

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 26432

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

NORMA T. YARR
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 SEP 29 AM 9:25

FILED

JAMES D. GUNDERSON, JR., Plaintiff/Counterclaim Defendant and Appellee, v. ASLAM MOHAMMAD SHAW, husband, Defendant/Counterclaimant Cross-Claimant-Appellant, MAHMUNIR AFSHAR SHAH, wife, Defendant/Cross-Claim Defendant-Appellee, JOHN DOES 1-10, JOHN DOE PARTNERSHIPS 1-10, JOHN DOE CORPORATIONS 1-10, AND JOHN DOE GOVERNMENTAL ENTITIES 1-10, Defendants

and

ASLAM MOHAMMAD SHAW, Third-Party Plaintiff-Appellant, v. ANDREW FASHOLA (AKA ADE FASHOLA); BUREAU OF LEGAL SERVICES, A.P.C., A CALIFORNIA CORPORATION, AND BUREAU OF LEGAL SERVICES (LOS ANGELES, CALIFORNIA DBA), and ROBERT J. CARTWRIGHT AND WHALERS REALTY, INC., A HAWAII CORPORATION, Third-Party Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(Civ. No. 01-1-0256(1))

SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding Judge, Foley and Fujise, JJ.)

Pro se Defendant-Appellant Aslam Mohammad Shaw (Aslam) appeals from the Circuit Court of the Second Circuit's¹ (circuit court) February 5, 2004 Amended Final Judgment. The "Findings of Fact; Conclusions of Law; Order Granting Plaintiff James D. Gunderson, Jr.'s Motion for Summary Judgment as to Mahmuniir Afshar Shah and Aslam Mohammad Shaw, Decree for Specific Performance, and Appointing of Commissioner" (Summary Judgment Order), upon which the judgment was based, was filed on January 8, 2003.

¹ The Honorable Joel E. August presided.

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 Aslam's points on appeal as follows:

(1) This court declines to address Aslam's first point on appeal, that the circuit court abused its discretion and "failed to uphold the general principles of justice and fair dealings because it was overwhelmed by the Niles' [sic] tactics" and "failed to apply the standard of review required by[] Buck v. Miles, 89 Hawai'i 244, 248, 971 P.2d 717, 721 (1999)" and by "10 Wright, Miller & Kane, Federal Practice and Procedure: civil 2d s 2711, 555-56 (1983)." Aslam does not explain where this alleged error was brought to the circuit court's attention, how application of the standard of review was erroneous, or how this harmed his rights in violation of Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4). Moreover, Aslam substantially failed to argue his point in compliance with HRAP Rule 28(b)(7). See Norton v. Admin. Dir. of the Court, 80 Hawai'i 197, 200, 908 P.2d 545, 548 (1995) (recognizing that, pursuant to HRAP Rule 28(b)(7), the court may "disregard [a] particular contention" if the appellant "makes no discernible argument in support of that position").

(2) Aslam has failed to establish that reversible error was committed by the circuit court in entering findings of fact numbers 24, 25, 30 and 31, and conclusions of law numbers 8, 9 and 10.

Finding numbers 24 and 25 are supported by substantial evidence. State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998). Although finding number 30 is clearly erroneous, Aslam fails to show how this error contributed to the judgment. Hawaii Revised Statutes § 641-2 (Supp. 2005). Aslam has abandoned his challenge to finding number 31 as he concedes it is not erroneous.

As for his challenge to the circuit court's conclusions of law, apart from Aslam's bald assertions of error, he makes no discernible arguments in furtherance of his claims. As such, we decline to consider them. State v. Jackson, 81 Hawai'i 39, 46-47, 912 P.2d 71, 78-79 (1996).

(3) The circuit court did not err in granting Plaintiff-Appellee James D. Gunderson's (Gunderson) motion for summary judgment against Aslam and his wife, Mahmunir Afshar Shah (Mahmunir). Based on the uncontested factual findings made by the circuit court, at the time Gunderson and Mahmunir signed the "Deposit Receipt Offer and Acceptance" evidencing Mahmunir's agreement to sell the subject property to Gunderson, Mahmunir was the sole owner of the property and Gunderson had no notice that Aslam had any interest in the property. Based on these facts, the circuit court did not err in granting summary judgment in Gunderson's favor and ordering that the property be sold to Gunderson.

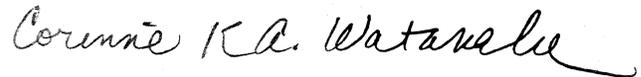
Therefore,

IT IS HEREBY ORDERED that the Amended Final Judgment filed on February 5, 2004 in the Circuit Court of the Second Circuit, is affirmed.

DATED: Honolulu, Hawai'i, September 29, 2006.

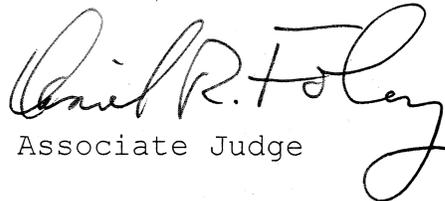
On the briefs:

Aslam Mohammed Shaw,
Defendant/Counterclaimant/
Cross-Claimant-Appellant
pro se.



Presiding Judge

Dennis Niles, and
William M. McKeon,
(Paul Johnson Park & Niles),
for Plaintiff/Counterclaim
Defendant-Appellee.



Associate Judge



Associate Judge