DISSENTING OPINION BY ACOBA, J.

I respectfully disagree with the majority's conclusion that "this court is precluded from addressing the merits of [the] . . . appeal" of Plaintiff-Appellant Gregory Barnett (Barnett) simply because Barnett referred to the May 25, 2000 minute order in his appeal. Summary Dispostion Order (SDO) at 3. First, inasmuch as this court recognizes that "the . . . May 25, 2000 minute order" of the first circuit court (the court) was one "which the lower court attached to the back of the folder containing the record on appeal[,]" SDO at 2, I believe there is sufficient "evidence in the record to establish the authenticity of the attach[ed]" minute order. SDO at 2-3. Indeed, by the court's direction, the minute order was transmitted to both parties. Moreover, while Barnett references the minute order, the propositions he raises in his opening and reply briefs refer to matters in the record or matters of law. As such, Barnett's arguments on appeal do not "entirely rely on the circuit court's . . . order."[1] SDO at 2.

[1] Specifically, Barnett raises the following issues on appeal, which also can be found outside the minute order in the record on appeal: (1) "[t]he lower court erred by granting HPA's motion for judgment on the pleadings made pursuant to HRCP Rule 12(c)[,]" see June 22, 2000 order; see also HPA's motion for judgment on the pleadings; (2) "[w]ith regard to granting summary judgment on both claims, the lower court did not properly view the evidence and the inferences in the light most favorable to Barnett[] [and] the record shows genuine issues of material facts in dispute[,]" see June 22, 2000 order; see also HPA's motion for judgment on the pleadings; Barnett's opposition to motion to dismiss; and (3) "[t]he HPA wrongly argues that Barnett's issues are 'identical' to those in the HRPP Rule 40 proceeding[]" (citing Answering Brief at 10-11), see HPA's motion for judgment on the pleadings; Barnett's opposition to motion to dismiss.

Second, the minute order aside, Barnett did appeal from the court's June 22, 2000 order granting the motion for judgment on the pleadings of Defendant-Appellee Hawai'i Paroling Authority (HPA). See Notice of Appeal. In his appeal, Barnett contends that the court erred in granting HPA's motion pursuant to Hawai'i Rules of Civil Procedure (HRCP) Rule 12(c).[2] This court has held that

> [i]n a motion for judgment on the pleadings under [HRCP] Rule 12(c), the movant must clearly establish that no material issue of fact remains to be resolved and that he or she is entitled to judgment as a matter of law. In considering a motion for judgment on the pleadings, the trial court is required to review the facts presented in the pleadings and the inferences to be drawn therefrom in the light most favorable to the non-moving party. Our task on appeal is to determine whether the circuit court's order . . . supports its conclusion that the movant is entitled to judgment as a matter of law and, by implication, that it appears beyond a doubt that the nonmoving party can prove no set of facts in support of its claim that would entitle it to relief under any alternative theory. On appeal, we review *de novo* the trial court's order granting the motion.

Ruf v. Honolulu Police Dep't, 89 Hawai'i 315, 319, 972 P.2d 1081, 1085 (1999) (citations and brackets omitted) (emphases added). Barnett is appealing the court's final order. Thus, Barnett's reliance on the minute order as a means to describe the court's reasoning does not render the appeal invalid. Cf. Inter-Island

[2] **HRCP Rule 12(c) provides:**

> (c) Motion for Judgment on the Pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion under Rule 56.

Resorts, Ltd. v. Akahane, 44 Haw. 93, 96, 352 P.2d 856, 859 (1960) ("A judgment is the final action of a court which disposes of the matter before it. The court's reasons for its action do not constitute a part of its judgment." (Citations omitted.)).

Since we review orders granting judgment on the pleadings *de novo*, this court is obligated to review the entire record, in the light most favorable to Barnett, to determine if there are any material issues of fact. See Ruf, 89 Hawai'i at 319, 972 P.2d at 1085. At the court, the burden of proof lay with the HPA and not with Barnett. See id. Inasmuch as Barnett appeals from the court's June 22, 2000 order, then, this court must focus on the adequacy of HPA's motion. Thus, Barnett's mistaken reliance on the minute order is irrelevant to our review of the court's June 22, 2000 order. This court has the independent duty to review the entire record de novo in determining whether the court was correct in its orders. See id.

"In considering any appeal, we do so . . . upon the record certified to this court by the circuit court." McAulton v. Smart, 54 Haw. 488, 492, 510 P.2d 93, 96 (1973) (emphasis added). The "record" includes the HPA's motion for judgment on the pleadings and Barnett's opposition to that motion. It is indefensible to affirm the court's June 22, 2000 order granting HPA's motion for judgment on the pleadings without reviewing the merits of the appeal when Barnett has appealed from the order. An appeal from that order is sufficient to bring up the merits of

the order inasmuch as we exercise de novo review on an appeal from a judgment on the pleadings.

Therefore, I would hold we have jurisdiction.