

NOT FOR PUBLICATION

NO. 26172

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ALBA PECA, Plaintiff-Appellant, v. BRIGITTE R. RIEDL,
Defendant-Appellee, and JOHN DOES 1-50, JANE DOES 1-50,
DOE PARTNERSHIPS, DOE CORPORATIONS, DOE ENTITIES and DOE
GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 00-1-1247)

SUMMARY DISPOSITION ORDER

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

Plaintiff-Appellant Alba Peca (Peca) appeals from the Third Amended Judgment filed on September 24, 2003 in the Circuit Court of the First Circuit (circuit court),¹ granting judgment in favor of Defendant-Appellee Brigitte R. Riedl (Riedl) and against Peca.

After careful review of the issues raised and the arguments made by the parties, as well as the record of the proceedings before the circuit court and the relevant case law, we resolve Peca's points on appeal as follows:

1) Peca's claim that the circuit court failed to consider *quantum meruit* as a basis for relief is not supported by the record. The circuit court concluded in its October 31, 2002 Findings of Fact, Conclusions of Law and Order that "[i]n the absence of a valid contract, [Peca] would be entitled to compensation only under the equitable theory of unjust

¹ The Honorable Dexter D. Del Rosario presided.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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enrichment." Conclusion of Law (COL) No. 11. However, the circuit court concluded that Peca was barred from recovering under this theory because Peca breached her fiduciary duties to Riedl. COL No. 12.

2) The circuit court erred in awarding attorneys' fees to Riedl in excess of the statutory maximum set by Hawaii Revised Statutes (HRS) § 607-14 (Supp. 2005). Twenty-five per cent of the total of Peca's claim for \$80,848 and Riedl's counterclaim award of \$1,700 set the benchmark for calculating the maximum possible attorneys' fee award in this case.

Therefore,

IT IS HEREBY ORDERED that the Third Amended Judgment filed on September 24, 2003 in the Circuit Court of the First Circuit is affirmed in part and vacated in part. The award of attorneys' fees is vacated. The judgment in all other respects is affirmed. The matter is remanded for a determination of reasonable attorneys' fees consistent with HRS § 607-14.

DATED: Honolulu, Hawai'i, May 24, 2006.

On the briefs:

Brian A. Costa and
James A. Delacy,
(Costa & Delacy),
for Plaintiff-Appellant.

Philip R. Brown,
for Defendant-Appellee.


Chief Judge


Associate Judge


Associate Judge