

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

GRACE TOMOYO MOCK, Plaintiff-Appellant,

vs.

DEPARTMENT OF HEALTH, STATE OF HAWAI'I,
FRED HORWITZ, Individually and in his Capacity
as the Administrator of Leahi Hospital, CARLINA
RIVERA, Individually and in her Capacity as the
Head Nurse, Young 4, Leahi Hospital; LILY
ARISTA; KAUIONALANI CASTILLO; LEONILA STONE
and PAULINE YUEN, ENCARNACION CASTRO,
CARMELITA RODRIGUEZ, JOHN DOES 1 to 10 and
JANE DOES 1 to 10, Defendants-Appellees.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-1614-04)
(Non-Motor Vehicle Tort)

SUMMARY DISPOSTION ORDER

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

Plaintiff-appellant Grace Tomoyo Mock appeals from the order denying her motion to enforce a post-trial settlement agreement [hereinafter, motion to enforce].¹ On appeal, Mock claims that the circuit court erred in: (1) determining that it lacked jurisdiction to consider the motion to enforce; and (2) not determining whether the parties had entered into a valid settlement agreement on the record.

¹ The motion to enforce was heard before the Honorable Sabrina McKenna; the jury trial on the underlying action was presided over by the Honorable Eden Elizabeth Hifo.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that the circuit court was divested of jurisdiction to entertain Mock's motion to enforce once the notice of appeal was filed, notwithstanding the fact that the motion to enforce was filed before the notice of appeal was filed. See TSA Int'l, Ltd. v. Shimizu Corp., 92 Hawai'i 243, 265, 990 P.2d 713, 735 (1999) (stating that "the filing of a notice of appeal divests the trial court of jurisdiction over the appealed case") (citation omitted)). We recognize, as Mock asserts, that a "circuit court retains jurisdiction to determine matters collateral or incidental to the [final] judgment." See id. However, the enforcement of a settlement agreement that would dispose of all of the claims between the parties, modify the final judgment, and deny the right of the parties to appeal is neither a collateral nor an incidental matter. We, therefore, reject Mock's contention that the purported settlement agreement was collateral or incidental to the final judgment. Given our disposition of this case, we need not reach the question whether the circuit court erred in not determining that the settlement agreement was valid and, thus, enforceable. Finally, we note that the doctrine of quasi-estoppel is inapplicable because the acts of a party or parties are incapable of conferring subject matter jurisdiction

upon a court. See Gilmartin v. Abastillas, 10 Haw. App. 283, 292, 869 P.2d 1346, 1351 (1994). Accordingly,

IT IS HEREBY ORDERED that the order denying the motion to enforce the settlement agreement, filed May 26, 2000, is affirmed.

DATED: Honolulu, Hawai'i, August 26, 2002.

On the briefs:

Clayton C. Ikei and
Jerry P. S. Chang,
for plaintiff-appellant

Kenneth S. Robbins,
Vincent A. Rhodes,
Charla J. Ota, and
William N. Ota (of
Robbins & Rhodes), for
State-Appellees

Roy A. Vitousek, III and
Kristin S. Shigemura (of
Cades Schutte Fleming & Wright),
for defendants-appellees
Encarnacion Castro and
Carmelita Rodriguez