

NO. 27994

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

TOM SCOBLE,
Plaintiff/Counterclaim Defendant-Appellant,

v.

LORRIE ZIMMERMAN and JAMES STRAIT,
JOHN DOES 1-10, et al.,
Defendants/Counterclaimants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CV. NO. 05-1-0115K)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Plaintiff/Counterclaim-Defendant-Appellant Tom Scoble's (Appellant Scoble) appeal from the Honorable Elizabeth A. Strance's April 20, 2006 "Order Denying Plaintiff-Counterclaim Defendant Tom Scoble's Motion for Summary Judgment Filed February 13, 2006" and April 20, 2006 "Findings of Fact, Conclusions of Law and Order Granting Defendants/Counterclaimants Lorrie Zimmerman and James Strait's Motion for Summary Judgment and for eviction for Failure to Pay Rent Filed January 26, 2006" because the circuit court has not yet reduced these orders to a separate judgment that resolves all claims by all parties, as required for an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rule 58 of the Hawai'i Rules of Civil Procedure

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(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. "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 record on appeal for this case was filed on August 21, 2006, and the record on appeal does not contain a written judgment that satisfies the requirements for an appealable final judgment under HRCP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. It was the duty of Appellant Scoble to ensure that the record on appeal contained an appealable final judgment by the time that the record on appeal was filed in the supreme court. HRAP Rule 11(a). Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, September 19, 2006.

James A. Burns

Chief Judge

[Signature]

Associate Judge

Daniel R. Foley

Associate Judge