

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 27274

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

AFL HOTEL & RESTAURANT WORKERS HEALTH & WELFARE TRUST FUND, by its Trustees, Plaintiff-Appellee v. DOMINGO RAMOS aka DOMIE RAMOS and RONALD N. FEDERIZO, Defendants-Appellants, and RONALD N. FEDERIZO, Third-Party Plaintiff/Appellant vs. DEREK R. KOBAYASHI and REGAN M. IWAO, Third-Party Defendants/Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 02-1-0338)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Presiding Judge, Fujise and Leonard, JJ.)

Defendants-Appellants Domingo Ramos a.k.a. Domie Ramos (**Ramos**) and Ronald N. Federizo (**Federizo**), and Third-Party Plaintiff-Appellant Federizo appeal from the Final Judgment in favor of Plaintiff-Appellee AFL Hotel & Restaurant Workers Health & Welfare Trust Fund (**AFL**), and Third-Party Defendants-Appellees Derek R. Kobayashi (**Kobayashi**) and Regan M. Iwao (**Iwao**), entered by the Circuit Court of the First Circuit (**Circuit Court**) on April 11, 2005.¹

In this breach of contract action, the Circuit Court entered the Final Judgment in favor of AFL, Kobayashi, and Iwao, awarding damages in the principal amount of \$5,262.24, together with attorneys' fees of \$1,315.56 and costs of \$820.92, for breach of a loan agreement pursuant to which AFL loaned Ramos \$5,262.24 to pay medical expenses arising out of a motor vehicle accident.

¹ Honorable Gary W.B. Chang presided.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

On appeal, Ramos and Federizo argue that the Circuit Court erred by: (1) concluding that a state court remedy is available for Employee Retirement Income Security Act of 1974 (ERISA) Plans who bring common law claims in state court; (2) finding that Hawaii Revised Statutes (HRS) § 663-10 (Supp. 2001) is preempted by ERISA; and (3) denying the motion to dismiss claims against Federizo.

Upon carefully reviewing the record and briefs submitted, we hold that the Circuit Court lacked subject matter jurisdiction because the amount in controversy, exclusive of fees, costs, and interest, did not exceed \$10,000. HRS § 604-5(a) (Supp. 2001) (district courts shall have exclusive jurisdiction over civil actions in which the amount in controversy, exclusive of fees, costs, and interest, does not exceed \$10,000).

Here, the amount in controversy was only \$5,262.24, the amount loaned by AFL under the loan agreement with Ramos and Federizo. The Circuit Court's award of \$1,315.56 in attorneys' fees and \$820.92 in costs are excluded from calculating the jurisdictional amount. See HRS § 604-5(a). Therefore, the Circuit Court lacked subject matter jurisdiction. "The lack of jurisdiction over the subject matter cannot be waived by the parties. If the parties do not raise the issue, a court sua sponte will, for unless jurisdiction of the court over the subject matter exists, any judgment rendered is invalid." Tamashiro v. Dep't of Human Services, 112 Hawai'i 388, 398, 146 P.3d 103, 113 (2006) (quoting Chun v. Employees' Ret. Sys. of the State of Hawai'i, 73 Haw. 9, 14, 828 P.2d 260, 263 (1992)) (internal quotation marks omitted). The question of whether the Circuit Court possesses subject matter jurisdiction may be raised at any stage in the case. Int'l Bros. of Painters & Allied Trades, Drywall Tapers, Finishers & Allied Workers Local Union

1944, AFL-CIO v. Befitel, 104 Hawai'i 275, 281, 88 P.3d 647, 653 (2004) (citation omitted).

Therefore, the Circuit Court lacked subject matter jurisdiction, and the April 11, 2005 Final Judgment is void, regardless of the lack of jurisdictional objections from the parties or the Circuit Court.

It is hereby ordered that the Circuit Court's April 11, 2005 Final Judgment is vacated and the case is remanded with directions to enter an order dismissing the case for lack of subject matter jurisdiction.

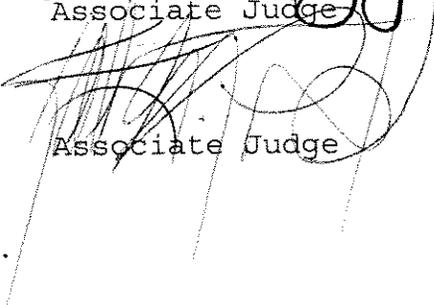
DATED: Honolulu, Hawai'i, May 21, 2008.

On the briefs:

Erlinda Dominguez and
Ronald N. Federizo for
Defendants-Appellants and
Ronald N. Federizo, Third-Party
Plaintiff/Appellant.

Derek R. Kobayashi and
Regan M. Iwao
(GOODSILL ANDERSON QUINN &
STIFEL)
for Plaintiff-Appellee and
Third-Party Defendants-Appellees.


Presiding Judge


Associate Judge

Associate Judge