

NO. CAAP-16-0000033

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HAWAII SUPPLY, LLC a Hawaii limited liability company,
Lienor-Appellant,
v.
HERBERT H. WOOTEN, HERBERT WOOTEN, JR., dba HW ROOFING,
Contractor-Appellees,
and
RAFAEL DELOS REYES and ESTELA DELOS REYES,
Owners-Appellees,
and
BANK OF HAWAII and BANK OF AMERICA, N.A.,
Mortgagees-Appellees,
and
JOHN DOES 1-100, JANE DOES 1-100, DOE TRUSTEES 1-100,
DOE CORPORATIONS 1-100, DOE PARTNERSHIPS 1-100,
and DOE ENTITIES 1-100, Unidentified Respondents

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(M.L. NO. 15-1-0031)

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

Upon review of the record in CAAP-16-0000033 it appears that this court lacks appellate jurisdiction over the appeal. Lienor-Appellant Hawaii Supply, Inc. (Appellant) appeals from an "Order Denying Application for Mechanic's and Materialman's Lien,

Filed on November 4, 2015," filed on December 3, 2015 in the Circuit Court of the First Circuit.

"[A]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2015). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP) requires that "[e]very judgment shall be set forth on a separate document." HRCPP Rule 58. Based on this requirement under HRCPP Rule 58, the Supreme Court of Hawai'i has held that "[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) (emphasis added). "Thus, based on Jenkins and HRCPP 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); Bailey v. DuVauchelle, 135 Hawai'i 482, 489, 353 P.3d 1024, 1031 (2015). "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." Jenkins, 76 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted). There being no separate judgment in the record on appeal that complies with HRCPP Rule 58 and Jenkins, this court lacks appellate jurisdiction over the appeal.

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

DATED: Honolulu, Hawai'i, May 26, 2016.

Presiding Judge

Associate Judge

Associate Judge