

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28337

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

NUUANU VALLEY ASSOCIATION,  
a Hawaii non-profit corporation,  
Plaintiff-Appellant,

v.

CITY AND COUNTY OF HONOLULU; HENRY ENG, Director of  
Department of Planning and Permitting in his official  
capacity; DAVID TANOUE, Deputy Director of Department of  
Planning and Permitting in his official capacity,  
Defendants-Appellees,

and

LAUMAKA, LLC, Intervenor-Appellee,

and

JOHN DOES 1-10, et al., Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CV. NO. 06-1-0501)

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 Nuuanu Valley Association's (Appellant Nuuanu Valley Association) appeal from the Honorable Randal K. O. Lee's December 18, 2006 judgment, because the December 18, 2006 judgment does not satisfy the requirements for an appealable final judgment under HRS § 641-1(a) (Supp. 2006), 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).

HRS § 641-1(a) (Supp. 2006) authorizes appeals from

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"final judgments, orders, or decrees[.]" Furthermore, under the 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 115, 119, 869 P.2d 1334, 1338 (1994).

[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.

Although Appellant Nuuanu Valley Association's amended complaint asserted four separate counts, the December 18, 2006 judgment does not specifically identify the counts on which the circuit court is entering judgment. The December 18, 2006 judgment concludes with a statement that declares that "[t]his final judgment resolves all claims raised by all parties in this

case." However,

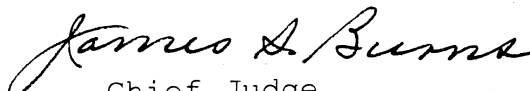
[a] statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added). The December 18, 2006 judgment does not, on its face, contain operative language that clearly disposes of all the multiple claims against all parties in this case. Therefore, the December 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.

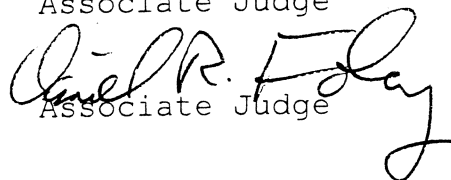
Absent an appealable final judgment, this appeal is premature. Accordingly,

IT IS HEREBY ORDERED that the appeal in appellate court case number 28337 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 15, 2007.

  
Chief Judge

  
Associate Judge

  
Associate Judge