

NO. CAAP-14-0000518

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KUALOA RANCH, INC., Plaintiff-Appellee,

v.

PHOEBE P. LOPES; STELLA R. MAKI; DARLENE K. VAAI (ALSO FOR) LYLE K. RODRIGUES; MELVIN K. RODRIGUES; GAIL H. WATTS; MADELINE L. MAIAVA; MAY WARREN; CLARA GONZAGA; LILY BURKE; LINDA K.H. KAMAI; LAYLA U. BURKE; LAYLA U. KAEHU; JAMES PUA KAAI; DAWN WASSON; LEILEHUALANI K.E.L. KANE, Defendants-Appellants,

and

NAHOLOWAA (k) aka NAHOLOAA (k) SATABI (k) aka KAPAKI NAHOLOWAA aka LABATI; KAPAU (k); JOHN KAIKEKI; KINI KAIKEKI (w) aka KINI KEKEIKI (w); KALAMA KAAIKEIKI (k) aka KALAMA KEIKEIKI (k); KAUI (k); KAOHI (k); ELENA PALEA aka ELENA KULUWAIMAKA aka ELENA KAPAKI; ARCHIBALD KAHELE (k); SAMUEL K. KAHELE (k); CLARA KEALA KAMAKEEAINA (w), aka CLARA KAHELE KAMAKEEAINA (w); ELAINE KALEIPUALA MIOI (w) aka ELAINE GUIEB; PAUL MIOI; JUDITH MIOI; JERRY GUIEB; WILLIAM KAMAKEEAINA; GLENN KAMAKEEAINA; TRISHA MAHEALANI KAMAKEEAINA; PHOEBE P. KALEO (w); JAMES H. KALEO SR.; JAMES H. "KIMO" KALEO JR.; HORACE K. KAMAKEEAINA (k); LILY K. KAMAKEEAINA; HORACE N. "BOZO" KAMAKEEAINA; FILSANN K. KAMAKEEAINA; ALBERT K. KAMAKEEAINA; MAYLISAJAY KAMAKEEAINA; LIZZIE K. KAINA; CLARENCE KAINA JR.; LAVERNE KAINA; LIZZIE KAINA aka ELISABETH ENDO; YOLANDA K. KAINA; KALANI KAINA; MAIKA KAINA (k) aka MIKA WRIGHT; KAUWELA KAINA aka KAUWELA WRIGHT; EMILY GOMES; STELLA K. KAAI; PAUL KAAI; ASHLEY KAAI; WILLIAM KAAI; HAROLD KAAI; LAKEMAHI KAAI; WAYNE KAAI; PAMELA GRAVELY; HIRAM KELIIHOLOKAI KAHELE, SR., (k); MARY K. KAHELE (w); MARY K. KANEALII (w); BENJAMIN KANEALII, JR.; RODNEY P. KAHELE (k); SOLOMON K. KAHELE (k); HIRAM K. KAHELE, JR.; HORACE K. KAHELE; ARCHIE E. KAHELE; EUGENE K. KAHELE; SHIRLEY BUSHE fka SHIRLEY N. KAHELE (w); LARRY BUSHE JR.; NALANI VASQUEZ; LEI BUSHE aka ALIDA L.

DOROTHY; ABAGAIL SOUZA fka ABIGAIL M. KAHELE (w); JACOB K. KAHELE; ISABELLE MAKALII fka ISABELLE L. KAHELE (w); RAMONA L. MEYERS fka RAMONA K. KAHELE (w); TIMOTHY KAHELE; HANNAH K. CORN (w); LIBBY L. CHO; CAROLINE K. LOCQUIAO; TY KAMAKEEAINA; CLYDE P. KAMAKEEAINA; JUNIOR KAMAKEEAINA aka JUNIOR LOCQUIAO; NALANI KAMAKEEAINA aka JANICE N. LOCQUIAO; VICKI MENDIOLA aka VICTORIA MENDEOLA; AUDREY K. BRIDGES; CY M. BRIDGES; KYLE K. BRIDGES; GEORGE K. BRIDGES; STACEY H. BRIDGES (k); GAILENE S. HOOLAULEA BRIDGES STEFFEN; JENNIE K. KAIO; CARL KAIO; STEVEN KAIO; DEBRA STANLEY; DELL-FIN BROOKS; JERILYN FELY; DANIEL LONO KAMAKEEAINA; JOHN S. KAMAKEEAINA; DANIEL KAMAKEEAINA; WAYNE KAMAKEEAINA; STENDER KAMAKEEAINA; CHARLENE KAMAKEEAINA (w); OLGA "NANI" K. TUA; AMALANI TUA (k); ELLEN K.K. BRYANT (w); JOSEPH KEOHO BRYANT; SARAH BRYANT; CHARLES BRYANT; JAMES BRYANT; CALVIN BRYANT; JOHN BRYANT; HERBERT PAKU; ESTHER GILMAN; JEANETTE MEDEIROS; IWANE GRAY; ELLEN BRYANT; WILHEMINA SUPAPO aka WILHELMIN SUPAPO; LAVAINA SEUMANUTAFU; MARY KEHENEKUKAI YADAO; CHARLES YADAO; CERILO YADAO; JULIE FRIERSON; JENNIE LORENZANA aka JENNIE DOMINGO; LAWRENCE PAI; KALANI AH MAU BISHAW; JOSHUA AH MAU BISHAW; ESTHER KAMAE K. RODRIGUES (w); ALAN K. RODRIGUES KAHELE aka ALAN RODRIGUES; JOLANDA-MAE R. RODRIGUES KAHELE; ROLAND RODRIGUES; JOHN RODRIGUES JR.; LESLIE RODRIGUES; ESTHER GILMAN; CHARLOTTE "KEAHAULANI" UBANDO; GAIL "HUANANI" RODRIGUES; LESLEY RODRIGUES (k); FRANCES KALAMAU; KANAKA CISCO; EDDIE "TIGER" KALAMAU; KEHAULANI KALAMAU (w); KALONA KALAMAU (w); DONNALYN DEMELLO; DARNELLE DEMELLO; JACOB K. KAHELE (k); LANA GAIL HEINRICH; SAMUEL KELIIHOLOKAI KAHELE SR.; GEORGIANA KAHELE; PEARL LEIMOMI MONTERO; ELIZABETH KAPUAOKALANI FERRER; SOLOMON P. PALEA (k); FRANCIS KUHAUPIO PIHANUI PALEA (k); DAISY KEANINI VALES (w), aka DAISY PALEA VALES (w) aka DAISY CAMBRA VALES (w); MAY H. VILLACRUZES (w); AUGUST K. CAMBRA, SR.; BREDE CAMBRA; AUGUST K. CAMBRA, JR.; VERNA H. SCHUBERT; RICHARD R. VALES (k); JUIANA SAMPOANG; Their heirs or assigns, Defendants-Appellees,

