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NO. 29168

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

FILED
2008 SEP 17 AM 8:26
NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

COUNTY OF MAUI, Plaintiff-Appellee,

v.

STEVE LUNDBORG, Defendant-Appellant,

and

JOHN DOES 1-10; JOHN DOE PARTNERSHIPS 1-10;
JOHN DOE CORPORATIONS 1-10;
AND JOHN DOE GOVERNMENT ENTITIES 1-10,
Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIV. NO. 05-1-0402(3))

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that we lack jurisdiction over this appeal that Defendant-Appellant Steve Lundborg (Appellant Lundborg) has asserted from the Honorable Joseph E. Cardoza's April 28, 2008 judgment, because the April 28, 2008 judgment does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

"Appeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" 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 of Hawai'i has held that "[a]n appeal may be taken

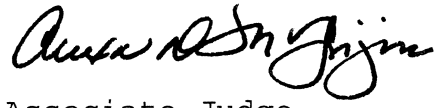
from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994) (emphasis added).

Although the circuit court reduced its summary judgment order to a separate judgment, the April 28, 2008 judgment does not expressly enter judgment in favor of and against the appropriate parties, as required under the holding in Jenkins v. Cades Schutte Fleming & Wright. Instead, the April 28, 2008 judgment ambiguously declares that judgment is entered, and it does not refer to any parties. Because the April 28, 2008 judgment does not enter judgment in favor of and against the appropriate parties, the April 28, 2008 judgment does not satisfy the requirements for an appealable final judgment under HRCP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, we lack appellate jurisdiction and this appeal is premature. Accordingly,

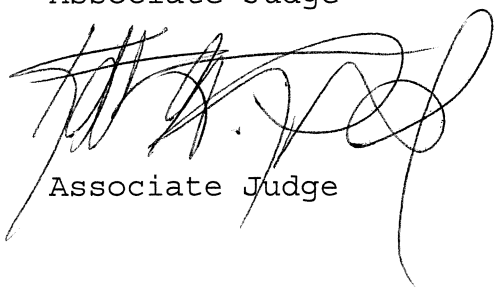
IT IS HEREBY ORDERED AND DECREED that this appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, September 17, 2008.

Presiding Judge



Associate Judge



Associate Judge