

*** NOT FOR PUBLICATION ***

NO. 26191

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

BRIAN BOULEY AND CORINNE BOULEY,
Plaintiffs-Counterclaim Defendants/Appellees

vs.

MARK SHARPE AND CORAL SHARPE,
Defendants-Counterclaim Plaintiffs/Appellants

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIV. NO. 1RC03-1-4421)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that entry of the October 3, 2003 judgment did not end the district court litigation between the plaintiffs and the defendants in Civil No. 1RC03-1-4421 inasmuch as the district court's announcement at the September 18, 2003 trial that the defendants' counterclaim "will be dismissed" was not a final disposition of the counterclaim and the dismissal of the counterclaim was not included in the October 3, 2003 judgment. Thus, the appeal of the October 3, 2003 judgment is premature and we lack jurisdiction. See HRS § 641-1(a); Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 427, 984 P.2d 1251, 1253 (1999) (a district court judgment or order is final and appealable under HRS § 641-1(a) if it ends the litigation by fully deciding the rights and liabilities of all parties and

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leaves nothing further to be adjudicated.). Therefore,

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

DATED: Honolulu, Hawai'i, June 10, 2004.