

*** NOT FOR PUBLICATION ***

NO. 27811

IN THE SUPREME COURT OF THE STATE OF HAWAII

ENRIQUANDO
CLERK APPELLATE COURTS
STATE OF HAWAII

2006 JUN 16 AM 8:20

FILED

UNITY HOUSE, INCORPORATED, Plaintiff-Appellee,

vs.

HEAVENLY ROAD PRODUCTIONS, INC., and MICHAEL LUCAS,
Defendants-Appellants.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 98-5043)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

Upon review of the record, it appears that we lack jurisdiction over Defendants-Appellants Heavenly Road Productions, Inc. (Appellant Heavenly Road Productions), and Michael Lucas's (Appellant Lucas) appeal in this case, because the Honorable Bert I. Ayabe's February 9, 2006 judgment does not satisfy the requirements for an appealable final judgment under HRS § 641-1(a) (1993), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCP Rule 58 separate document rule, "[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 v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119,

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

*** NOT FOR PUBLICATION ***

869 P.2d 1334, 1338 (1994).

[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).

The February 9, 2006 does not expressly enter judgment in favor of any party, and, furthermore, the February 9, 2006 judgment enters judgment against, among other persons, a "Defendant David Glasser," even though no one by that name is a party in this case. Therefore, the February 9, 2006 judgment does not enter judgment in favor of and against the appropriate parties. In addition, although Plaintiff-Appellee Unity House, Inc.'s (Appellee Unity House), complaint asserted two separate counts for breach of contract against Appellant Heavenly Road Productions and Appellant Lucas, the February 9, 2006 judgment does not sufficiently identify the claim or claims for which it is entered. "If the circuit court intends that claims other than those listed in the judgment language should be dismissed," then the circuit court should include operative language within the judgment that orders "all other claims, counterclaims, and cross-claims are dismissed." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 120 n.4, 869 P.2d at 1339 n.4. (internal quotation marks omitted).

Therefore, the February 9, 2006 judgment does not satisfy the appealability requirements of HRS § 641-1(a) (1993) and the HRCF Rule 58 separate document rule under our holding in

*** NOT FOR PUBLICATION ***

Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, the appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, June 16, 2006.

FOR THE COURT:

Anna C. Rukunara
Associate Justice

