

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26915

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

A&B PROPERTIES, INC., Petitioner-Appellee

vs.

DICK PACIFIC CONSTRUCTION CO., LTD., Respondent-Appellant

---

APPEAL FROM THE FIRST CIRCUIT COURT  
(S.P. NO. 04-1-0302)

ORDER DISMISSING APPEAL

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

Upon review of appellant's statement of jurisdiction and the record, it appears that the circuit court's September 29, 2004 order granting A&B Properties, Inc.'s application in S.P. No. 04-1-0302 is not a collateral order affecting rights independent of, and separable from, the rights asserted in the main action, but is the order disposing of the main action to compel arbitration of A&B's breach of contract claim. The September 29, 2004 order was not reduced to a separate judgment pursuant to HRCF 58. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). 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, January 28, 2005.