

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26414

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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WALTER JOHN KELLY, CHARLES ROSS FLAHERTY, JR., PATRICK M. CUNNINGHAM, MICHELE CONSTANS WILKINS, PROTECT KEOPUKA OHANA, a Hawai'i non-profit corporation, Plaintiffs-Appellees

vs.

1250 OCEANSIDE PARTNERS, a Hawai'i corporation,  
Defendant-Appellant

and

STATE OF HAWAI'I, DEPARTMENT OF HEALTH, a Department of the State of Hawai'i, CHIYOME FUKINO in her official capacity as the Director of the State of Hawai'i DEPARTMENT OF HEALTH, COUNTY OF HAWAI'I; CHRISTOPHER YUEN, in his official capacity as the Planning Director for the County of Hawai'i; DENNIS LEE, in his official capacity as the Chief Engineer for the County of Hawai'i, Defendants-Cross-Appellants

and

DEPARTMENT OF LAND AND NATURAL RESOURCES; PETER T. YOUNG, in his official capacity as the Director of the State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES; KALA'AU WAHILANI, in his official and personal capacity as a Historic Sites Specialist of the DLNR; NA ALA HELE; HOLLY McELDOWNY in her official capacity as the Administrator of the State Historic Preservation Division of the DLNR; LAND USE COMMISSION; Defendants-Appellees

and

JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS, PARTNERSHIPS, GOVERNMENTAL UNITS OR OTHER ENTITIES 1-20, Defendants

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APPEAL FROM THE THIRD CIRCUIT COURT  
(CIV. NO. 00-1-0192K)

ORDER DISMISSING APPEAL

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

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that the judgment entered

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on January 21, 2004, the Honorable Ronald Ibarra, presiding, did not enter judgment on all claims against all parties as to Count V of the Fifth Amended Complaint. The circuit court ordered that the January 21, 2004 judgment be amended to include entry of judgment on all the Count V claims asserted against defendants State Department of Health and its director. The amendment has not been incorporated into a new final judgment that, on its face, shows finality of all claims against all parties as to all counts of the Fifth Amended Complaint. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119-120, 869 P.2d 1334, 1338-39 (1994) (In a multi-claim, multi-party case, the judgment entered pursuant to HRCP 58 "must, *on its face*, show finality as to all claims against all parties."). Thus, this appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that the appeal by defendant-appellant 1250 Oceanside Partners and the cross-appeals by defendants State of Hawai'i Department of Health and the Director of Health and defendants County of Hawai'i, Christopher Yuen and Dennis Lee are dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 8, 2004.