclaim.

Upon carefully reviewing the record, we hold that this court does not have jurisdiction to hear the instant appeal because Reddish's original March 15, 2002 notice of appeal was already docketed in this court and dismissed by summary disposition order for lack of jurisdiction. See Century 21 Liberty Homes v. Reddish, No. 25037 (Oct. 29, 2002) (order dismissing as premature the March 15, 2002 appeal because the

¹ The Honorable David L. Fong presided over this matter.

February 14, 2002 judgment from which appeal was taken did not conclusively determine all claims in the case). Reddish's second notice of appeal, filed on June 6, 2003, was untimely because it was filed more than 30 days after the November 19, 2002 entry of the final order that did terminate all claims. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1) ("When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order."). The failure 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. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128; HRAP Rule 26(b) ("[N]o court or judge or justice is authorized to change the jurisdictional requirement [of the 30-day appeal period] contained in Rule 4 of [the HRAP]."). Thus, we lack jurisdiction over this appeal. Therefore,

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

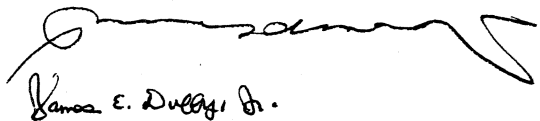
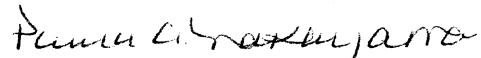
DATED: Honolulu, Hawai'i, September 1, 2005.

Linda Reddish,
defendant/counterclaimant-
appellant, pro se

Kevin S.W. Chee
Jeffrey Masatsugu
(of Chee & Markham),
for plaintiff/counterclaim
defendant-appellee
Century 21 Liberty Homes



Steven H. Levinson



James E. Duggan Sr.