

NO. 27854

IN THE INTERMEDIATE COURT OF APPEALS  
FOR THE STATE OF HAWAI'I

MITCHELL M. MILAN and SHARON A., MILAN,  
Plaintiffs/Counterclaim-Defendants-Appellee  
v.  
DAVID DICKINSON; KAREN DICKINSON; et al.,  
Defendants/Counterclaim Plaintiffs-Appellants

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CIV. NO. 05-1-0094)

ORDER DISMISSING APPEAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Defendants/Counterclaim Plaintiffs/Appellants David Dickinson and Karen Dickinson's (the Dickinson Appellants) appeal from the March 20, 2006 order granting Plaintiffs/Counterclaim Defendants/Appellees Mitchell M. Milan and Sharon A. Milan's (the Milan Appellees) motion to set the case for a bench trial, motion for an order to show cause, and motion for the entry of a final judgment, because the Honorable Kathleen N.A. Watanabe's March 20, 2006 order is not an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rule 54(b) of the Hawai'i Rules of Civil Procedure (HRCP), HRCP Rule 58, and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCP Rule 58 separate document rule, "[a]n

appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted).

The March 20, 2006 order is not a separate judgment. The March 20, 2006 order is an interlocutory order that grants three motions that the Milan Appellees filed, and, thus, the March 20, 2006 order does not satisfy the requirements for a separate judgment under the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, July 6, 2006.

  
Chief Judge

  
Associate Judge

  
Associate Judge