

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28769

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAIIEMW, INVESTMENT, LLC, a Nevada limited liability company
Plaintiff-Appellee,

v.

HEIRS OF NAIWIELUA (K), KEAWE (K), KAHANA (K), ALBERT
KAHIWAHIWAOKALANI HAA, JR., WILLIAM J.M. KUAMOO, SR., et al,
Defendants-Appellants.APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIV. NO. 05-1-0415 (HILO))ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Watanabe, Presiding Judge, Nakamura and Fujise, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal by Defendants-Appellants Albert Kahiwaahiwaokalani Haa, Jr. and William J. M. Kuamoo, Sr. from the Honorable Glenn S. Hara's September 5, 2007 decision and order.

Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2007) authorizes appeals from "final judgments, orders, or decrees[.]" HRS § 641-1(a) (Supp. 2007). Appeals under HRS § 641-1 (Supp. 2007) "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c) (Supp. 2007). Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) "requires that "[e]very judgment shall be set forth on a separate document." Based on HRCP Rule 58, the supreme court has held that "[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

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parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "[A]n 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.

The September 5, 2007 decision and order does not resolve all claims against all parties. Furthermore, the circuit court has not reduced the September 5, 2007 decision and order to a separate judgment with the finding necessary for certification under HRCP Rule 54(b), as HRCP Rule 58 requires under the holding in Jenkins v. Cades Schutte Fleming & Wright. "An appeal from an order that is not reduced to a judgment in favor of or against the party by the time the record is filed in the supreme court will be dismissed." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 120, 869 P.2d at 1339 (footnote omitted). Absent an appealable final judgment, this appeal is premature and must be dismissed. Accordingly,

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

DATED: Honolulu, Hawai'i, February 13, 2008.


Presiding Judge


Associate Judge


Associate Judge