

*** NOT FOR PUBLICATION ***

NO. 25605

IN THE SUPREME COURT OF THE STATE OF HAWAII

FIRST INSURANCE COMPANY OF HAWAII, LTD., a Hawaii corporation,
Plaintiff/Counterclaim Defendant/Appellee

vs.

MICHAEL A. GEORGOPAPADAKOS and HARRIET A. GEORGOPAPADAKOS,
husband and wife, Defendants/Counterclaim Plaintiffs/Appellants

and

TECHNO ENGINEERING & CONSTRUCTION, LTD., a Hawaii corporation,
Defendant/Appellee

MICHAEL A. GEORGOPAPADAKOS and HARRIET A. GEORGOPAPADAKOS,
husband and wife, Third-Party Plaintiffs-Appellants

and

TECHNO ENGINEERING & CONSTRUCTION, LTD., a Hawaii corporation,
Third-Party Plaintiff/Appellee

vs.

STATE OF HAWAII DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES;
and PATRICK CHUN, THOMAS MORIOKA, ROBERT TAKUSHI, et al., and
CITY AND COUNTY OF HONOLULU, Third-Party Defendants/Appellees

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 95-3447)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, JJ.,
and Circuit Judge August, assigned by reason of vacancy)

Upon review of the record, it appears that we do not have jurisdiction over Defendants/Counterclaim-Plaintiffs/Third-Party Plaintiffs/Appellants Michael A. Georgopapadakos and Harriet A. Georgopapadakos's (the Georgopapadakos Appellants) appeal from the December 31, 2002 order denying the Georgopapadakos Appellants' motion to set aside, or otherwise

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stay, the November 21, 2000 judgment. Although an order denying a Rule 60(b) of the Hawai'i Rules of Civil Procedure (HRCP) motion to set aside a judgment is final and appealable, First Trust Company of Hilo, Ltd. v. Reinhardt, 3 Haw. App. 589, 592, 655 P.2d 891, 893 (1982), a HRCP Rule 60(b) motion is authorized only in situations involving a final judgment. Crown Properties, Inc. v. Financial Security Life Insurance Co., Ltd., 6 Haw. App. 105, 112, 712 P.2d 504, 509 (1985).

The November 21, 2000 judgment in Civil No. 95-3447, the Honorable Richard W. Pollack presiding, does not satisfy the requirements for a final judgment pursuant to the HRCP Rule 58 separate document rule under our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994).

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple partes, the judgment . . . must . . . specifically identify the party or parties for and against whom the judgment is entered, and . . . must . . . identify the claims for which it is entered, and . . . dismiss any claims not specifically identified[.]

Id. at 119, 869 P.2d at 1338.

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

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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 [Rule] 54(b).” Id. at 119, 869 P.2d at 1338. The November 21, 2000 judgment does not specifically identify the parties for and against whom the judgment is entered. Furthermore, the November 21, 2000 judgment does not resolve the various counterclaims and third-party claims that parties asserted. Although the November 21, 2000 judgment resolves fewer than all claims against all parties, it does not contain a finding that there is no just reason for delay in the entry of judgment, which is necessary for certification under HRCP Rule 54(b). Therefore, the November 21, 2000 judgment does not satisfy the requirements of the HRCP Rule 58 separate document rule.

Absent the entry of an appealable final judgment, the December 31, 2002 order denying the Georgopapadakos Appellants’ motion to set aside, or otherwise stay, the November 21, 2000 judgment is not an appealable final post-judgment order under HRS § 641-1(a) (1993). Accordingly,

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

DATED: Honolulu, Hawai’i, June 13, 2003.