

NO. 29658

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

THE TRASHMAN, LLC, a Hawaii limited liability company,  
Lienor-Appellant,

v.

HABITAT FOR HUMANITY LEEWARD OAHU, INC.,  
Owner/Respondent-Appellee,

(M.L. No. 08-1-0058)

*Norma T. Yeh*  
NORMA T. YEH  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2009 OCT 19 AM 8:01

FILED

RENT A FENCE, INC., a Hawaii corporation,  
Lienor-Appellant,

v.

HABITAT FOR HUMANITY LEEWARD OAHU, INC.,  
Owner/Respondent-Appellee,

(M.L. No. 08-1-0059)

HOKULEA HAULING, LLC., a Hawaii limited liability company,  
Lienor-Appellant,

v.

HABITAT FOR HUMANITY LEEWARD OAHU, INC.,  
Owner/Respondent-Appellee,

(M.L. No. 08-1-0060)

and

JOHN DOES 1-10, et al., Respondents

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT

ORDER DISMISSING APPEAL  
FOR LACK OF APPELLATE JURISDICTION  
(By: Nakamura, C.J., Watanabe and Leonard, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Lienor-Appellant The Trashman, LLC (Appellant The Trashman), has asserted from the Honorable

**NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER**

Eden Elizabeth Hifo's January 27, 2009 "Order Granting Owner/Respondent Habitat for Humanity Leeward Oahu, Inc.'s[.] Motion to Dismiss" (the January 27, 2009 dismissal order) and February 26, 2009 "Order Denying Lienors The Trashman, LLC, Rent a Fence, Inc., and Hokulea Hauling, LLC's[,] Motion for Reconsideration of Order Granting Owner/Respondent Habitat for Humanity Leeward Oahu, Inc.'s[,] Motion to Dismiss Filed January 27, 2009" (the February 25, 2009 order denying reconsideration) because the circuit court has not yet reduced these orders to a separate judgment, as Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) requires under the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2008) 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). 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 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. In a consolidated case, the circuit court must enter a single judgment that resolves all claims in all of the cases that the circuit court has consolidated, unless the circuit

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court certifies the judgment (on less than all claims) for appeal pursuant to HRCF 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 [HRCF] Rule 54(b) certification."). "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Jenkins, 76 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted).

Appellant The Trashman has attempted to appeal from two interlocutory orders that the circuit court has not reduced to a separate judgment, as HRCF Rule 58 requires. Absent an appealable separate judgment, Appellant The Trashman's appeal is premature, and we lack appellate jurisdiction.

Therefore, IT IS HEREBY ORDERED that appellate court case number 29658 is dismissed.

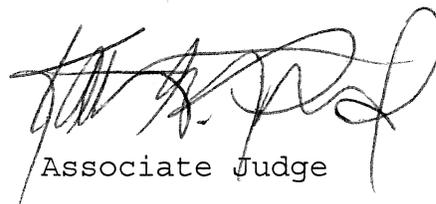
DATED: Honolulu, Hawai'i, October 19, 2009.



Chief Judge



Associate Judge



Associate Judge