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Supreme Court
SCAP-13-0003607
30-JUN-2015
09:00 AM

SCAP-13-0003607

IN THE SUPREME COURT OF THE STATE OF HAWAII

KRISHNA NARAYAN; SHERRIE NARAYAN; VIRENDRA NATH; NANCY MAKOWSKI; KEITH MACDONALD, as Co-Trustee for the DKM Trust dated October 7, 2011; SIMON YOO; SUMIYO SAKAGUCHI; SUSAN RENTON; Individually and as Trustee for The Renton Family Trust dated 12/3/09; STEPHEN XIANG PANG; FAYE WU LIU; MASSY MEHDIPOUR, Individually and as Trustee for Massy Mehdipour Trust dated June 21, 2006; G. NICHOLAS SMITH; TRISTINE SMITH; RITZ 1303 RE, LLC, a Colorado Limited Liability Company; CLIFFORD W. CHAFFEE; BRADLEY CHAFFEE, Individually and as Trustee of the Charles V. Chaffee BRC Stock Trust dated 12/1/99, and the Clifford W. Chaffee BRC Stock Trust dated 1/4/98, GARY S. ANDERSON, RONALD W. LORENZ, and RENEE Y. LORENZ,
Plaintiffs-Appellees,

vs.

MARRIOTT INTERNATIONAL, INC.; THE RITZ-CARLTON DEVELOPMENT COMPANY, INC.; THE RITZ-CARLTON MANAGEMENT COMPANY, LLC; JOHN ALBERT; EDGAR GUM; THE RITZ-CARLTON HOTEL COMPANY, LLC; MARRIOTT VACATIONS WORLDWIDE CORPORATION; MARRIOTT OWNERSHIP RESORTS, INC.; MARRIOTT TWO FLAGS, LP; and MH KAPALUA VENTURE, LLC,
Defendants-Appellants,

and

MAUI LAND & PINEAPPLE CO., INC.; EXCLUSIVE RESORTS, LLC; KAPALUA BAY, LLC; ASSOCIATION OF APARTMENT OWNERS OF KAPALUA BAY CONDOMINIUM; CAROLINE PETERS BELSOM; CATHY ROSS; ROBERT PARSONS; RYAN CHURCHILL; MLP KB PARTNER LLC; KAPALUA BAY HOLDINGS, LLC; ER KAPALUA INVESTORS FUND, LLC; ER KAPALUA

INVESTORS FUND HOLDINGS, LLC; EXCLUSIVE RESORTS DEVELOPMENT COMPANY, LLC; and EXCLUSIVE RESORTS CLUB I HOLDINGS, LLC, Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CAAP-13-0003607; CIV. NO. 12-1-0586)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Nakayama, McKenna, and Pollack, JJ., and Circuit Judge Nakasone, in place of Wilson, J., recused)

This appeal concerns the arbitrability of certain “purchase-based” claims pursuant to an arbitration provision contained in the Declaration of Condominium Property Regime of Kapalua Bay Condominium. The questions presented in the underlying appeal are controlled by our recent decision in Narayan v. Marriott (Narayan I), No. SCWC-12-819, at 16 (Hawaii June 3, 2015) (pub. op.), where we held “that the arbitration provision contained in the condominium declaration is unenforceable because the terms of the various condominium documents are ambiguous with respect to the Homeowners’ intent to arbitrate.”

Pursuant to our analysis in Narayan I, the circuit court’s August 26, 2013 order denying Defendants Marriott International, Inc., The Ritz-Carlton Hotel Company, LLC, Marriott Two Flags, LP, the Ritz-Carlton Development Company, Inc., the Ritz-Carlton Management Company, LLC, John Albert,

Edgar Gum, Marriott Ownership Resorts, Inc., MH Kapalua Venture, LLC, and Marriott Vacations Worldwide Corporation's motion to compel arbitration is affirmed.

DATED: Honolulu, Hawai'i, June 30, 2015.

Bert T. Kobayashi, Jr.,
Lex R. Smith,
Joseph A. Stewart,
and Maria Y. Wang for
defendants-appellants

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

Terence J. O'Toole,
Judith Ann Pavey, and
Andrew J. Lautenbach for
plaintiffs-appellees

/s/ Richard W. Pollack

/s/ Karen T. Nakasone

