

NO. 23385

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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JUNE L. BRADY, Appellant-Appellant

vs.

HAWAIIAN HOMES COMMISSION, Appellee-Appellee  
(CIV. NO. 99-009)

and

STEVEN K. ANGAY, Appellant-Appellant

vs.

HAWAIIAN HOMES COMMISSION, Appellee-Appellee  
(CIV. NO. 99-011)

and

PATRICK L. KAHAWAIOLA'A, Appellant-Appellant

vs.

HAWAIIAN HOMES COMMISSION, Appellee-Appellee  
(CIV. NO. 99-013)

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APPEAL FROM THE THIRD CIRCUIT COURT

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that: (1) service of copies of the February 23, 2000 judgments was not promptly effected on Appellants, as required by HRCP 77(d), but delinquent service of the judgments did not affect the time for appealing the judgments and did not provide a basis for extending the time

for appealing the judgments; see HRCP 77(d) ("Lack of notice of the entry [of judgment] by the clerk, or failure to make []service [of the judgment], does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in [HRAP] Rule 4(a)."); Bacon v. Karlin, 68 Haw. 648, 652, 727 P.2d 1127, 1129 (1986) (delinquent service under HRCP 77(d) does not toll the time for appeal); (2) the extension of time to appeal the February 23, 2000 judgments was not supported by excusable neglect inasmuch as service of copies of the judgments, even though delinquent, was effected within the original thirty-day period for appeal and Appellants provided no reason why they were unable to appeal by the original March 24, 2000 deadline; (3) the fact that service of copies of the judgments occurred after expiration of the time for moving for reconsideration of the judgments under HRCP 59(e) is of no consequence inasmuch as reconsideration of the judgments was not a prerequisite to appeal; (4) the circuit court abused its discretion in extending the time for appealing the February 23, 2000 judgments and the notice of appeal filed on April 24, 2000 is untimely; HRAP 4(a)(1) and 4(a)(4)(B); and, thus, (5) we lack jurisdiction over this appeal; Bacon v. Karlin, 68 Haw. at 650, 727 P.2d at 128 (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). Therefore,

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

DATED: Honolulu, Hawai'i, September 6, 2000.