

*** NOT FOR PUBLICATION ***

NO. 25948

IN THE SUPREME COURT OF THE STATE OF HAWAII

THE ASSOCIATION OF APARTMENT OWNERS OF NEWTOWN MEADOWS, by its
Board of Directors, Plaintiff-Appellant

vs.

VENTURE 15, INC., ROYAL CONTRACTING CO., LTD., A.W. ASSOCIATES,
INC., dba GEOLABS HAWAII, and R.H.S. LEE, INC.,
Defendants-Appellees

and

S. HORITA CONTRACTING & BUILDING SUPPLIES, LTD., and DOES 4-100,
Defendants

VENTURE 15, INC., Third-Party Plaintiff-Appellee

vs.

S. HORITA CONTRACTING & BUILDING SUPPLIES, LTD.,
Third-Party Defendant

GEOLABS HAWAII,
Defendant and Additional Third-Party Plaintiff-Appellee

vs.

COMMUNITY PLANNING, INC., Additional Third-Party Defendant

S. HORITA CONTRACTING & BUILDING SUPPLIES, LTD., Defendant and
Additional Third-Party Plaintiff

vs.

LIU CONSTRUCTION, INC., Additional Third-Party Defendant-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 97-0642)

***** NOT FOR PUBLICATION *****

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the interlocutory orders entered on September 4, 2002, October 7, 2002 and February 12, 2003 were not properly certified for interlocutory appeal pursuant to HRS § 641-1(b) inasmuch as the June 4, 2003 order granting the motion for interlocutory appeal, the Honorable Eden Elizabeth Hifo, presiding, did not set forth the circuit court's reason for concluding that the interlocutory appeal will speedily terminate the litigation, as required by Mason v. Water Resources International, 67 Haw. 510, 512, 694 P.2d 388, 389 (1985) ("the trial court shall carefully consider the matter of whether it thinks an interlocutory appeal will more speedily determine the litigation and, if it so concludes, will set forth, in the order allowing the appeal, its reasons for that conclusion.").

It further appears that notice of appeal from the September 4, 2002, October 7, 2002 and February 12, 2003 interlocutory orders must have been filed within thirty days after entry of the orders, not within thirty days after entry of the June 4, 2003 certification order. See HRAP 4(a)(1)(2001); King v. Wholesale Produce Dealers Ass'n, 69 Haw. 334, 335, 741 P.2d 721, 722 (1987) ("It is necessary for a party wanting to take an interlocutory appeal to move for an order allowing the appeal, for the court to enter the order and for the appellant to file the notice of appeal all within 30 days from the filing of the order appealed from, unless the time for appeal is extended pursuant to HRAP 4(a)[(4)]." "The order appealed from on an interlocutory appeal is not made final, for any purpose, by the allowance of the interlocutory appeal and the time period runs from the entry of the order, not from the allowance of the appeal."). The notice of appeal filed on July 3, 2003 was filed

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

more than thirty days after entry of the interlocutory orders appealed and is untimely. Based on the above, we lack jurisdiction over this appeal. Accordingly,

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

DATED: Honolulu, Hawai'i, November 18, 2003.