

*** NOT FOR PUBLICATION ***

NO. 27892

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

143 NENUE HOLDINGS, LLC, a Hawaii limited liability company,
Plaintiff-Appellee,

vs.

SUZANNE BONDS, aka Suzanne Duong Bonds, Defendant-Appellant.

SUZANNE BONDS, Counterclaimant-Appellant,

vs.

143 NENUE HOLDINGS, LLC, a Hawaii limited liability company,
Counterclaim Defendant/Appellee,

and

AMERIQUEST MORTGAGE COMPANY, a Delaware corporation,
Additional Counterclaim Defendant/Appellee,

and

RONALD G.S. AU, RYAN G.S. AU and NATALIE AU, Additional
Counterclaim Defendants-Appellees,

and

FREDDIE FRANCO, ALALA MANAGEMENT, LLC, a Hawaii limited liability
company; and DOES 1 THROUGH 20,
Additional Counterclaim Defendants.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 05-1-0377)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

HONOLULU
CLERK OF APPELLATE COURTS
STATE OF HAWAII

2006 JUN 19 AM 9:30

FILED

Upon review of the record, it appears that we lack
jurisdiction over Defendant/Counterclaim Plaintiff/Appellant

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

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Suzanne Bonds's (Appellant Bonds) appeal in this case, because the Honorable Karen S. S. Ahn's April 18, 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 (HRCPP), and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRCPP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Thus, "[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 HRCPP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 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 April 18, 2006 judgment neither enters judgment on nor dismisses (a) Appellant Bonds's counterclaim against Additional Counterclaim Defendants/Appellees Freddie Franco and Alala Management, LCC, and (b) Counts XI, XII, XIV and XIV of Appellant Bonds's counterclaim against Plaintiff/Counterclaim Defendant/Appellee 143 Nenu Holdings, LLC. Instead, the April 18, 2006 judgment merely refers to past court orders that dismissed those claims. Although the April 18, 2006 judgment contains statements that declare that "[t]his final

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judgment disposes of all of the claims, counterclaims and cross claims raised by any and all parties in this action[,]” and “[t]here are no remaining claims or parties[,]” we have explained under analogous circumstances that “[a] statement that declares ‘there are no other outstanding claims’ is not a judgment.” Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai‘i at 119-20 n.4, 869 P.2d at 1338-39 n.4. “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 that “all other claims, counterclaims, and cross-claims are dismissed.” Id. (internal quotation marks omitted).

Therefore, the April 18, 2006 judgment does not satisfy the appealability requirements of HRS § 641-1(a) (1993) and the HRCP Rule 58 separate document rule under our holding in 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 19, 2006.

FOR THE COURT:

Puna C. Nakayama
Associate Justice

