

NO. 23350

IN THE SUPREME COURT OF THE STATE OF HAWAII

ASSOCIATION OF APARTMENT OWNERS OF EWA APARTMENTS,
a Hawai'i non-profit corporation, by its Board of
Directors, Plaintiff-Appellee,

vs.

ALBERT W. EMPRON and HELEN A. EMPRON, Defendants-Appellants

and

BANKERS TRUST COMPANY, as Trustee for the registered
holders of Solomon Brothers Mortgage Securities VII, Inc.,
Mortgage Pass-Through Certificates, Series 1994-2-1,
a California corporation; ASSOCIATES FINANCIAL SERVICES
COMPANY OF HAWAII INC., a Hawai'i corporation; JOHN
DOES 1-20; JANE DOES 1-20; DOE PARTNERSHIPS 1-20;
DOE CORPORATIONS 1-20; DOE ENTITIES 1-20;
and DOE GOVERNMENTAL UNITS 1-20, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-2069)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that: (1) the judgment entered on October 28, 1999 is a judgment only on the plaintiff's claim against the defendants; (2) the October 28, 1999 judgment is certified under HRCF 54(b), but certification under HRCF 54(b) is inappropriate inasmuch as the defendants' counterclaim was dismissed and all claims in Civil No. 97-2069 have been resolved; see HRCF 54(b); (3) a final judgment resolving the complaint and the counterclaim has not been entered pursuant to HRCF 58; and, thus, (4) the appeal of the October 28,

1999 judgment is premature. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). Therefore,

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

DATED: Honolulu, Hawai'i, September 22, 2000.