

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29221

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

PAULETTE KA'ANOHIOKALANI KALEIKINI,  
Plaintiff-Appellant,

v.

LAURA H. THIELEN, in her official  
capacity as Chairperson of the Board of Land  
and Natural Resources, BOARD OF LAND AND NATURAL RESOURCES,  
the DEPARTMENT LAND AND NATURAL RESOURCES, O'AHU ISLAND BURIAL  
COUNCIL, GGP LIMITED PARTNERSHIP, VICTORIA WARD, LIMITED, and  
GENERAL GROWTH PROPERTIES, INC., Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CIV. NO. 07-1-0067)

ORDER DISMISSING APPEAL AND CROSS-APPEAL  
(By: Recktenwald, C.J., Foley and Fujise, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Plaintiff-Appellant Paulette Ka'anohiokalani Kaleikini (Appellant Kaleikini) asserted from the Honorable Glenn J. Kim's June 10, 2008 judgment, because the June 10, 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 Hawaii Rules of Civil Procedure (HRCPP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 115, 119, 869 P.2d 1334, 1338 (1994).

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). HRCPP Rule 58 requires that

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"[e]very judgment shall be set forth on a separate document."  
HRCF Rule 58. Based on this requirement under HRCF Rule 58, the Supreme Court of Hawai'i has held that "[a]n appeal may be taken . . . 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 HRCF [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). "[A]n 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 HRCF [Rule] 54(b)."

Id.

Although Appellant Kaleikini's second amended complaint asserted multiple claims against multiple parties, the June 10, 2008 judgment fails to specifically identify the parties and claims on which the circuit court is entering judgment.

Therefore, the June 10, 2008 judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright.

Although the June 10, 2008 judgment contains a statement that declares that there are no remaining parties or claims to this action, the Supreme Court of Hawai'i has explained that

[a] statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example,

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"Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 120 n.4, 869 P.2d at 1339 n.4 (emphasis added).

Absent an appealable final judgment, the appeal is premature, and we lack appellate jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, October 9, 2008.

*Manuel Acetuna*

Chief Judge

*Daniel R. Foley*

Associate Judge

*Auanani J. J. J.*

Associate Judge