

NO. 28711

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'IMAJESTY AKAHI NUI, AKAHI WAHINE, as Trustees
for the Kingdom of Hawaii Nation Ministry Trust,
Plaintiffs-Appellants,

v.

ALEXANDER & BALDWIN, INC; et al.,
Defendant-Appellees.APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIV. NO. 07-1-0194)ORDER DISMISSING APPEAL

(By: Recktenwald, C.J., Watanabe and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Plaintiffs-Appellants Majesty Akahi Nui, Akahi Wahine, As Trustees for the Kingdom of Hawaii Nation Ministry Trust (the Appellants), have asserted from the Honorable Joel E. August's August 21, 2007 "Order Granting Defendant Alexander & Baldwin's Motion to Dismiss Complaint to Quiet Title to Real Property, Filed on May 23, 2007, or, in the Alternative for Summary Judgment" (the August 21, 2007 order of dismissal) because the August 21, 2007 order of dismissal is not an appealable final judgment under Hawai'i Revised Statutes (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

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LENA, APPELLANT
STATE OF HAWAII

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Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

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 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).

Thus, "an order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." Alford v. City and Count of Honolulu, 109 Hawai'i 14, 20, 122 P.3d 809, 815 (2005) (citation omitted). For example, the Supreme Court of Hawai'i has explained that, "[a]lthough R[ules of the Circuit Courts of the State of Hawai'i Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'" Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996).

The August 21, 2007 order of dismissal appears to dismiss all claims, but the circuit court has not yet reduced the August 21, 2007 order of dismissal to a separate judgment that, on its face, resolves all claims against all parties by entering judgment on the applicable claims in favor of and against the appropriate parties, as HRCP Rule 58 requires for an appealable final judgment under the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, this appeal is premature. Therefore,

IT IS HEREBY ORDERED that appellate court case number 28711 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 20, 2007.

Man Hechtemwald

Chief Judge

Corinne Ka Wataahe

Associate Judge

Daniel R. Foley

Associate Judge