

NO. 28956

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

ATLANTIC CREDIT & FINANCE, INC., Plaintiff-Appellee,

v.

EDWARD N. MAHAULU, aka EDWARD MAHAULU, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT  
(CIVIL NO. 3RC07-1-0092 (HILO))

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

Upon review of the record, it appears that we do not have jurisdiction over the appeal that Defendant-Appellant Edward N. Mahaulu (Appellant Mahaulu) has asserted from the Honorable Harry P. Feitas's oral announcement denying Appellant Mahaulu's December 16, 2007 motion to vacate the November 8, 2007 judgment in favor of Plaintiff-Appellee Atlantic Credit & Finance, Inc. (Appellee Atlantic Credit & Finance) pursuant to Rule 60(b) of the District Court Rules of Civil Procedure (DCRCP).

Pursuant to Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007),

appeals are allowed in civil matters from all final judgments, orders, or decrees of circuit and district courts. In district court cases, a judgment includes any order from which an appeal lies. A final order means an order ending the proceeding, leaving nothing further to be accomplished. When a written judgment, order, or decree ends the litigation by fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated, the judgment, order, or decree is final and appealable.

Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426, 984 P.2d 1251, 1252 (1999) (citations, internal quotation marks, and footnote omitted) (emphases added). The separate judgment document rule under Rule 58 of the Hawai'i Rules of Appellate Procedure (HRCP)

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and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994) is

not applicable to district court cases. Consequently, an order that fully disposes of an action in the district court may be final and appealable without the entry of judgment on a separate document, as long as the appealed order ends the litigation by fully deciding the rights and liabilities of all parties and leaves nothing further to be adjudicated.

Casumpang v. ILWU, Local 142, 91 Hawai'i at 427, 984 P.2d at 1253 (emphases added).

Appellant Mahaulu is appealing from the district court's post-judgment adjudication of Appellant Mahaulu's November 16, 2007 DCRCP Rule 60(b) motion to vacate the November 7, 2007 judgment. "A post-judgment order is an appealable final order under HRS § 641-1(a) if the order ends the proceedings, leaving nothing further to be accomplished." Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003) (citation omitted). For example, under analogous circumstances in civil circuit court cases, "[a]n order denying a motion for post-judgment relief under HRCP [Rule] 60(b) is an appealable final order under HRS § 641-1(a)." Ditto v. McCurdy, 103 Hawai'i at 160, 80 P.3d at 981 (citation omitted). Similarly in civil district court cases, an order denying a motion for post-judgment relief under DCRCP Rule 60(b) is an appealable final order under HRS § 641-1(a) (1993 & Supp. 2007).

However, the district court has not yet entered a written order that reflects the district court's announcement that the district court intends to deny Mahaulu's November 16, 2007 DCRCP Rule 60(b) motion to vacate the November 7, 2007 judgment. Under the Hawai'i Rules of Appellate Procedure (HRAP), an order of a trial court is not "entered," for the purpose of an appeal, until "it is filed in the office of the clerk of the court." HRAP Rule 4(a)(5). Therefore, Appellant Mahaulu's appeal is premature.

Absent a written order that finally determines Appellant Mahaulu's November 16, 2007 DCRCP Rule 60(b) motion to

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vacate the November 7, 2007 judgment, we lack appellate jurisdiction under HRS § 641-1(a) (1993 & Supp. 2007). Accordingly,

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

DATED: Honolulu, Hawai'i, June 12, 2008.

*Maui Nectum*

Chief Judge

*Corinne K. Wataualo*

Associate Judge

*Chris A. Nham*

Associate Judge