

NO. 29279

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

2008 NOV 18 PM 1:13
Norma T. Yara
NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

GREGORY KANAHELE, SR., individually and as
next friend of GREGORY KANAHELE, JR., a minor
and TRISHALYNN KANAHELE, a minor,
Plaintiffs-Appellants,

v.

JAMES HAN, Defendant-Appellee,

and

DOE DEFENDANTS 1-20, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 06-1-0597)

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 the appeal that Plaintiffs-Appellants Gregory Kanahale, Sr. (Appellant Gregory Kanahale, Sr.), Gregory Kanahale, Jr. (Appellant Gregory Kanahale, Jr.), and Trishalynn Kanahale (Appellant Trishalynn Kanahale) asserted from the Honorable Glenn J. Kim's June 30, 2008 judgment, because the June 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 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).

HRS § 641-1(a) authorizes appeals from "final judgments, orders, or decrees[.]". 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, 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 at 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 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, "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."

Id. at 120 n.4, 869 P.2d at 1339 n.4 (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. at 119, 869 P.2d at 1338.

The June 30, 2008 judgment does not, on its face, resolve all claims against all parties. Although the June 30, 2008 judgment enters judgment in favor of Appellant Gregory Kanahale, Jr., and against Defendant-Appellee James Han (Appellee Han) and Appellant Gregory Kanahale, Sr., the June 30, 2008 judgment does not resolve Appellant Trishalynn Kanahale's claim against Appellee Han. The June 30, 2008 judgment does not

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contain an express finding of no just reason for delay in the entry of judgment pursuant to HRCP Rule 54(b). Therefore, the June 30, 2008 judgment does not satisfy the requirements for an appealable judgment under HRCP Rule 58 and the holding in Jenkins.

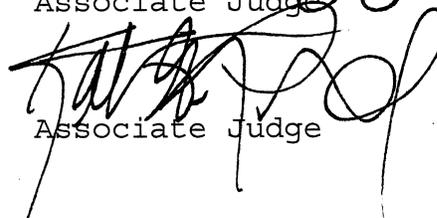
Absent an appealable final judgment, the appeal is premature, and we lack appellate jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, November 18, 2008.


Presiding Judge


Associate Judge


Associate Judge