

**NOT FOR PUBLICATION**

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NO. 25562

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

BETSILL BROTHERS CONSTRUCTION, INC., Plaintiff-Appellee, v.  
JAMES AKAHI, also known as "MAJESTY AKAHI NUI", also known as  
"TRUSTEE OF THE KINGDOM OF HAWAII NATION MINISTRY TRUST FOR THE  
KINGDOM OF HAWAII", Defendant-Appellant, ROBERT ROGGASCH; JOHN  
SHORTRIDGE; SHINEI SHOKAI CO., LTD.; FIRST AMERICAN TITLE  
INSURANCE COMPANY, INC.; JOHN DOES 1-100; and JANE DOES 1-100,  
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CIVIL NO. 02-1-0394(3))

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Foley, JJ.)

Defendant-Appellant James Akahi<sup>1</sup> (Akahi) appeals from

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<sup>1</sup> In his answer filed on September 13, 2002, Defendant-Appellant James Akahi identifies himself as "His Majesty Akahi Nui Trustee of The Kingdom of Hawaii Nation Ministry Trust" and states, in relevant part:

3) Majesty Akahi Nui is the Sovereign of the Kingdom of Hawaii Nation, a foreign nation with regard to the United States of America. "The Sovereign is the person to whom the Nation has confided the supreme power and duty of governing; it has invested him with its rights, and it alone is directly concerned with the manner in which it's [sic] appointed ruler makes use of his power. No foreign State may inquire into the manner in which a sovereign rules, nor set itself up as judge of his conduct, nor force him to make any change in his administration." . . .

. . . .

5) Majesty Akahi Nui is not a resident of the County of Maui, Island of Maui, but rather the Sovereign of The Kingdom of Hawaii, domiciled on Mokupuni O Maui, Ke Aupuni O Hawaii. . . .

6) Robert Roggasch is a representative of the interests of the Kingdom of Hawaii Nation. . . .

7) John Shortridge is the lawful caretaker of Royal Allodial Patent Grant 2629, T.M.K. (2) 1-2-3:19 Mokupuni O Maui, Ke Aupuni O Hawaii. . . .

8) The Kingdom of Hawaii Ministries Trust holds the true and lawful Allodial Title to Royal Allodial Patent Grant 2629, T.M.K. (2) 1-2-3:19 since the year 2000, when John Shortridge gave his interest to the Kingdom of Hawaii Nation Ministries Trust.

the December 9, 2002 Final Judgment filed in the Second Circuit Court.<sup>2</sup> This judgment was entered pursuant to the November 26, 2002 Order on Motion for Judgment and Order on Cross-Motion for Summary Judgment and decreed that Akahi and Defendants Robert Roggasch and John Shortridge (Shortridge) "have no right, title, claim or interest in or to that certain real property being all of Royal Patent Grant Number 2629, situated at Nahiku, Koolau, Island of Maui, State of Hawaii, Tax Map Key No. (2) 1-2-003-019" (the Subject Property). It further decreed that Plaintiff-Appellee Betsill Brothers Construction, Inc. (Betsill Brothers) "is the sole fee simple owner of the Subject Property" and that "[a]ny and all remaining claims are hereby dismissed." We affirm.

Although Akahi's opening brief, in violation of Hawai'i Rules of Appellate Procedure, Rule 28(b)(4), fails to present any identifiable points of error on appeal other than to say that the trial court's final judgment should be vacated, we nevertheless thoroughly reviewed the record and the briefs submitted by the parties. Having given proper consideration to the arguments advanced and the issues raised by the parties, we conclude that the circuit court properly granted summary judgment in favor of Betsill Brothers. Our reasons are as follows:

- 1) Akahi was barred by the doctrine of res judicata

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<sup>2</sup> Unless otherwise stated, Judge Joseph E. Cardoza presided.

from challenging the validity of title to the Subject Property.

"Res judicata will bar relitigation where (1) the issue decided in the prior adjudication is identical with the one presented in the action in question, (2) there was a final judgment on the merits, and (3) the party against whom res judicata is asserted was a party or in privity with a party to the prior adjudication." Dorrance v. Lee, 90 Hawai'i 143, 148, 976 P.2d 904, 909 (1999) (citation omitted).

In the present case, all three elements were met. First, the issue of title that was decided by the December 9, 2002 Final Judgment is identical to the issue of title that was decided by the March 27, 2001 "Final Judgment and Decree", and the December 11, 2001 "Amended Final Judgment and Decree" entered by the Second Circuit Court in Civil No. 00-1-0157(1), the Quiet Title and Partition (QTP) action. Both issues dealt with who had clear title to the Subject Property.

