

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29223

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

RONALD D. SILVERMAN AND RANDALL P. PODALS,  
Plaintiffs-Appellants,

v.

BARRY W. FEATHER AND BARBARA E. FEATHER, individually and  
husband and wife, Defendants-Appellees,

and

WILLIAM I. SAMARITANO; and DOES 1-10, Defendants

CLERK, APPELLATE COURTS  
STATE OF HAWAII  
E.M. RIMANDO

2008 OCT 13 AM 9:52

FILED

BARRY W. FEATHER AND BARBARA E. FEATHER,  
Counterclaimants-Appellees,

v.

RONALD D. SILVERMAN AND RANDALL P. PODALS,  
Counterclaim Defendants-Appellants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CIV. NO. 05-1-1469)

ORDER GRANTING OCTOBER 7, 2008 MOTION TO  
DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) Plaintiffs/Counterclaim Defendants/Appellant Ronald D. Silverman (Appellant Silverman) and Randall P. Podals's (Appellant Podals) October 7, 2008 motion to dismiss this appeal for lack of appellate jurisdiction, and (2) the record, it appears that we lack jurisdiction over this appeal and that dismissal is warranted because the circuit court's May 30, 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'i 115, 119, 869 P.2d 1334, 1338 (1994).

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HRS § 641-1(a) authorizes appeals from "final judgments, orders, or decrees[.]" HRS § 641-1(a). 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 . . . 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 115, 119, 869 P.2d at 1338.

[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 HRCP [Rule] 54(b)." Id.

Although all parties in this case asserted multiple claims against multiple parties, the May 30, 2008 judgment fails to specifically identify the claims on which the circuit court is entering judgment. Therefore, the May 30, 2008 judgment does not satisfy the requirements for an appealable final judgment under HRCP Rule 58 and the holding in Jenkins.

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

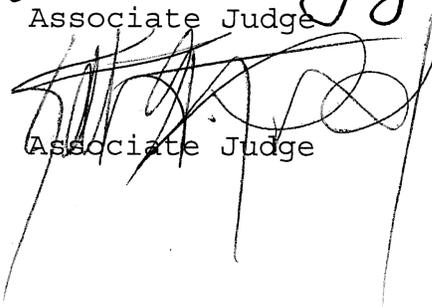
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IT IS HEREBY ORDERED that Appellant Silverman and Appellant Podals's October 7, 2008 motion to dismiss this appeal is granted, and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 13, 2008.

  
Presiding Judge

  
Associate Judge

  
Associate Judge