

NO. 23913

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LLOYD NOBUO SAITO, as Special Administrator
of the Estate of THOMAS MASAO SAITO,
Plaintiff-Appellant,

vs.

SOLOMON FULLER, DEAN K. ORIKASA, STEVEN AKAJI,
STANLEY FURUKAWA, and HERBERT MURAOKA,
Defendants-Appellees,

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10, DOE
CORPORATIONS 1-10, and DOE ENTITIES 1-10,
Defendants.

APPEAL FROM THE FIRST CIRCUIT COURT

(CIVIL NO. 99-1412-04)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, JJ.;
With Ramil, J., Concurring Separately; and
Acoba, J., Dissenting)

The plaintiff-appellant Lloyd Nobuo Saito, as Special Administrator of the Estate of Thomas Masao Saito, appeals from the judgment of the first circuit court, the Honorable Colleen Hirai presiding, granting summary judgment in favor of defendants-appellees Solomon Fuller, Dean K. Orikiawa, Steven Akaji, Stanley Furukawa, and Herbert Muraoka [hereinafter, collectively, "the defendants"]. Specifically, Saito argues that the circuit court erred in finding as a matter of law that his claim for relief was barred by the statute of limitations contained in Hawai'i Revised Statutes (HRS) § 657-7 (1993).

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 affirm the circuit court's judgment. Viewing all the evidence in the light most favorable to Saito, he knew or should have known of the factual basis of his claim for relief -- i.e., that the defendants permitted maintenance personnel to work on energized equipment without utilizing a lockout/tagout device -- on April 12, 1996, when he received documentation from the City and County of Honolulu, including a report completed by one of the defendants in the present matter, to that effect. See Russell v. Atco, 82 Hawai'i 461, 923 P.2d 403 (1996); Hays v. City and County of Honolulu, 81 Hawai'i 391, 917 P.2d 718 (1996). There is no evidence in the record that the defendants fraudulently concealed any potential cause of action from Saito and, therefore, the statute of limitations for his claim is two years, as provided by HRS § 657-7, rather than six years, as provided by HRS § 657-20 (1993).

Accordingly, because Saito filed his complaint in the present matter on April 7, 1999, more than two years after he knew or should have known of the factual basis of his claim against the defendants, as well as the specific legal obligation of the defendants pursuant to Iddings v. Mee-Lee, 82 Hawai'i 1, 919 P.2d 263 (1996), filed on June 20, 1996, the circuit court did not err in granting judgment in favor of the defendants on the ground that Saito's claim for relief was barred by the statute of limitations. Therefore,

IT IS HEREBY ORDERED that the circuit court's judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, August 8, 2002.

On the briefs:

Andrew S. Winer and Thomas E. Bush, of Winer Meheula Devens & Bush, LLP, for the plaintiff-appellant Lloyd Nobuo Saito, as Special Administrator of the Estate of Thomas Masao Saito

Don S. Kitaoka and Paul S. Kawai, Deputies Corporation Counsel, for the defendants-appellees Solomon Fuller, Dean K. Orikasa, Steven Akaji, Stanley Furukawa, and Herbert Muraoka