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NO. 28902

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2008 APR 16 AM 10: 22

FILED

STEVE PHILIPS, Lienor-Appellant,

v.

GLEN BOUSQUET, Respondent-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CASE NO. M.L. 07-1-0008 (HILO))

ORDER DISMISSING APPEAL
FOR LACK OF APPELLATE JURISDICTION
(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Applicant-Appellant Steve Philips (Appellant Philips) has asserted from the Honorable Greg K. Nakamura's November 19, 2007 order denying Appellant Philips's application for a mechanic's and materialman's lien, because the November 19, 2007 order is not appealable pursuant to Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007).

HRS § 641-1(a) (1993 & Supp. 2007) authorizes appeals from "final judgments, orders, or decrees[.]" HRS § 641-1(a) (1993 & Supp. 2007) (emphasis added). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c) (1993 & 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." HRCP Rule 58. Based on this requirement under HRCP Rule 58, the Supreme Court of Hawai'i 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 Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "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).

Appellant Philips has attempted to appeal from an order that the circuit court has not reduced to a separate judgment. Absent an appealable final judgment, Appellant Philips's appeal is premature, and we lack appellate jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed.

DATED: Honolulu, Hawai'i, April 16, 2008.

Chief Judge

Associate Judge

Associate Judge