
NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29350

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

COUNTY OF HAWAII, a municipal corporation
of the State of Hawaii, Plaintiff-Appellee,

v.

POKOBO, LLC; JOHN DOES 1-100; et al.,
Defendants-Appellees,APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 02-1-0129K)

and

COUNTY OF HAWAII, a municipal corporation
of the State of Hawaii, Plaintiff-Appellee,

v.

JOHN M. KOKAYASHI,
Defendant/Cross-Claim Plaintiff/Appellant,

and

WERNER L. POLAK,
Intervenor-Defendant/Cross-Claim Defendant/Appellee,

and

JOHN DOES 1-100,
Defendants-Appellees.APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 02-1-132K)ORDER DISMISSING APPEAL
FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record for this consolidated case,
it appears that we lack jurisdiction over the appeal that
Defendant/Cross-Claim Plaintiff/Appellant John M. Kobayashi
asserted from the Honorable Ronald Ibarra's August 14, 2008
"Order Denying in Part Granting in Part Defendant John M.

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

Kobayashi's Revised Motion for Attorney's Fees and Costs" (the August 14, 2008 order), because the circuit court has not entered a separate judgment that resolves all of the parties' claims.

Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007) 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." Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) 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 v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Therefore, in a consolidated case, the circuit court must enter a single judgment that resolves all claims in all cases that the circuit court has consolidated, unless the circuit court certifies the judgment (on less than all claims) for appeal pursuant to HRCP Rule 54(b). See, e.g., Leslie v. Estate of Tavares, 109 Hawai'i 8, 13, 122 P.3d 803, 808 (2005) ("[A] judgment or order in a consolidated case, disposing of fewer than all claims among all parties, is not appealable in the absence of [HRCP] Rule 54(b) certification."). The circuit court has not entered a separate judgment that resolves, on its face, all of the claims in this consolidated case.

The August 14, 2008 order is not a judgment, but rather, the August 14, 2008 order is an interlocutory order. The

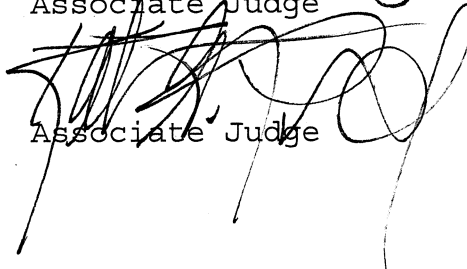
circuit court did not certify the August 14, 2008 order for an interlocutory appeal pursuant to HRS § 641-1(b) (1993 & Supp. 2007). Therefore, absent an appealable final judgment, this appeal is premature and must be dismissed for lack of appellate jurisdiction.

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

DATED: Honolulu, Hawai'i, November 21, 2008.


Presiding Judge


Associate Judge


Associate Judge