Second, on March 27, 2001, a Final Judgment and Decree on the merits was entered in Civil No. 00-1-0157(1), the QTP action, which proclaimed that "[u]pon confirmation of the sale and the payment by [Defendant-Appellee Shinei Shokai Co. Ltd. (Shinei Shokai)] of the money due to the other owners, [Shinei Shokai] will own all of [the Subject Property] in fee simple absolute, free and clear of all claims, liens, clouds and encumbrances of every kind". All parties, including Shortridge,

were paid by Shinei Shokai,<sup>3</sup> and no one appealed the decision.

Third, Akahi was a party or in privity with a party to the Final Judgment and Decree in Civil No. 00-1-0157(1), the QTP action. Not only was Akahi in privity with Shortridge as his successor-in-interest to the Subject Property by virtue of the July 26, 2000 Quitclaim Deed, but Akahi filed pleadings, made appearances, and was a party in the QTP action.

Akahi's argument that he is not subject to the laws of the State of Hawai'i because he is the Sovereign of the Kingdom of Hawai'i Nation is unpersuasive. This court has repeatedly stated that the governments of the State of Hawai'i and the United States do not recognize either the existence or sovereignty of the Kingdom of Hawai'i. Nishitani v. Baker, 82 Hawai'i 281, 289, 921 P.2d 1182, 1190 (App. 1996); State v. Lorenzo, 77 Hawai'i 219, 221, 883 P.2d 641, 643 (App. 1994); see also State v. French, 77 Hawai'i 222, 883 P.2d 644 (App. 1994). Akahi was and is subject to the jurisdiction of the courts of the State of Hawai'i in this matter.

2) It was incumbent upon Betsill Brothers, when it filed its Motion for Summary Judgment, to demonstrate the lack of

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<sup>3</sup> John Shortridge admitted to receiving, on March 29, 2002, check number 113993 in the amount of \$1,596.76 as his share of the proceeds for the sale of the Subject Property. The court's order only required confirmation that Defendant-Appellee Shinei Shokai Co. Ltd. (Shinei Shokai) pay the other owners in order for Shinei Shokai to take title to the Subject Property in fee simple absolute. The court's order did not obligate Shinei Shokai to force John Shortridge to accept the money or require John Shortridge to accept the money by cashing or negotiating the check.

any genuine issue of material fact for trial, and that it was entitled to judgment as a matter of law. Betsill Brothers carried this burden by showing that it had clear title to the Subject Property from the combination of the Warranty Deed from Shinei Shokai and the Final Judgment and Decree in the QTP action.

Once Betsill Brothers satisfied its burden of showing that it was entitled to judgment as a matter of law, it was Akahi's burden to show, through affidavit or other evidence, that there was a genuine issue of material fact. Miller v. Manuel, 9 Haw. App. 56, 65, 828 P.2d 286, 292 (1991); Hawaii Rules of Civil Procedure (HRCP), Rule 56(e) (2004). "If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party." HRCP 56(e); see Hawaii Broad. Co., Inc. v. Hawaii Radio Inc., 82 Hawai'i 106, 111-112, 919 P.2d 1018, 1023-24.

Nothing in the record indicates that Akahi opposed the motion for summary judgment. Therefore, Akahi failed to meet his burden of coming forward, "through affidavit or other evidence, with specific facts showing that there is a genuine issue of material fact", Miller, 9 Haw. App. at 65, 828 P.2d at 292 (1991), and Betsill Brothers was entitled to summary judgment as a matter of law. Hawaii Broad. Co., 82 Hawai'i at 111-112, 919 P.2d at 1023-24 (App. 1996).

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Based on the ample evidence presented by Betsill Brothers that it had acquired clear title to the Subject Property from Shinei Shokai, and the complete lack of evidence on the part of Akahi tending to show that there was a genuine issue of material fact or that he had a right to the Subject Property, the trial court was right in granting summary judgment.

Therefore,

IT IS HEREBY ORDERED that the December 9, 2002 Final Judgment is affirmed.

DATED: Honolulu, Hawai'i, June 28, 2004.

On the briefs:

Patsy H. Kirio and  
Ashley R. Masuoka  
(Watanabe Ing Kawashima & Chief Judge  
Komeiji LLP)  
for Plaintiff-Appellee.

James Akahi Associate Judge  
Defendant-Appellant Pro Se.

Associate Judge