

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28080

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

PONO, and unincorporated association; WALTER RITTE, JR.;
WAYDE LEE; MATTHEW ADOLPHO and JOSEPH KALIPI,
as individuals and members of PONO,
Plaintiffs/Counterclaim Defendants-Appellants,

and

HALONA KAOPU'IKI,
Plaintiff/Counterclaim Defendant-Appellee

v.

MOLOKAI RANCH. LTD., a Hawaii corporation
Defendant/Counterclaimant-Appellee,

and

JAMES W. MOZLEY, JR.; CHARLES JENCKS,
as an individual and in his capacity as Director
of the County of Maui Department of Public Works and
Waste Management; LINDA CROCKETT LINGLE, as an
individual and in her capacity as Mayor of the County
of Maui; COUNTY OF MAUI, a governmental entity,
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 97-0383(2))

ORDER DISMISSING APPEAL AND CROSS-APPEAL

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

Upon review of the record, it appears that we lack
jurisdiction over Plaintiffs/Counterclaim-Defendants/Appellants
Pono, Walter Ritte, Jr., Wayde Lee, Matthew Adolpho, and Joseph
Kalipi's appeal from the Honorable Joseph E. Cardoza's July 5,
2006 judgment (the Judgment), because the Judgment is not an
appealable final judgment under HRS § 641-1(a) (Supp. 2005),

K. HANAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCPP 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 HRCPP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. "If the circuit court intends that claims other than those listed in the judgment language should be dismissed, [then] it must say so: for example, . . . 'all other claims, counterclaims, and cross-claims are dismissed.'" Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4. "[I]f 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 HRCPP [Rule] 54(b)[.]" Id. at 119, 869 P.2d at 1338. 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 HRCPP [Rule] 54(b)." Id.

Although the Judgment declares that judgment is entered on some of the parties' claims, the Judgment does not state the names of the party or parties in favor of whom, and against whom,

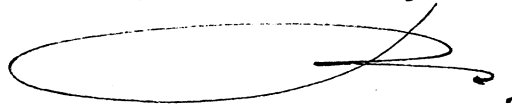
judgment is entered. Furthermore, although the parties have asserted multiple claims in this case (including, for example, a counterclaim), the Judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCF Rule 54(b). Therefore, the Judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright.

Absent an appealable final judgment, this appeal is premature and we lack appellate jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, October 17, 2006.


Chief Judge


Associate Judge


Associate Judge