

NO. 27869

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

DUSTIN M. SHINDO, Plaintiff-Appellant,
v.

LISA A. SHINDO, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(FC-D No. 05-1-4042)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Dustin M. Shindo's (Appellant Dustin Shindo) appeal from the Honorable Gregg Young's March 29, 2006 order granting Defendant-Appellee Lisa Shindo's (Appellee Lisa Shindo) motion to vacate or set aside the divorce decree pursuant to Rule 60(b) of the Hawai'i Family Court Rules (HFRCR), because the March 29, 2006 order is not an appealable final order. In family court cases "[a]n interested party, aggrieved by any order or decree of the court, may appeal to the intermediate court of appeals for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court[.]" HRS § 571-54 (Supp. 2005). In circuit court cases, aggrieved parties may appeal from "final judgments, orders or decrees[.]" HRS § 641-1(a) (Supp. 2005). "A post-judgment order is an appealable final order under HRS § 641-1(a) if the

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2006 JUL -6 AM 8:35

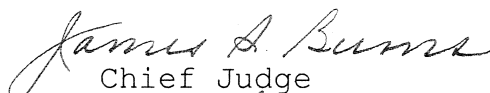
FILED

order finally determines the post-judgment proceeding." Hall v. Hall, 96 Hawai'i 105, 111 n.4, 26 P.3d 594, 600 n.4 (App. 2001) (citation omitted), affirmed in part, and vacated in part on other grounds, Hall v. Hall, 95 Hawai'i 318, 22 P.3d 965 (2001); Chun v. Board of Trustees of the Employees' Retirement System of the State of Hawai'i, 92 Hawai'i 432, 447-48, 992 P.2d 127, 142-43 (2000). Thus, for example, "[a]n order denying a motion for post-judgment relief under HRCP [Rule] 60(b) is an appealable final order under HRS § 641-1(a)." Ditto v. McCurdy, 103 Hawai'i 153, 160, 80 P.3d 974, 981 (2003) (citation omitted).

Although the March 29, 2006 order granted Appellee Lisa Shindo's HFCR Rule 60(b) motion to vacate or set aside the divorce decree, the March 29, 2006 order did not finally determine the post-decree proceeding, because the family court apparently intends to redetermine some issues relating to the division and distribution of property and debts. Therefore, the March 29, 2006 order is not an appealable final order, and Appellant Dustin Shindo's appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, July 6, 2007.


Chief Judge


Associate Judge


Associate Judge