NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29009

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

2008 JUL -2 AM 10:36
E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII
FILED

ALTEKA CO., LTD., a Japan corporation, Plaintiff-Appellant,

v.

HATSUKO OTSUKA; HOTELS IN PARADISE, INC.,
formerly known as SHANGHAI INVESTMENT COMPANY, INC.;
SIMON BEBB, Defendants-Appellees.

and

JOHN DOES 1-10; JANE DOES 1-10;
DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10;
DOE ENTITIES 1-10; and DOE GOVERNMENTAL UNITS 1-10, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 05-1-1398)

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF/COUNTERCLAIM DEFENDANT/APPELLANT
ALTEKA CO., LTD.'S, JUNE 16, 2008 MOTION, AND
THUS, DISMISSING THIS APPEAL FOR LACK OF JURISDICTION
(By: Watanabe, Presiding Judge, Nakamura and Leonard, JJ.)

Upon review of (1) the June 16, 2008 motion by Plaintiff/Counterclaim Defendant/Appellant Alteka Co., Ltd. (Appellant Alteka) to extend time for briefing nunc pro tunc, or, in the alternative, to dismiss without prejudice or stay this appeal pending entry of an appealable order or judgment, (June 16, 2008 motion), as well as Appellant Alteka's memorandum in support of the June 16, 2008 Motion; (2) the lack of opposition by the other parties to Appellant Alteka's June 16, 2008 motion, and (3) the record, it appears that the Intermediate Court of Appeals lacks jurisdiction over this appeal because the Honorable Gary W. B. Chang's January 18, 2008 judgment is not an appealable judgment.

Hawai'i Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007) authorizes appeals from "final judgments, orders, or

decrees[.]" HRS § 641-1(a) (1993 & Supp. 2007). 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 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).

> [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). 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. at 119, 869 P.2d at 1338.

The January 18, 2008 judgment specifically identifies the parties for and against whom judgment is entered, and the January 18, 2008 judgment dismisses all of the unidentified claims. However, this case involves multiple claims, and yet the January 18, 2008 judgment does not specifically identify the claims on which the circuit court is entering judgment. Therefore, the January 18, 2008 judgment does not satisfy the requirements for an appealable final judgment under HRS § 641-1(a) (1993 & Supp. 2007), HRCP Rule 58, and the holding in Jenkins v. Cades Schutte Fleming & Wright. In addition, the

January 18, 2008 judgment is not, on its face, an appealable judgment pursuant to HRS § 667-51(a) (Supp. 2007).

Absent an appealable judgment, we lack jurisdiction over this appeal and Appellant Alteka's appeal is premature. Accordingly,

IT IS HEREBY ORDERED that Appellant Alteka's June 16, 2008 motion is granted in part and denied in part. We grant that part of Appellant Alteka's June 16, 2008 motion that moves the Intermediate Court of Appeals to dismiss without prejudice this appeal for lack of jurisdiction. Therefore, this appeal is dismissed for lack of appellate jurisdiction. We deny as moot that part of Appellant Alteka's June 16, 2008 motion that requested that this court extend time for briefing or in the alternative, stay appeal pending entry of an appealable order or judgement.

DATED: Honolulu, Hawai'i, July 2, 2008.

Corinne K.A. Watanabe
Presiding Judge

Craig H. Nakamura
Associate Judge

Associate Judge