

NO. CAAP-13-0001619

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

AMERICAN SAVINGS BANK, Plaintiff-Appellant,  
v.

BURTON A. BRAY, also known as BURTON ALLEN BRAY,  
individually and as Trustee of the Burton Allen Bray Trust  
Dated September 21, 2005, Kulana Association of Unit Owners,  
Defendants-Appellees,

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10,  
DOE CORPORATIONS 1-10, DOE LIMITED LIABILITY ENTITIES 1-10,  
DOE ENTITIES 1-10, DOE GOVERNMENTAL UNITS 1-10, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CIVIL NO. 11-1-0102)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION

(By: Nakamura, C.J., Leonard and Reifurth, JJ.)

Upon review of the record on appeal in CAAP-13-0001619, it appears that this court lacks appellate jurisdiction. Hawaii Revised Statutes (HRS) § 641-1(a) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" (Emphasis added). Appeals under HRS § 641-1 (1993 & Supp. 2008) "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c). HRCF Rule 58 requires that "[e]very judgment shall be set forth on a separate document."

HRCP Rule 58. Based on this requirement under HRCP Rule 58, 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). "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." Id. at 120, 869 P.2d at 1339 (footnote omitted).

The Order Granting Defendant Burton A. Bray's Motion to Dismiss Complaint Filed June 8, 2011 for Failure to File Pretrial Statement, Filed April 3, 2013, filed on May 24, 2013 was not reduced to a separate judgment, as required by HRCP Rule 58 and Jenkins. Therefore, this court lacks jurisdiction.<sup>1</sup>

Therefore,

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

DATED: Honolulu, Hawai'i, November 26, 2013.

Chief Judge

Associate Judge

Associate Judge

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<sup>1</sup> The court notes that Appellant's claim against Kulana Association of Unit Owners has not been adjudicated and no judgment entered thereon, as required by Jenkins.