

FILED

2006 MAR 23 AM 9:21

KHAMAKAIO
CLERK, APPELLATE COURTS
STATE OF HAWAII

NO. 26544

IN THE SUPREME COURT OF THE STATE OF HAWAII

CIV. NO. 03-1-0361

CITY AND COUNTY OF HONOLULU, a municipal corporation
of the State of Hawai'i, Plaintiff-Appellee/Cross-
Appellant/Cross-Appellee,

vs.

KATHLEEN HSIUNG; JAMES B. SHAW, Trustee under that certain James B. Shaw Revocable Living Trust Agreement dated June 4, 1990; RUTH G. RAND, Trustee under that certain unrecorded Ruth G. Rand Revocable Trust Agreement dated May 30, 1986; DEBORAH DARLENE DUPIRE-NELSON; ROBERT LEE DUPIRE-NELSON; IRA NAGEL and DOROTHY NAGEL, Trustees of the Dorothy Nagel Revocable Living Trust under that certain unrecorded Trust Agreement dated November 28, 1989; BARBARA WEI LAU; JENNIFER HWEI-MAY LAU; DAN H. DEVANEY, III, Trustee of the Dan H. Devaney, III Revocable Living Trust dated October 7, 1993; CEDRIC CHOI; PATRICIA CHOI; MARY ILMA COSTIGAN ANDERSON, Trustee under Declaration of Trust dated May 25, 1984; EDWARD BURRNETT KEYES, JR.; KATHARINE ROGERS RANDALL, Successor Trustee of the Kennedy Randall, Jr. Trust, under that certain unrecorded Trust Agreement dated August 6, 1985; GERALD HENRY CUTTER; MILDRED P. AULT, Trustee under the Mildred P. Ault Revocable Trust dated July 23, 1987, as amended in full by First Amendment dated March 28, 1990; MARY H. SHELTON, Trustee under that certain unrecorded Charles O. Shelton, Jr. and Mary H. Shelton Joint Living Trust Agreement dated September 20, 1993; WALLACE DAVID LOO; MARJORIE ANNE LOO; LOLA GEBAUER, Successor Trustee of the Paul W. Gebauer, unrecorded Paul W. Gebauer Revocable Trust Agreement dated April 28, 1980, and subsequently amended in its entirety by an Amendment dated December 8, 1982, and a Second Amendment dated December 26, 1997; LOLA GEBAUER, as Trustee under an unrecorded Lola Gebauer Revocable Trust Agreement dated April 28, 1980, and subsequently amended in its entirety by an Amendment dated December 8, 1982, and a Second Amendment dated December 26, 1997; WILLIAM C. DIXON, JR. AND PATRICIA DIXON, as Trustees under certain unrecorded Dixon 1996 Trust dated November 21, 1996; BRUCE D. DUGSTAD, Successor Trustee under that certain Revocable Living Trust Agreement dated August

27, 1980; JEAN MARIE MOREL; JEANNETTE J. WARREN, as Trustee under unrecorded Revocable Living Trust Agreement dated August 19, 1987, as amended; MARGUERITE ELIZABETH GONSALVES; HARRISON CLIFFORD GONSALVES; DANIEL YOUNG LEE; JULIET OK LEE; STEVEN JON BERMAN; HEIDI YUEN BERMAN; GEORGE EDWARD ISAACS; SHIRLEY MAE ISAACS; NORMA ANN STILWELL ;FIRST HAWAIIAN BANK, PAUL C.T. LOO, and VIOLET S.W. LOO, Co-Trustees of the John Joseph Ryan and Marie Ryan Revocable Living Trust, established by that certain unrecorded Trust Agreement dated August 6, 1991, as amended and restated by instrument dated February 16, 1993, and as further amended by instruments dated November 10, 1993, October 14, 1996 and March 30, 1999; DEREK MICHAEL POAG; ERIK STERLING; ETHEL H. BIRD, widow, as Trustee under an unrecorded Revocable Trust Agreement dated September 3, 1987; GEORGE WM. SMITH and JULIA SMITH, as Co-Trustees under the Geroge and Julia Smith Revocable Trust, dated March 10, 1987, Defendants-Appellants/Cross-Appellees,

and

JAMES DOUGLAS KEAUKOU ING, CONSTANCE HEE LAU, CHARLES NAINOA THOMPSON, DIANE JOYCE PLOTTS, and ROBERT KALANI UICHI KIHUNE, Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased, Defendants-Appellees/Cross-Appellees/Cross-Appellants,

and

GERMAINE HOPE BRENNAN, Trustee under that certain unrecorded Revocable Trust of Germaine Hope Brennan dated August 28, 1981, as amended; GERMAINE HOPE BRENNAN, Successor of Trustee under that certain unrecorded Revocable Trust of Edward Brennan dated August 28, 1981, as amended; HENRY PAUL WEBER, Trustee under unrecorded Revocable Living Trust Agreement dated January 12, 1979, as amended, and CHARLES COOK SPAULDING, as Trustee under that certain unrecorded instrument known as The Spaulding 1993 Revocable Trust; SAKIKO KISHIMOTO, Trustee under that certain unrecorded Trust Agreement known as The Sakiko Kishimoto Trust dated January 11, 1989; JOHN DOES 1-200, MARY DOE 1-200; DOE PARTNERSHIP 1-100; DOE CORPORATION 1-100; DOE NON-PROFIT CORPORATION 1-100; and DOE ENTITY 1-100, Defendants.

CIV. NO. 02-1-2955

JAMES DOUGLAS KEAUKOU ING, CONSTANCE HEE LAU, CHARLES NAINOA THOMPSON, DIANE JOYCE PLOTTS, and ROBERT KALANI UICHI KIHUNE, in their capacity as Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased, and not in their individual capacities,
Plaintiffs-Appellants,

vs.

CITY AND COUNTY OF HONOLULU; DEPARTMENT OF COMMUNITY SERVICES, CITY AND COUNTY OF HONOLULU,
Defendants-Appellees,

and

JOHN DOES 1-30; MARY DOES 1-30; DOE PARTNERSHIPS 1-30;
and CORPORATIONS AND OTHER ENTITIES 1-30, Defendants.

APPEAL FROM FIRST CIRCUIT COURT
(CIV. NOS. 03-1-0361 and 02-1-2955)

ORDER OF CORRECTION

(By: Moon, C.J., Levinson, Acoba, and Duffy, JJ.;
and Circuit Judge Perkins, in Place
of Nakayama, J., Recused)

The opinion of the court, filed December 8, 2005, is corrected as follows (deleted language is bracketed and stricken):

Page 26, First Paragraph, First Sentence:

ROH § 38-1.2 defines a lessee as "any person to whom land is leased or subleased, including the person's heirs, successors, legal representatives, and assigns and who is the owner-occupant of the residential condominium unit, [~~residential condominium unit,~~] residential cooperative housing unit or residential planned development unit."
(Emphasis added.)

The Clerk of the Court is directed to correct the original opinion as indicated above and take all necessary steps to notify the publishing agencies of the correction.

DATED: Honolulu, Hawai'i, March 23, 2006.



Stead Stevenson



Samoa E. Duggan

Richard K. Perkins