

NO. 28173

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

GERARD R. LALES, Plaintiff-Appellant,  
v.

WHOLESALE MOTORS COMPANY dba JN AUTOMOTIVE GROUP,  
JOHNNY MARTINEZ and GARY MARXEN, SR.,  
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CIVIL NO. 03-1-2415)

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 Gerald R. Lales's (Appellant Lales) appeal from the Honorable Randal K.O. Lee's August 30, 2006 judgment, because the August 30, 2006 judgment is not an appealable final judgment under Hawaii Revised Statutes (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, 76 Hawai'i at 119, 869 P.2d at 1338.

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[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 HRCF [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 HRCF [Rule] 54(b)." Id.

Although Appellant Lales asserted six separate claims in his amended complaint, the August 30, 2006 judgment does not identify the claims for which judgment is entered, nor does the August 30, 2006 judgment specifically state that judgment is entered on all six of the claims. Although the August 30, 2006 judgment declares that "[t]here are no remaining claims or parties to the above-captioned matter[,]" the supreme court has explained that "[a] statement that declares 'there are no other outstanding claims' is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, 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. The August 30, 2006 judgment does not contain operative language that dismisses the claims. Therefore, the July 18, 2006 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. Accordingly,

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

DATED: Honolulu, Hawai'i, December 20, 2006.

  
Chief Judge

  
Associate Judge

  
Associate Judge