

*** NOT FOR PUBLICATION ***

NO. 27754

IN THE SUPREME COURT OF THE STATE OF HAWAII

JOLENTA ALLENCASTRE PETRAN, Plaintiff-Appellee

vs.

DENNIS L. KALUNA, GOLDIE L. NAONE, Defendants-Appellants

and

ARNOLD ALLENCASTRE, CYNTHIA ALLENCASTRE, STEPHEN P. ALLENCASTRE,
Defendants-Appellees

and

HOA, et al., Defendants

NORMA T. YAMA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 MAY -8 PM 1:54

FILED

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 97-0205)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

Upon review of the record, it appears that the December 27, 2005 judgment was appealable by notice of appeal filed by January 26, 2006, thirty days after entry of the judgment. See HRAP 4(a)(1). Appellants' notice of appeal was filed on February 8, 2006 and was an untimely appeal of the December 27, 2005 judgment. The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP 26(b) ("[N]o

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

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court or judge or justice is authorized to change the jurisdictional requirement [of the 30-day appeal period] contained in Rule 4 of [the HRAP]."). Thus, we lack jurisdiction over this appeal. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 8, 2006.

FOR THE COURT:

Anna C. Nakayama
Associate Justice

