

**Electronically Filed
Supreme Court
SCWC-12-0000758
06-SEP-2016
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SCWC-12-0000758

IN THE SUPREME COURT OF THE STATE OF HAWAII

KE KAILANI PARTNERS, LLC, a Hawaii limited liability company;
Respondent/Plaintiff-Appellee,

vs.

KE KAILANI DEVELOPMENT LLC, a Hawaii limited
liability company and MICHAEL J. FUCHS, Individually,
Petitioners/Defendants-Appellants,

and

DIRECTOR OF FINANCE, REAL PROPERTY DIVISION, COUNTY
OF HAWAII; KE KAILANI COMMUNITY ASSOCIATION; THE ASSOCIATION
OF VILLA OWNERS OF KE KAILANI; MAUNA LANI RESORT ASSOCIATION,
Respondents/Defendants-Appellees.

KE KAILANI DEVELOPMENT LLC, a Hawaii limited
liability company and MICHAEL J. FUCHS, individually,
Respondents/Counterclaimants-Appellants,

vs.

BANK OF HAWAII, as agent for itself and for CENTRAL
PACIFIC BANK and FINANCE FACTORS, LIMITED; BANK OF
HAWAII; CENTRAL PACIFIC BANK; FINANCE FACTORS, LIMITED,
Respondents/Counterclaim Defendants-Appellees.

KE KAILANI DEVELOPMENT LLC, a Hawaii limited liability
company and MICHAEL J. FUCHS, individually,
Respondents/Third-Party Plaintiffs-Appellants,

vs.

MARY MILES MORRISON, Trustee under the Mary Miles
Morrison Trust dated October 2, 1986,
Respondent/Third-Party Defendant-Appellee,

and

ASSOCIATION OF VILLA OWNERS OF KE KAILANI; KE KAILANI COMMUNITY
ASSOCIATION; BENJAMIN R. JACOBSON; ROBERT BATINOVICH;
STEPHEN B. and SUSAN L. METTER; HARRY and BRENDA MITTELMAN;
UTALY, LLC; GORDON E. and BETTY I. MOORE, Trustees; ROY and
ROSANN TANAKA; MICHAEL G. and LINDA E. MUHONEN; MICHAEL O. HALE;
BARRY and CAROLYN SHAMES, Trustees; KATONAH DEVELOPMENT LLC;
DAVID R. and HE GIN RUCH; NORTHERN TRUST CORPORATION;
BANK OF HAWAII, as agent for itself and for CENTRAL PACIFIC BANK
and FINANCE FACTORS, LIMITED; BANK OF HAWAII; CENTRAL PACIFIC
BANK; FINANCE FACTORS, LIMITED; DISPUTE PREVENTION AND
RESOLUTION,
Respondents/Third-Party Nominal Defendants-Appellees.

KE KAILANI DEVELOPMENT LLC, a Hawaii limited liability
company and MICHAEL J. FUCHS, individually,
Respondents/Fourth-Party Plaintiffs-Appellants,

vs.

MARY MILES MORRISON, Trustee; BENJAMIN R. JACOBSON;
NORTHERN TRUST CORPORATION; BANK OF HAWAII, as agent for itself
and for CENTRAL PACIFIC BANK and FINANCE FACTORS, LIMITED;
BANK OF HAWAII; CENTRAL PACIFIC BANK; FINANCE FACTORS, LIMITED,
Respondents/Fourth-Party Defendants-Appellees,

and

ASSOCIATION OF VILLA OWNERS OF KE KAILANI; KE KAILANI COMMUNITY
ASSOCIATION; BENJAMIN R. JACOBSON; STEPHEN B. and SUSAN L.
METTER; HARRY and BRENDA MITTELMAN; UTALY, LLC; GORDON E. and
BETTY I. MOORE, Trustees; ROY and ROSANN TANAKA; MICHAEL G. and
LINDA E. MUHONEN; MICHAEL O. HALE; BARRY and CAROLYN SHAMES,

Trustees; KATONAH DEVELOPMENT LLC; DAVID R. and HE GIN RUCH,
Respondents/Fourth-Party Nominal Defendants-Appellees.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP 12-0000070; CAAP-12-0000758; CIVIL NO. 09-1-2523-10)

ORDER REJECTING APPLICATION FOR WRIT OF CERTIORARI
(By: Nakayama, Acting C.J., McKenna, Pollack, and Wilson, JJ.,
and Circuit Judge Kim, in place of Recktenwald, C.J., recused)

Petitioners/Defendants-Appellants Ke Kailani Development LLC and Michael J. Fuchs' application for writ of certiorari filed on July 25, 2016, is hereby rejected. Further, the ICA properly concluded that it lacked appellate jurisdiction over the "July 30, 2012 Order Denying Ke Kailani Development, LLC and Michael J. Fuchs' Motion Based upon Newly Discovered Evidence to Disqualify the Honorable Bert I. Ayabe from All Proceedings in Civil No. 09-1-2523-10, Filed June 21, 2012." Accordingly, CAAP-12-0000758 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, September 6, 2016.

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

/s/ Glenn J. Kim

