

SUPREME COURT OF THE STATE OF HAWAI‘I

Nakajima v. Nakajima

Nakajima v. Nakajima · No. SCWC-29553 · Decided August 7, 2014

SUMMARY

The Hawai‘i Supreme Court accepted Hirokazu Nakajima’s application for a writ of certiorari concerning the Intermediate Court of Appeals’ jurisdiction over issues in the property-and-debt division portion of a divorce case. The court vacated the ICA’s judgment on appeal and remanded for disposition of the remaining issues, while concluding that the family court had authority to impose discovery sanctions and that the valuation and division of Avalon Cove did not constitute an abuse of discretion.

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Sabrina S. McKenna, J.; Richard W. Pollack, J.; Michael D. Wilson, J.
JURISDICTION	Hawaii
DECIDED	August 7, 2014
DOCKET	SCWC-29553
DISPOSITION	vacated
PROCEDURAL POSTURE	Hirokazu Nakajima sought a writ of certiorari to review the Intermediate Court of Appeals' memorandum opinion and judgment on appeal concerning issues arising from the property-and-debt division portion of a divorce case.
STANDARD OF REVIEW	Abuse of discretion for the valuation and division of property; the Supreme Court reviewed the ICA's jurisdictional interpretation of the remand order.
PRECEDENTIAL VALUE	published opinion
PARTIES	Hirokazu Nakajima v. Aki Nakajima

TOPICS

- family law procedure
- appellate jurisdiction
- appellate procedure
- equitable distribution
- discovery dispute

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the Intermediate Court of Appeals misconstrued the Supreme Court's prior remand order as limiting its jurisdiction to a single appeal concerning the property-and-debt division portion of the divorce.
2. Whether the ICA had jurisdiction to address points on appeal 5, 6, 7, 10, 11, and 12, all of which related to division and distribution of property and debts.
3. Whether the ICA correctly concluded that it lacked jurisdiction over point on appeal 8, which concerned alimony.
4. Whether the family court's discovery sanctions exceeded its inherent authority.
5. Whether the valuation and division of Avalon Cove constituted an abuse of discretion.

HOLDINGS

1. The ICA misconstrued the Supreme Court's prior remand order. The ICA had jurisdiction to address all issues related to the division and distribution of property and debts, including points on appeal 5, 6, 7, 10, 11, and 12.
2. The ICA correctly held that it lacked jurisdiction to address point on appeal 8 because that point concerned alimony rather than division and distribution of property and debts.
3. The family court's discovery sanctions fell within the scope of its inherent authority.
4. Subject to the issues the ICA was required to address on remand, the valuation and division of Avalon Cove did not constitute an abuse of discretion.

KEY QUOTATIONS

“If the trial court has the inherent power to level the ultimate sanction of dismissal, it necessarily has the power to take all reasonable steps short of dismissal, depending on the equities of the case.” (at 2)

FACTUAL BACKGROUND

The divorce case involved division and distribution of property and debts, including the valuation and division of Avalon Cove. The family court imposed discovery sanctions against a party. The Supreme Court concluded that those sanctions were within the family court's authority and that the valuation and division of Avalon Cove did not constitute an abuse of discretion, subject to the issues remaining for the ICA.

PROCEDURAL HISTORY

The Supreme Court had previously remanded the case to the Intermediate Court of Appeals for disposition of all issues related to division and distribution of property and debts. On remand, the ICA construed the Supreme Court's order as limiting its jurisdiction to one appeal and declined to address several property-related points,

while correctly declining jurisdiction over an alimony-related point. The Supreme Court accepted certiorari, vacated the ICA's judgment, and remanded for disposition of the remaining issues.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The June 13, 2014 judgment on appeal was vacated, and the case was remanded to the Intermediate Court of Appeals for disposition of the remaining issues, including the property-and-debt-related points within the scope of the Supreme Court's prior remand.

CASES CITED

- Nakajima v. Nakajima, No. SCWC-29553, 2014 WL 626208 (Haw. Feb. 13, 2014)
- Schiller v. Schiller, 120 Hawai'i 283, 205 P.3d 548 (App. 2009)
- Kawamata Farms, Inc. v. United Agri Products, 86 Hawai'i 214, 948 P.2d 1055 (1997)
- Richardson v. Sport Shinko (Waikiki Corp.), 76 Hawai'i 494, 880 P.2d 169 (1994)
- Weinberg v. Dickson-Weinberg, 123 Hawai'i 68, 229 P.3d 1133 (2010)
- Nakajima v. Nakajima, No. SCWC-29553, 2014 WL 1909244 (Haw. App. May 9, 2014)

OPINION

PER CURIAM.

