

NO. 22458

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

CHALON INTERNATIONAL OF HAWAII, INC., a Hawai'i corporation, Plaintiff-Appellee, v. MAKUAOLE (k); Heirs and assigns of MAKUAOLE (k); and heirs and assigns of the following persons: KUEULU AINOA (k); MAHEA (w); KAILIULAULA (k); KAOHIMAUNA (k), also known as Kaohimaunu; LA (k); KALUAHINUI (w); W. C. PUNAHOA (k); C. K. ANIU (k); KALAMA 1 (k); KALAMA 2 (k); KAHOOKAMALII (w); KOIEANA (w), also known as Kouamo; KALAMA PAPIHE (k); LUMAWE (w) HOOPII; also the following owners and occupants of adjoining lands as shown on the tax map: STATE OF HAWAI'I; COUNTY OF HAWAI'I; KOHALA CORPORATION; KOHALA NURSERY, INC.; WENDELL A. MATTOS; FRANK J. BUTLER; EDRALINE BUTLER; IRENE RUANO; LOLITA RICARDOS; CARLITO BADO; JAMES K. MARQUEZ; TERESA L. MARQUEZ; NITA LUCHETTA; PAMFILO E. VILLACORTE; MARY S. VILLACORTE; BRUNO VILLACORTE; KATHRYN B. VILLACORTE; AGAPITO C. JAVILLO; CLAYTON J. JAVILLO; ROCHELLE JAVILLO; PAUL J. ANDERSON; KAREN S. ANDERSON; DORIS H. BERG ANDREWS TRUST; UNION MILL ROAD FOUNDATION; DOES 1 through 100; and all other persons unknown claiming any right, title, estate, lien or interest in the real property described and TO ALL WHOM IT MAY CONCERN, Defendants-Appellees, and MATHILDA NOELANI BATALONA MASON, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 98-61)

MEMORANDUM OPINION

(By: Burns, C.J., Watanabe, J., and
Circuit Court Judge G. Chang,
in place of Lim, J., recused)

Defendant-Appellant Mathilda Noelani Batalona Mason (Mason), appearing *pro se*, appeals the circuit court's March 22, 1999 Final Judgment, via summary judgment, granting Plaintiff-

Appellee Chalon International of Hawaii, Inc. (Chalon), a Hawai'i corporation, quiet title to various parcels of real property located in the North Kohala district of the island of Hawai'i. Mason challenges the award to Chalon of title and a fee simple absolute interest to the land described in Royal Patent Grant No. 2750 (Grant No. 2750) to Kaohimauna, and Royal Patent Grant No. 2754 (Grant No. 2754) to Kalama 1. Mason also challenges the jurisdiction of the trial court to hear the matter.

We affirm.

I.
BACKGROUND

The original action by Chalon was to secure quiet title to six parcels of land in the Kohala district on the island of Hawai'i.¹ In its original February 3, 1997 complaint, Chalon included all possible defendants including deceased parties so that descendants of the deceased parties would be given legal notice of the action. Various parties responded by claiming or disclaiming interest in the six parcels.

Defendant-Appellee Charles L. Naone, Sr. (Naone), claimed an interest in the parcels and was later adjudicated by the court to own a 0.88 acre portion of Royal Patent Grant

¹ Royal Patent Grant No. 2732 to Kamaka - 71.70 acres
Royal Patent Grant No. 2744 to Makuaole and Holani
Royal Patent Grant No. 2750 to Kaohimauna - 57.75 acres
Royal Patent Grant No. 2754 to Kalama 1 - 54 acres
Royal Patent Grant No. 2781 to Keliilawaia - 64 acres
Royal Patent Grant No. 2846 to Hoopii - 20.4 acres

No. 2732 (Grant No. 2732). This portion, however, was landlocked. Chalon and Naone entered into a stipulation granting Naone a 12-foot floating easement for access and utility purposes. This easement crossed Grant No. 2732, as well as Grant Nos. 2750 and 2754. The court's March 22, 1999 Final Judgment agreed with Naone and enforced the stipulation.

Mason, proceeding *pro se*, challenged the court's personal and subject matter jurisdiction and claimed an interest in unspecified lands as an heir of Kaohimaunu and others. Subsequent interrogatories by Chalon revealed that Mason claimed ownership of parcels within Grant Nos. 2750 and 2754.

On August 10, 1998, the court entered its Findings of Fact, Conclusions of Law, Order Granting Plaintiff's Motion for Partial Summary Judgment as to Grant No. 2750.

On October 12, 1998, the court entered its Findings of Fact, Conclusions of Law, Order Granting Plaintiff's Motion for Partial Summary Judgment as to Grant No. 2754.

The March 22, 1999 Final Judgment ordered, adjudged, and decreed that Chalon is the owner in fee simple absolute of various parcels, including Grant Nos. 2750 and 2754.