and

DOE DEFENDANTS 1-100; AND ALL WHOM IT MAY CONCERN, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 13-1-0038)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Ginoza, JJ.)

Upon review of the record on appeal, it appears that we do not have appellate jurisdiction over this appeal by Defendant/

Cross-Claim Defendant/Appellant/Cross-Appellee Phoebe P. Lopes and the cross-appeals by numerous cross-appellants from the Honorable Jeannette Castagnetti's January 16, 2014 order granting Plaintiff/Counterclaim-Defendant/Appellee/Cross-Appellee Kualoa Ranch, Inc.'s (Appellee Kualoa Ranch), motion for summary judgment as to its January 14, 2013 first amended complaint to quiet title (the January 16, 2014 summary judgment order), because the circuit court has not yet reduced the January 16, 2014 summary judgment order to a separate and appealable final judgment, as Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2013) and Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) require for an appeal from a civil circuit court case under the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRS § 641-1(a) authorizes appeals to the intermediate court of appeals from final judgments, orders, or decrees. Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." The Supreme Court of Hawai'i requires 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, 76 Hawai'i at 119, 869 P.2d at 1338. "Thus, based on Jenkins and HRCP Rule 58, an order is not appealable, even if it resolves all claims against the parties, until it has been reduced to a separate judgment." Carlisle v. One (1) Boat, 119 Hawai'i 245, 254, 195 P.3d 1177, 1186 (2008). When interpreting the requirements for a judgment under HRS § 641-1(a) and HRCP Rule 58 approximately twenty years ago, the Supreme Court of Hawai'i explained that

[i]f we do not require a judgment that resolves on its face all of the issues in the case, the burden of searching the often voluminous circuit court record to verify assertions of jurisdiction is cast upon this court. Neither the parties nor counsel have a right to cast upon this court the burden of searching a voluminous record for evidence of finality, . . . and we should not make such searches necessary by allowing the parties the option of waiving the requirements of HRCP [Rule] 58.

Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338 (original emphasis). Consequently, "[a]n appeal from an order that is not reduced to a judgment in favor of 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 January 16, 2014 summary judgment order does not expressly resolve all of the parties' claims (such as some of the defendants' counterclaims and cross-claims). Nevertheless, even assuming, arguendo, the January 16, 2014 summary judgment order does resolve all of the parties' claims, the January 16, 2014 summary judgment order is not a judgment, but, instead, it is an order, and "an order is not appealable, even if it resolves all claims against the parties, until it has been reduced to a separate judgment." Carlisle, 119 Hawai'i at 254, 195 P.3d at 1186. On March 10, 2014, the circuit court clerk filed the record on appeal for appellate court case number CAAP-14-0000518, which does not contain a separate and appealable final judgment that resolves all claims. Absent a separate and appealable final judgment that resolves all of the parties' claims in this case, the appeal and cross-appeals in appellate court case number CAAP-14-0000518 are premature and we lack appellate jurisdiction to review the January 16, 2014 summary judgment order. Accordingly,

IT IS HEREBY ORDERED that appellate court case number CAAP-14-0000518 is dismissed for lack of appellate jurisdiction, and all pending motions are dismissed as moot.

DATED: Honolulu, Hawai'i, March 21, 2014.

Presiding Judge

Associate Judge

Associate Judge