

NO. 24677

IN THE SUPREME COURT OF THE STATE OF HAWAII

JUDITH ESQUIRRA, SPECIAL ADMINISTRATOR OF THE ESTATE OF VIVIAN E. MEHEULA, Plaintiff-Appellee

vs.

HAROLD H. MEHEULA, SR., Defendant-Appellant

and

DOE DEFENDANTS 1-25, Defendants

NORIMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2005 APR 29 PM 2:28

FILED

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 89-1212)

ORDER GRANTING MOTION TO DISMISS APPEAL FOR MOOTNESS

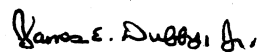
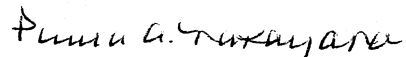
(By: Moon, C.J., Levinson, Nakayama, and Duffy, JJ. and Circuit Judge Wong, in place of Acoba, J., recused)

Upon consideration of Appellee's motion to dismiss the instant appeal as moot, the papers in support, and the records and files herein, it appears that Appellant's appeal from the circuit court's order denying his motion for a TRO to stay his eviction from 1743-A Wilhelmina Rise, Honolulu, Hawai'i [hereinafter, "the Wilhelmina Rise property"] is no longer justiciable, inasmuch as (1) Appellant vacated the Wilhelmina Rise property on November 7, 2001, (2) the Wilhelmina Rise property was subsequently sold on July 2, 2002, and (3) the sale proceeds were distributed on October 11, 2002, in accordance with a court-approved settlement agreement, whereby Appellant received \$40,085.13 (twenty percent of the sale proceeds less \$8,554.35 in liens against him). Because this court's jurisdiction is limited to reviewing the validity of the circuit court's order denying Appellant's ex parte motion for a TRO to stay his eviction from

the Wilhelmina Rise property,¹ and based on the aforementioned circumstances, a decision by this court will not afford Appellant any relief with respect to those claims that were timely raised on appeal. Accordingly, inasmuch as there is no adverse interest remaining or effective remedy available, we grant Appellee's motion to dismiss and dismiss Appellant's appeal as moot. See State v. Fukusaku, 85 Hawai'i 462, 474-75, 946 P.2d 32, 44-45 (1997); In re Application of Thomas, 73 Haw. 223, 226, 832 P.2d 253, 255 (1992); Wong v. Board of Regents, Univ. of Hawai'i, 62 Haw. 391, 394, 616 P.2d 201, 203-04 (1980); Life of the Land v. Burns, 59 Haw. 244, 250, 580 P.2d 405, 409 (1978); Territory v. Aldridge, 35 Haw. 565, 568 (1940).

DATED: Honolulu, Hawai'i, April 29, 2005.

Alfredo G. Evangelista,
for plaintiff-appellee
Judith Esquirra, special
administrator of the
estate of Vivian E. Meheula,
on the motion



¹ Pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1), "[w]hen a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order." Inasmuch as Appellant filed his notice of appeal on November 9, 2001, the thirty day time period for filing a notice of appeal under HRAP Rule 4(a)(1) had already expired with respect to (1) the July 13, 2001 order compelling settlement, and (2) the July 13, 2001 judgment of possession. Because Appellant did not timely appeal from these orders, Appellant's arguments related to these orders are deemed waived on appeal. Appellant's appeal is therefore solely limited to contesting the validity of the circuit court's October 29, 2001 order denying his ex parte motion for a TRO.