

**Mohr v. Ing**

Intermediate Court of Appeals of Hawai'i

May 3, 2006, Decided

NO. 26206

**Reporter**

2006 Haw. App. LEXIS 180 \*

TINA A. MOHR, Plaintiff-Appellant, v. JAMES DOUGLAS KEAHOHU ING, ROBERT KALANI UICHI KIHUNE, CONSTANCE HEE LAU, DIANE JOYCE PLOTTS, and CHARLES NAINOA THOMPSON, in their capacities as Trustees under the Will and of the Estate of Bernice Pauahi Bishop, deceased, a Hawai'i charitable trust; PAUAHI MANAGEMENT CORPORATION, a Hawai'i corporation dba ROYAL HAWAIIAN SHOPPING CENTER, Defendants-Appellees, and DOE DEFENDANTS 1-25, Defendants

**Notice: [\*1]** SUMMARY DISPOSITIONAL ORDERS OF THIS COURT DO NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED. SEE HAWAII RULES OF APPELLATE PROCEDURE FOR GUIDELINES RESTRICTING PUBLICATION AND CITATION OF SUMMARY DISPOSITIONAL ORDERS.

**Subsequent History:** Reported at *Mohr v. Ing*, 110 Haw. 301, 132 P.3d 869, 2006 Haw. App. LEXIS 190 (Haw. Ct. App., May 3, 2006)

**Prior History:** APPEAL FROM THE

CIRCUIT COURT OF THE FIRST CIRCUIT. CIVIL NO. 01-1-1877.

*Mohr v. Ing*, 109 Haw. 293, 125 P.3d 514, 2005 Haw. App. LEXIS 553 (Haw. Ct. App., 2005)

**Core Terms**

---

circuit court, lack of subject matter jurisdiction, deciding the motion, notice of appeal

**Counsel:** On the briefs:

Gary Victor Dubin, for Plaintiff-Appellant.

Jennifer M. Yusi, (Rush Moore Craven Sutton Morry & Beh), for Defendants-Appellees.

**Judges:** By: Watanabe, Acting C.J., Lim and Fujise, JJ.

**Opinion**

---

**SUMMARY DISPOSITION ORDER**

Plaintiff Tina A. Mohr (Plaintiff) appeals the October 7, 2003 post-judgment order of the Circuit Court of the First

Circuit (circuit court) <sup>1</sup> that decided an August 11, 2003 motion filed by Defendants James Douglas Keauhou Ing, Robert Kalani Uichi Kihune, Constance Hee Lau, Diane Joyce Plotts and Charles Nainoa Thompson, in their capacity as Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased, a Hawaii Charitable Educational Trust; and Pauahi Management Corporation, a Hawaii corporation dba Royal Hawaiian Shopping Center (collectively, Defendants).

**[\*2]** Defendants brought their August 11, 2003 motion in the circuit court after Plaintiff had filed her July 23, 2003 notice of appeal (No. 25990) of the circuit court's June 23, 2003 final judgment in favor of Defendants and against Plaintiff in the underlying slip-and-fall case, and sought dismissal of Plaintiff's appeal. In considering and deciding the motion, the circuit court placed itself in the curious position of determining whether to dismiss an appeal of its own judgment.

Even though the circuit court denied Defendants' motion to dismiss the appeal, we conclude the circuit court erred in considering and deciding the motion and in the process granting Defendants ancillary relief, because the circuit court lacked subject matter jurisdiction. MDG Supply, Inc. v. Diversified Inv., Inc., 51 Haw. 375, 381, 463 P.2d 525, 529, 51 Haw. 479 (1969),

*cert. denied*, 400 U.S. 868, 91 S. Ct. 99, 27 L. Ed. 2d 108 (1970) ("general effect of the filing of a notice of appeal is to transfer the jurisdiction over the appealed case from the circuit court to this court"); Kealoha v. Tanaka, 42 Haw. 630, 635 (1958) ("when a case is appealed [\*3] to this court, the circuit court loses jurisdiction over the case except as to the issuance of certain orders in aid of, and that do not interfere with, the jurisdiction of this court" (citations omitted)).

Because "the circuit court lacked subject matter jurisdiction, [we] retain[] jurisdiction, not on the merits, but for the purpose of correcting the error in jurisdiction. A judgment rendered by a circuit court without subject matter jurisdiction is void." Lingle v. Hawaii Gov't Employees Ass'n, 107 Hawai'i 178, 182, 111 P.3d 587, 591 (2005) (block quote format omitted) (quoting Amantiad v. Odum, 90 Hawai'i 152, 159, 977 P.2d 160, 167 (1999)). Accordingly, we do not reach the other matters raised by Plaintiff in this appeal.

Therefore,

IT IS HEREBY ORDERED that the circuit court's October 7, 2003 order is vacated, the appeal dismissed and the cause remanded with instructions to dismiss Defendants' August 11, 2003 motion, all for lack of subject matter jurisdiction.

DATED: Honolulu, Hawai'i, May 3, 2006.

---

<sup>1</sup> The Honorable Eden Elizabeth Hifo presided.

---

End of Document