

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 27948

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

CIVIL NO: 03-1-0395

AIKIDO OF HONOLULU, a Hawai'i non-profit corporation,
Plaintiff-Appellee,

v.

NATHAN F.Z. OKIMURA, aka REV. ZENKO N. OKIMURA, RICHARD HIRAO,
and JON OBARA, Defendants-Appellants,
and
JOHN DOES 1-100, et al., Defendants

CIVIL NO. 02-1-0858

HAWAII AIKI KAI, a Hawai'i non-profit corporation,
Plaintiff/Counterclaim Defendant-Appellant,

v.

CARY OKIMOTO; CRAIG YAMAGUCHI; AIKIDO OF HONOLULU,
a non-profit corporation, and CHARLENE KIHARA,
Defendants/Counterclaim Plaintiffs-Appellees
Defendant-Appellant
and
ROBERT AOYAGI; JOHN LAMBERT; GARY TING; HARRY FU;
JOHN DOES 1-100, et al., Defendants-Appellees,
and

AIKIDO OF HONOLULU, Third-Party Plaintiff,

v.

NATHAN F.Z. OKIMURA, aka REV. ZENKO N. OKIMURA,
RICHARD HIRAO and JON OBARA, Third-Party Defendants

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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CIVIL NO. 97-0237

NATHAN F.Z. OKIMURA; RICHARD HIRAO; and JON OBARA,
Plaintiffs-Appellants,

v.

ROBERT AOYAGI; CARY OKIMOTO; CHARLENE KIHARA;
GARY TING; HARRY FU; CRAIG YAMAGUCHI; JOHN LAMBERT;
AIKODO OF HONOLULU, Defendants-Appellees

and

HAWAII AIKI KAI, a Hawai'i non-profit corporation,
Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT

ORDER DISMISSING APPEAL

(By: Watanabe, Presiding J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over this appeal from the Honorable Randal Kwai On Lee's May 16, 2006 judgment, because the May 16, 2006 judgment is not an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the 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.

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple parties, the judgment (a) must specifically identify the party or parties for and against whom the judgment is entered, and (b) must (i) identify the claims for which it is entered, and (ii) dismiss any claims not specifically identified[.]

Id. (emphases added). Furthermore, "if the judgment resolves fewer than all claims against all parties, or reserves any claim for later action by the court, an appeal may be taken only if the judgment contains the language necessary for certification under HRCP [Rule] 54(b)[.]" Id. Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)." Id.

Through orders that the circuit court entered on November 14, 2005, and March 24, 2006, the circuit court effectively consolidated the following three cases into a single case: (1) Civil No. 97-0237, (2) Civil No. 02-1-0858, and (3) Civil No. 03-1-0395. Following the consolidation of these three cases, the circuit court never entered any order that severed them from one another. Although the May 16, 2006 judgment purports to resolve claims in Civil No. 02-1-0858, the May 16, 2006 judgment does not specifically identify which of the multiple claims in the complaint, counterclaims, and third-party claims in Civil No. 02-1-0858 that the May 16, 2006 judgment resolves. Furthermore, the May 16, 2006 judgment does not, on its face, either resolve all claims against all parties in the

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three consolidated cases or contain the finding necessary for certification under HRCP Rule 54(b). Therefore, the May 16, 2006 judgment does not satisfy the requirements for an appealable final judgment under HRCP Rule 58 and 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, August 14, 2006.



Presiding Judge



Associate Judge



Associate Judge