

*** NOT FOR PUBLICATION ***

NO. 26514

IN THE SUPREME COURT OF THE STATE OF HAWAII

KULA KAI ESTATES COMMUNITY ASSOCIATION, a Hawai'i nonprofit corporation, Plaintiff/Counterclaim-Defendant Appellee

vs.

FRANK FISTES, as Trustee of the Fistes Family Trust, Defendant/Counterclaimant Appellant

and

JOHN DOES 1-10, JANE DOES 1-10 and DOE ENTITIES 1-10, Defendants

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 02-1-0224K)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the claims asserted in Civil No. 02-1-0224K were resolved by entry of the March 15, 2004 findings of fact and conclusions of law which found in favor of the plaintiff on the plaintiff's claims and on the defendant's counterclaim. The March 23, 2004 amended final judgment, the Honorable Ronald Ibarra, presiding, which purports to be the final judgment in Civil No. 02-1-0224K, enters judgment in favor of the plaintiff and against the defendant but does not state that judgment is entered as to the plaintiff's claims and the defendant's counterclaim, as required by Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119-120, 869 P.2d 1334, 1339-39 (1994) (In a multiple claim circuit court case, a judgment that purports to be the final judgment is not appealable unless

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the judgment identifies the claims for which the judgment is entered.). Thus, this appeal is premature and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, February 11, 2005.