

NO. 23866

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ESTATE OF ROGER ROXAS, and THE GOLDEN BUDHA CORPORATION, a
foreign corporation, Plaintiffs-Appellants/Cross-Appellees

vs.

IMELDA MARCOS, Defendant-Appellee/Cross-Appellant

and

FERDINAND MARCOS, Defendant

APPEAL FROM THE FIRST CIRCUIT COURT

(CIV NO. 88-0522)

ORDER DISMISSING APPEAL AND CROSS-APPEAL

(By: Moon, C.J., Levinson and Nakayama, JJ.,
Circuit Judge Hifo, in place of Ramil, J. recused, and
Circuit Judge Town, in place of Acoba, J., recused)

Upon review of the record, it appears that all claims against all the parties have not been resolved in Civil No. 88-0522. The June 26, 2000 third amended judgment entered judgment on the claim for conversion and reserved the unresolved claims for later action. It directed entry of judgment on the claim for conversion, but it did not determine there was no just reason for delay in entering judgment on that claim. Absent an express determination of no just reason for delay in entering judgment, the June 26, 2000 third amended judgment did not meet the certification requirements of HRCP 54(b) and the judgment is not an appealable final judgment on the claim for conversion. See HRCP 54(b) ("the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason

for delay and upon an express direction for the entry of judgment."); Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994) (An appeal from a judgment resolving fewer than all claims will be dismissed as premature if the judgment does not contain the language necessary for certification under HRCP 54(b)).

The June 26, 2000 third amended judgment is not appealable as an amendment to the October 18, 1999 second amended judgment inasmuch as the October 18, 1999 judgment also failed to meet the certification requirements of HRCP 54(b). The October 18, 1999 judgment purported to be an amendment to the October 21, 1996 certified judgment, but the certification was effective only as to those claims certified as final on October 21, 1996 and not to claims subsequently decided by the October 18, 1999 and June 26, 2000 judgments, even though those judgments were entered *nunc pro tunc* to October 21, 1996.

The appeal from the June 26, 2000 judgment is premature and we lack jurisdiction. HRS § 641-1(a). Therefore,

IT IS HEREBY ORDERED that this appeal and cross-appeal are dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, March 21, 2001.