Mason's appeal challenges: (1) the court's subject matter jurisdiction; and (2) the court's determination that Chalon, and not Mason, is the owner of the parcels of land

conveyed in Grant Nos. 2750 and 2754. Within those two broad challenges, Mason asserts various other sub-points.

II.

CHALON'S BURDEN AND APPELLATE STANDARD OF REVIEW

We review a circuit court's award of summary judgment [*de novo*] under the same standard applied by the circuit court. Amfac, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 104, 839 P.2d 10, 22, [*reconsideration denied*], 74 Haw. 650, 843 P.2d 144 (1992) (citation omitted). As we have often articulated:

[s]ummary judgment is appropriate if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

Id. (citations and internal quotations omitted); see Hawai'i Rules of Civil Procedure (HRCP) Rule 56(c) (1990). "A fact is material if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties." Hulsman v. Hemmeter Dev. Corp., 65 Haw. 58, 61, 647 P.2d 713, 716, (1982) (citations omitted).

Estate of Doe v. Paul Revere Ins. Group, 86 Hawai'i 262, 269-70, 948 P.2d 1103, 1110-11 (1997) (quoting Morinoue v. Roy, 86 Hawai'i 76, 80, 947 P.2d 944, 948 (1997)) (brackets omitted). We have also held that when making a summary judgment determination, "we must view all of the evidence and the inferences drawn therefrom in the light most favorable to the party opposing the motion." Morinoue, 86 Hawai'i at 80, 947 P.2d at 948 (quoting Maquire v. Hilton Hotels Corp., 79 Hawai'i 110, 112, 899 P.2d 393, 395 (1995)) (brackets omitted).

Shim v. McLaughlin, 89 Hawai'i 1, 2-3, 967 P.2d 1059, 1060-61 (1998).

III.

DISCUSSION

A. The circuit court had jurisdiction to hear and render a decision on this matter.

Generally, Hawai'i Revised Statutes (HRS) § 603-21.5 (1993) specifies the subject matter jurisdiction of the circuit

courts of the State of Hawai'i. It states in relevant part that "[t]he several circuit courts shall have jurisdiction, except as otherwise expressly provided by statute, of: . . . (3) Civil actions and proceedings" Id. Thus, the Hawai'i Supreme Court has stated that the circuit court has jurisdiction over all civil causes of action unless precluded by state constitution or statute. Sherman v, Sawyer, 63 Hawai'i 55, 58, 621 P.2d 346, 349 (1980).

The action underlying this appeal was brought by Chalon under HRS Chapter 669, Quieting Title (1993), and not as an equity action as Mason stated in her brief. HRS § 669-1 states in relevant part as follows:

Object of Action. (a) Action may be brought by any person against another person who claims, or who may claim adversely to the plaintiff, an estate or interest in real property, for the purpose of determining the adverse claim.

. . . .

(d) Action under subsection (a) . . . shall be brought in the circuit court of the circuit in which the property is situated.

HRS § 669-1(d) specifically grants a circuit court jurisdiction over this type of proceeding. The parcels of land in contention are situated in North Kohala, on the island of Hawai'i, and according to HRS § 603-1(3), the island of Hawai'i is under the jurisdiction of the Third Circuit Court which decided this case.

Mason also asserts that Hawai'i is still a sovereign nation not bound by the laws of the United States or the State of

Hawai'i and, thus, the circuit court of the State of Hawai'i had no jurisdiction to preside over the action. We disagree. Although the United States recently recognized the illegality of the overthrow of the Kingdom of Hawai'i and the role of the United States in that event, "that recognition does not appear to be tantamount to a recognition that the Kingdom continues to exist." State v. Lorenzo, 77 Hawai'i 219, 221, 883 P.2d 641, 643 (1994).

B. The circuit court was right that Chalon is the owner of the grants of land in question.

Mason argues that the circuit court erred in granting Chalon quiet title to the parcels in question via summary judgment. Generally, a "summary judgment order is reviewed on appeal under the same standard applied by the trial court." Tradewind Ins. Co., Ltd. v. Stout, 85 Hawai'i 177, 180, 938 P.2d 1196, 1199 (Haw. Ct. App.), *cert. denied*, 85 Hawai'i 81, 937 P.2d 922 (1997) (citation omitted). "Consequently, we must determine whether viewing all the evidence in a light most favorable to the non-moving party, there is no genuine issue as to any material fact and the moving party has clearly demonstrated that it is entitled to judgment as a matter of law." Id.; Hawai'i Rules of Civil Procedure (HRCPP) Rule 56(c); Pioneer Mill Co. v. Dow, 90 Hawai'i 289, 295, 978 P.2d 727, 733 (1999). However, "an adverse party may not rest upon the mere allegations or denials of his pleading, but his response . . . must set forth specific facts showing that there is a genuine issue for trial." HRCPP

Rule 56(e). See also, K.M. Young & Assocs. v. Cieslik, 4 Haw. App. 657, 675 P.2d 793 (1983), *reconsideration denied*, 5 Haw. App. 683, 753 P.2d 253 (1984). The party opposing the motion for summary judgment must come forth with some evidentiary matters to support its position and not merely question the credibility of the moving party's evidence or witnesses. Cordeiro v. Burns, 7 Haw. App. 463, 470, 776 P.2d 411, 416 (1989).

