

NO. 25181

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

NANCY MAKANUI, Plaintiff-Appellant

vs.

TIMOTHY S. KITAGAWA, et al., Defendants-Appellees

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 01-1-0093)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the July 9, 2002 judgment in Civil No. 01-1-0093, the Honorable Greg K. Nakamura presiding, does not satisfy the requirements of Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP). "An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "[I]f a judgment purports to be the final judgment in a case involving multiple claims[,]. . . the judgment . . . must . . . identify the claims for which it is entered, and . . . dismiss any claims not specifically identified[.]" Id.

For example: "Pursuant to the jury verdict entered on (date), judgment in the amount of \$___ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint." A statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so; for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant

Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4. "[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP 54(b)." Id. at 119, 869 P.2d at 1338.

Although Plaintiff-Appellant Nancy Makanui's second amended complaint asserted three separate counts against Defendant-Appellee Timothy S. Kitagawa, the July 9, 2002 judgment does not identify the claims for which it is entered. Therefore, the July 9, 2002 judgment does not satisfy the requirements of HRCP Rule 58 according to our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338, and the Appellant's appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, October 11, 2002.