

NO. 23830

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

CITY AND COUNTY OF HONOLULU, a municipal corporation  
of the State of Hawai'i, Plaintiff-Appellee,

vs.

DAVID PAUL COON, FRANCIS AHLOY KEALA, RONALD DALE LIBKUMAN,  
CONSTANCE HEE LAU, and ROBERT KALANI UICHI KIHUNE,  
TRUSTEES OF THE KAMEHAMEHA SCHOOLS  
BERNICE PAUAAHI BISHOP ESTATE, Defendants-Appellants,

and

CATHERINE MARY BANNING, Trustee of the  
Catherine Mary Banning Revocable Trust Agreement  
dated October 25, 1979 et al., Defendants-Appellees.

---

APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 99-0399-01EEH)

ORDER DISMISSING APPEAL

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

Upon consideration of the appellees' motion to dismiss appeal for lack of jurisdiction, the papers in support and in opposition, the statements supporting and contesting jurisdiction and the record, it appears that: (1) the orders denying summary judgment entered on April 11, 2000 and September 28, 2000 ("the orders") are interlocutory orders that were not certified for interlocutory appeal pursuant to HRS § 641-1(b); (2) the orders are not appealable as of right pursuant to HRS § 101-34 inasmuch as the orders do not decide the issue of public use in Civil No. 99-0399; (3) the orders are not appealable under the pragmatic finality doctrine; and thus, (4) this appeal is premature and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, January 24, 2001.