

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29193

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

RAQUEL N. K. FERNANDEZ, Appellant-Appellant,

v.

HAWAIIAN HOMES COMMISSION; MICAH KANE, in his capacity as Chairperson of the Hawaiian Homes Commission and the Director of the Department of Hawaiian Home Lands; BILLIE BACLIG, DONALD S.M. CHANG, STUART HANCHETT, MALIA KAMAKA, FRANCIS LUM, MAHINA MARTIN, TRISH MORIKAWA, and MILTON PA, in their capacities as members of the Hawaiian Homes Commission; and the DEPARTMENT OF HAWAIIAN HOME LANDS, Appellees-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIV. NO. 06-1-1780)

ORDER DISMISSING APPEAL

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Appellant-Appellant Raquel N. K. Fernandez (Appellant Fernandez) filed from the Honorable Eden Elizabeth Hifo's May 27, 2008 "Order Affirming Hawaiian Homes Commission Amended Findings of Fact, Conclusions of Law, Decision and Order" (the May 27, 2008 order), because the circuit court has not reduced the May 27, 2008 order to a separate judgment, as Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2007), Rule 58 and Rule 72(k) 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), require.

When a circuit court adjudicates an appeal from an administrative agency order, "[r]eview of any final judgment of

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the circuit court under this chapter shall be governed by chapter 602." HRS § 91-15 (1993). The Hawai'i Intermediate Court of Appeals has jurisdiction "[t]o hear and determine appeals from any court or agency when appeals are allowed by law[.]" HRS § 602-57(1) (Supp. 2007). Under Hawai'i law, "[a]ppeals 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). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." 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, 76 Hawai'i at 119, 869 P.2d at 1338 (emphasis added). HRCP Rule 72(k) similarly requires that, upon a circuit court's adjudication of an administrative appeal, "the court having jurisdiction shall enter judgment." Therefore, the separate judgment document rule under the holding in Jenkins applies to a secondary appeal from a circuit court order that adjudicates an administrative appeal. See, e.g., Raquinio v. Nakanelua, 77 Hawai'i 499, 500, 889 P.2d 76, 77 (App. 1995) ("We conclude . . . that the requirements for appealability set forth in Jenkins apply to appeals from circuit court orders deciding appeals from orders entered by the Director of Labor and Industrial Relations.").

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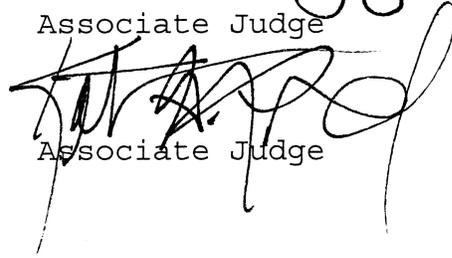
The circuit court has not reduced the May 27, 2008 order to a separate judgment in favor of and against the appropriate parties, as the holding in Jenkins. Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338. Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, September 29, 2008.


Daniel R. Foley
Presiding Judge


Associate Judge


Associate Judge