

NO. 24655

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

SOLAR ENGINEERING AND CONTRACTING, Plaintiff-Appellant

vs.

THE AOA OF RIDGEWAY II CONDOMINIUM, PETER GRINDLEY
and JOY GRINDLEY, Defendants-Appellees

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 98-0813-02)

ORDER DENYING MOTION FOR RECONSIDERATION

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

Upon consideration of Plaintiff-Appellant Solar Engineering and Contracting's ("Solar Engineering") motion for reconsideration of the order dismissing its appeal, the papers in support thereof, and the record, it appears that under Rule 4(a)(3) of the Hawai'i Rules of Appellate Procedure (HRAP) the thirty-day time period for filing a notice of appeal in Civil No. 98-0813-02 commenced upon entry of the August 24, 2001 order denying Solar Engineering's motion for reconsideration. Solar Engineering did not file its notice of appeal until October 30, 2001. The notice of appeal was untimely. Therefore, we lack jurisdiction over this appeal. HRAP Rule 4(a)(3); HRAP Rule 26(b); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The failure of an appellant 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.). Accordingly,

IT IS HEREBY ORDERED that Solar Engineering's motion for reconsideration of the order dismissing its appeal is denied.

DATED: Honolulu, Hawai'i, February 15, 2002.

William J. Deeley
and Dennis W. King,
on the motion for
plaintiff-appellant.