Mason argues that none of her ancestors made a contract with anyone in privity with Chalon and, therefore, Mason still has superior title over the land grants in question. This argument had possible validity if Mason offered evidence of her lineage and her ancestors' ownership of the grants in question. However, Mason has not set forth any specific evidence of her ancestral lineage or of ownership by said ancestors. On the other hand, via the affidavit of Colleen H. Uahinui, senior title officer for Title Guaranty of Hawai'i, Chalon has presented evidence of a chain of title from Kaohimauna for Grant No. 2750 and Kalama for Grant No. 2754 to Chalon. Without specific evidence by Mason to refute the claims of Chalon, we uphold the circuit court in its granting to Chalon of quiet title to the disputed grants of land.

- C. Mason received adequate notice of the quiet title action and represented herself at the hearing on the motion.

A motion for summary judgment on Grant Nos. 2750 and 2754 was filed on April 27, 1998, and the certificate of service shows Mason was served with the motion by mail on that date. On May 18, 1998, Mason filed a position statement regarding the grants. In it, she stated as follows:

[Mason] claims **ALL** of the remaining interest of **Kaohimaunu** (k), also known as Kaohimauna, who died intestate and without having to convey all of his interest in Grant [No.] 2750 awarded him. . . .

[Mason] states that two of the deeds allege[d]ly signed by Kaohimaunu is [sic] **fraudulent**. Kaohimaunu lived on his land until his death. Surviving him was his Son, Kaaohimaunu of whom [Mason] is an **Heir** of.

[Mason] is claiming **ALL** of the remaining interest of Kaohimaunu **original awardee** and his heir of Kaohimaunu's Son.

[Mason] is claiming ALSO, **ALL** of the remaining interest of **Kalamas'** interest in Grant No. 2754 awarded. . . .

(Emphases in original.)

Also, the transcript reveals that Mason made an appearance at the hearing on this motion on June 26, 1998. Therefore, Mason was given adequate notice of Chalon's quiet title action and, in fact, represented her own interests at the hearing on the motion.

- D. Mason has failed to show any evidence that error and/or fraud was committed by the court or other officers of the court.

Mason questions "[w]hether the state circuit court clerk have [sic] failed to provide all of the Notice of

Submissions where all of the 'Orders' were hidden inside of the Exhibits[.]" This implicit allegation is fatally non-specific, and our review of the record reveals no indication of error or wrongdoing by the state court clerk.

E. With respect to all other matters discussed by Mason in her appeal, Mason presents no discernible argument.

The following are two examples of matters discussed by Mason which present no discernible argument:

Whether the Hawaii'an Island's Treaty with Japan is in violations [sic]? Where does it states [sic] that in the treaty with Japan, that a corporation from an International Corporation named, Chalon International ,[sic] is able to own Royal Patent Grant lands in Hawaii???

. . . .

[Mason] **protest** [sic] all of the transcripts ordered and sent into the appelleate [sic] court, because [Mason] never reviewed transcripts from Individual Court Reporters, dated August: 1, 1998, June: 12, 1998, April 17, 1998 and June: 26, 1998. [Mason] **protest** [sic] all of [Chalon's] Record On Appeal Volumns [sic] 1 through 7.

(Emphases in original.)

An appellate court need not address matters where the appellant has failed to present a discernible argument. Child Support Enforcement Agency, State of Hawai'i v. Doe, 88 Hawai'i 159, 174 n.20, 963 P.2d 1135, 1150 (Haw. Ct. App. 1998); Bank of Hawaii v. Shaw, 83 Hawai'i 50, 52, 924 P.2d 544, 546 (Haw. Ct. App. 1996). For this reason, we decline to discuss all other matters discussed by Mason in her opening brief.

IV.

CONCLUSION

Accordingly, we affirm the trial court's March 22, 1999 Final Judgment granting quiet title of the above mentioned land grants to Plaintiff-Appellee Chalon International of Hawai'i, a Hawai'i corporation.

DATED: Honolulu, Hawai'i, October 24, 2000.

On the briefs:

Mathilda Noelani Batalona Mason,
Defendant-Appellant, *pro se.*

Chief Judge

Tom C. Leuteneker,
Steven S. C. Lim, and
Sherrill Atwood
(Carlsmith Ball, of counsel)
for Plaintiff-Appellee.

Associate Judge

Arnold L. Lum and
Carl C. Christensen
(Native Hawaiian Legal
Corporation, of counsel)
for Defendant-Appellee
Charles L. Naone, Sr.

Acting Associate Judge