

*** NOT FOR PUBLICATION ***

NO. 27309

IN THE SUPREME COURT OF THE STATE OF HAWAII

EUGENE L. SABADO
CLERK, SUPREME COURT
STATE OF HAWAII

2005 AUG 25 AM 8:36

FILED

BG INCORPORATED, a Hawai'i corporation,
Lienor-Appellee,

vs.

P.F. THREE PARTNERS, a Hawai'i limited partnership,
Respondent-Appellant,

and

DOES 1-100, Respondents.

APPEAL FROM THE SECOND CIRCUIT COURT
(M.L. NO. 04-1-0018(3))

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the appeal of the May 25, 2005 order denying the motion to compel arbitration is moot inasmuch as the application for a mechanic's lien was decided by the circuit court and the appeal of the May 25, 2005 order will afford appellant a remedy in name, but not an adequate remedy in fact. See Assn. of Owners of Kukui Plaza v. Swinerton & Walberg, 68 Haw. 98, 107, 705 P.2d 28, 35 (1985); Koolau Radiology, Inc. v. Queen's Medical Center, 73 Haw. 433, 444, 834 P.2d 1294, 1300 (1992).

It further appears that the appeal of the May 25, 2005 order granting the application for a mechanic's lien is premature inasmuch as the order was not reduced to a separate judgment, as

*** NOT FOR PUBLICATION ***

required by HRCP 58. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994) (an order that resolves claims in a circuit court civil case is not appealable unless the order is reduced to a separate judgment pursuant to HRCP 58). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed.

Dated: Honolulu, Hawai'i, August 25, 2005.



Steven A. Loomer

Anna C. Takaiama



James E. Duffy, Jr.