

NO. 28390

IN THE SUPREME COURT OF THE STATE OF HAWAII

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2007 JAN 29 PM 2:50

FILED

JOHN O. GOODMAN, Petitioner,

vs.

THE HONORABLE EDEN ELIZABETH HIFO, JUDGE OF THE CIRCUIT COURT OF
THE FIRST CIRCUIT, STATE OF HAWAII, Respondent.

WELLS FARGO HOME MORTGAGE, INC.; WELLS FARGO BANK, NATIONAL
ASSOCIATION; JOHN DOES 1-50; JANE DOES 1-50; DOE
PARTNERSHIPS 1-50; DOE CORPORATIONS 1-50; DOE ENTITIES 1-50;
and DOE GOVERNMENTAL UNITS 1-50,
Respondents, Real Parties in Interest.

ORIGINAL PROCEEDING
(CIV. NO. 07-1-0062)

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioner John Goodman and the papers in support, it appears that the granting or denial of the January 16, 2007 motion for temporary restraining order was within the discretion of the respondent judge, petitioner fails to demonstrate that the respondent judge flagrantly and manifestly abused her discretion in denying the January 16, 2007 motion, and petitioner can seek an injunction against a transfer of the subject property pending an immediate appeal of the denial of the January 16, 2007 motion. Therefore, petitioner is not entitled to a writ of mandamus. See Kema v. Gaddis, 91 Hawai'i 200, 204-205, 982 P.2d 334, 338-339 (1999) (A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or

obtain the requested action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures. Where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which it has a legal duty to act.). Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, January 29, 2007.



Stephen Levinson

Honorable C. T. ...



Kama E. Duggan Jr.