Electronically Filed Supreme Court SCWC-29553 07-AUG-2014 02:00 PM SCWC-29553 IN THE SUPREME COURT OF THE STATE OF HAWAII#I HIROKAZU NAKAJIMA, Petitioner/Plaintiff/Cross-Defendant/Appellant, vs. AKI NAKAJIMA, Respondent/Defendant/Cross-Plaintiff/Appellee. CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS (ICA NO. 29553; FC-DIVORCE NO. 05-1-0587) ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI (By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

On June 26, 2014, Petitioner/Plaintiff/Cross- Defendant/Appellant Hirokazu Nakajima (Hirokazu) filed an application for a writ of certiorari seeking review of the Intermediate Court of Appeals's (ICA) May 9, 2014 Memorandum Opinion filed pursuant to its June 13, 2014 Judgment on Appeal.

In his application Hirokazu argued, among other things, that the ICA erred when it held that it did not have jurisdiction to address various points on appeal. Hirokazu's argument is based on the wording of this court's February 13, 2014 order remanding this case to the ICA for disposition of all issues related to the part of the divorce concerning the division and distribution of property and debts.

See *Nakajima v. Nakajima*, No. SCWC-29553, 2014 WL 626208, at *1 (Haw. Feb. 13, 2014); see also *Schiller v. Schiller*, 120 Hawai#i 283, 289, 205 P.3d 548, 554 (App. 2009) (divorce cases involve four discrete parts: (1) dissolution of the marriage; (2) child custody, visitation and support; (3) spousal support; and (4) division and distribution of property and debts).

On remand, the ICA misconstrued this court's order, stating that "[t]he Hawai#i Supreme Court ruled this court has jurisdiction only over Hirokazu's appeal from the November Order Re Motion for Clarification pursuant to Hawai#i Revised Statutes (HRS) § 571-54 (2006 Repl.)." *Nakajima v. Nakajima*, No. SCWC-29553, 2014 WL 1909244, at *13 (Haw. App. May 9, 2014); see also *Nakajima*, No. SCWC-29553, 2014 WL 626208, at *2 (Recktenwald, C.J., concurring and dissenting).

As a result, the ICA erroneously concluded that it lacked jurisdiction to address Hirokazu's points on appeal numbers 5, 6, 7, 10, 11, and 12. *Id.* Those points all related to the division and distribution of property and debts.

The ICA correctly held that it did not have jurisdiction to address point on appeal number 8 because that point on appeal related to alimony. With respect to discovery sanctions, "[t]he courts... have inherent power to curb abuses and promote a fair process which extends to the preclusion of evidence and may 2 include dismissal in severe circumstances." *Kawamata Farms, Inc. v. United Agri Products*, 86 Hawai#i 214, 242, 948 P.2d 1055, 1083 (1997) (quoting *Richardson v. Sport Shinko (Waikiki Corp.)*, 76 Hawai#i 494, 507, 880 P.2d 169, 182 (1994); see also *Weinberg v. Dickson-Weinberg*, 123 Hawai#i 68, 71, 229 P.3d 1133, 1136 (2010). "If the trial court has the inherent power to level the ultimate sanction of dismissal, it necessarily has the power to take all reasonable steps short of dismissal, depending on the equities of the case." *Id.* The family court's sanctions in this case fell within the scope of its authority.

Subject to the issues that the ICA must address on remand, the valuation and division of Avalon Cove did not constitute an abuse of discretion. Therefore, IT IS HEREBY ORDERED that the application for a writ of certiorari is accepted. IT IS FURTHER ORDERED that the June 13, 2014 judgment on appeal is vacated, and this case is remanded to the ICA for disposition of the remaining issues.

DATED: Honolulu, Hawai#i, August 7, 2014. Blake T. Okimoto for /s/ Mark E. Recktenwald for petitioner /s/ Paula A. Nakayama /s/ Sabrina S. McKenna /s/ Richard W. Pollack /s/ Michael D. Wilson 3