

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25638

IN THE SUPREME COURT OF THE STATE OF HAWAII

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TIMOTHY A. COUCH and PATRICIA A. COUCH, Plaintiffs-  
Appellees/Cross-Appellants

vs.

BRAD F. REVIS, Defendant-Appellant/Cross-Appellee

and

KENNETH N. THOMAS, OCEAN ADVENTURES, INC., NANCY G. SCHOLL,  
JOHN DOES 1-9, JANE DOES 1-9, DOE PARTNERSHIPS 1-9,  
DOE CORPORATIONS 1-9, RONE "NON-PROFIT" CORPORATIONS 1-9 and  
ROE GOVERNMENTAL ENTITIES 1-9, Defendants

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 91-0189)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we do not have jurisdiction over Defendant-Appellant/Cross-Appellee Brad F. Revis's (Defendant Revis) appeal from the January 17, 2003 order denying in part and granting in part Defendant Revis's motion (purportedly pursuant to Rule 60(b) of the Hawai'i Rules of Civil Procedure (HRCP)) for reconsideration of the April 16, 2002 order denying Defendant Revis's motion to set aside the default judgment pursuant to HRCP Rule 55(c). Likewise, it appears that we do not have jurisdiction over Plaintiffs-Appellees/Cross-Appellants Timothy A. Couch and Patricia Couch's (the Couch Plaintiffs) cross-appeal from the January 17, 2003 order.

HRS § 641-1(a) (1993) authorizes appeals from only final judgments, final orders, or final decrees. "[A] post-judgment order is an appealable final order under HRS § 641-1(a) if the order finally determines the post-judgment proceeding." Hall v. Hall, 96 Hawai'i 105, 111 n.4, 26 P.3d 594, 600 n.4 (App.

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2001) (citation omitted), affirmed in part, and vacated in part on other grounds, Hall v. Hall, 95 Hawai'i 318, 22 P.3d 965 (2001). Therefore, "[a]n order denying a motion under [HRC] Rule 60(b) is final and appealable." First Trust Company of Hilo, Ltd. v. Reinhardt, 3 Haw. App. 589, 592, 655 P.2d 891, 893 (1982) (citations omitted). However, HRC Rule 60(b) authorizes a motion for reconsideration 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); Tradewinds Hotel, Inc. v. Cochrane, 8 Haw. App. 256, 262, 799 P.2d 60, 65 (1990) ("Rule 60(b) applies to motions seeking to amend final orders in the nature of judgments.").

Although the circuit court entered two default judgments in this case, we have previously explained that, where a default judgment "would not have adjudicated all of the claims and rights of all of the parties to [a] case[,] . . . an appeal could not have been taken without the determination and direction required of the trial court by Rule 54(b), H.R.C.P." BDM, Inc. v. Sageco, Inc., 57 Haw. 73, 75, 549 P.2d 1147, 1149 (1976). In other words, "if the judgment resolves fewer than all claims against all parties, or reserves any claim for later action by the court, an appeal may be taken only if the judgment contains the language necessary for certification under HRC [Rule] 54(b)[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). If, on the other hand, the judgment purports to resolve all claims "in a case involving multiple claims or multiple parties, 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. (emphasis added). "[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

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parties or contain the finding necessary for certification under HRCP [Rule] 54(b).” Id.

Despite that the Couch Plaintiffs’ complaint asserted five separate causes of action against four different defendants, the Honorable Kevin S.C. Chang’s May 5, 2000 default judgment and the Honorable Robert M. Browning’s December 28, 2000 default judgment enter judgments only on the Couch Plaintiffs’ fraud claims against Defendant Revis and Defendant Ocean Adventures, Inc. The May 5 and December 28, 2000 default judgments do not resolve the Couch Plaintiffs’ claims against Defendants Kenneth N. Thomas and Nancy G. Scholl, nor do they contain the language necessary for certification under HRCP Rule 54(b). Therefore, the May 5 and December 28, 2000 default judgments are not final judgments under HRS § 641-1(a) (1993) and HRCP Rule 54(b).

Absent the entry of a final judgment, HRCP Rule 60(b) does not authorize a motion for reconsideration. Therefore, the January 17, 2003 order is not an appealable final order disposing of a post-judgment motion under HRCP Rule 60(b). Defendant Revis’s appeal and the Couch Plaintiffs’ cross-appeal are premature. Accordingly,

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

DATED: Honolulu, Hawai’i, May 23, 2003.