

NO. 23780

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER, and JOSEPH CHING,
on behalf of themselves and all others similarly situated,
Plaintiffs-Appellees

vs.

STATE OF HAWAII; STATE OF HAWAII DEPARTMENT OF
HAWAIIAN HOME LANDS; STATE OF HAWAII HAWAIIAN HOME LANDS TRUST
INDIVIDUAL CLAIMS REVIEW PANEL; BENJAMIN CAYETANO,
in his official capacity as Governor of the State of Hawai'i,
Defendants-Appellants,

and

JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10;
DOES PARTNERSHIPS 1-10; and DOE GOVERNMENTAL ENTITIES 1-10,
Defendants.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIVIL NO. 99-4771)

ORDER DISMISSING APPEAL FOR WANT OF APPELLATE JURISDICTION

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

This matter arises from a class action initiated by the plaintiffs-appellees Leona Kalima, Diane Boner, and Joseph Ching [collectively the "plaintiffs"], on behalf of themselves and all others similarly situated, in which they seek to sue the defendants-appellants State of Hawai'i, Department of Hawaiian Home Lands, Hawaiian Home Lands Trust Individual Claims Review Panel, and Benjamin Cayetano, the Governor [collectively the "defendants"] pursuant to, inter alia, the Individual Claims Resolution Under The Hawaiian Home Lands Trust Act [hereinafter, the "Individual Claims Act"], HRS ch. 674 (1993 & Supp. 2000),

and HRS § 661-1 (1993). The defendants purport to appeal from the findings of fact, conclusions of law, and order of the first circuit court, the Honorable Victoria Marks presiding, denying their motion for judgment on the pleadings and granting the plaintiffs' motion for summary judgment on count 1 of their complaint.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we dismiss this matter for want of appellate jurisdiction. An order that completely resolves a claim is not appealable unless that order is reduced to a separate judgment pursuant to Hawai'i Rules of Civil Procedure (HRCP) Rule 58 (2000); moreover, if such a judgment disposes of less than all the claims of the parties, it must be certified pursuant to HRCP Rule 54(b) (2000) in order for this court to have appellate jurisdiction. See, e.g., Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119-20, 869 P.2d 1334, 1338-39 (1994). The issues advanced on appeal by the defendants in the present matter arise under that part of the circuit court's order that granted summary judgment to the plaintiffs with respect to count 1 of their complaint; as to count 1, the circuit court's order completely resolved the plaintiffs' claim and, thus, is appealable only if the order had been reduced to a separate judgment pursuant to HRCP Rule 58; moreover, insofar as the plaintiffs' remaining claims were not disposed of by the circuit court's order, appellate jurisdiction lies only if such a judgment had been certified pursuant to HRCP Rule 54(b). The order, however, was not reduced to a separate judgment and, in any event, the circuit court certified its order for interlocutory appeal, as sought by the defendants, pursuant

to HRS § 641-1(b) (1993). That being the case, we lack appellate jurisdiction to address the issues advanced on appeal by the defendants. Therefore,

IT IS HEREBY ORDERED that the appeal in No. 23780 is dismissed.

IT IS HEREBY FURTHER ORDERED that the oral argument in this matter scheduled for October 2, 2001 is cancelled.

DATED: Honolulu, Hawai'i, September 12, 2001.

On the briefs:

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State of Hawai'i, Department of
Hawaiian Home Lands, Hawaiian
Home Lands Trust Individual
Claims Review Panel, and
Benjamin Cayetano, Governor

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Levin (Davis Levin Livingston
Grande), and Carl M. Varady
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for the plaintiffs-appellees
Leona Kalima, Diane Boner, and
Joseph Ching, on behalf of
themselves and all others
similarly situated