

NO. CAAP-16-0000857

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

COUNTY OF MAUI,
Plaintiff/Counterclaim-Defendant/Appellee,
v.
RICHARD ALLEN CASTRO, LIANN CASTRO, AND CHRISSIE H. CASTRO,
Defendants/Counterclaim-Plaintiffs/Cross-Claim
Defendants/Appellants
and
ASSOCIATION OF APARTMENT OWNERS OF KIHEI VILLAGES,
Defendant/Cross-Claim Plaintiff/Appellee
and
ARGENT MORTGAGE COMPANY, LLC, PRINCETON RECONVEYANCE SERVICE,
BENEFICIAL HAWAII, INC., HAWAI'I DEPARTMENT OF TAXATION,
STATE OF HAWAI'I, Defendants/Cross-Claim Defendants/Appellees
and
JOHN DOES 1-20 and DOE ENTITIES 1-20,
Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 15-1-0650(1))

AMENDED

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

Upon review of Defendants/Counterclaim-Plaintiffs/
Cross-Claim Defendants/Appellants Richard Allen Castro, Liann
Castro and Chrissie H. Castro's (the Castro Appellants) appeal
from the Honorable Rhonda I.L. Loo's November 14, 2016 judgment,
it appears that we lack appellate jurisdiction because the
circuit court's November 14, 2016 judgment does not comply with

the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) 641-1(a) (2016), Rule 58 of the Hawaii Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRS 641-1(a) authorizes appeals to the Hawaii'i 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." Based on HRCP Rule 58, the Supreme Court of Hawaii'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 Hawaii'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 Hawaii'i 245, 254, 195 P.3d 1177, 1186 (2008); Bailey v. DuVauchelle, 135 Hawaii'i 482, 489, 353 P.3d 1024, 1031 (2015). Furthermore,

if 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[.]

Jenkins, 76 Hawaii'i at 119, 869 P.2d at 1338 (emphases added).

For example: "Pursuant to the jury verdict entered on (date), judgment in the amount of \$___ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint." If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphasis added). When interpreting the requirements for an appealable final judgment under HRS § 641-1(a) and HRCP Rule 58, the Supreme Court of Hawai'i has 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 (citation omitted; original emphasis).

Although the instant case involves multiple claims as a result of Plaintiff/Counterclaim-Defendant/Appellee County of Maui's complaint, the Castro Appellants' counterclaim, and Defendant/Cross-Claim Plaintiff/Appellee Association of Apartment Owners of Kihei Villages' (Appellee AOA Kihei Villages) multiple cross-claims, the November 14, 2016 judgment does not identify the claim or claims on which the circuit court intends to enter judgment when it enters judgment in favor of Appellee AOA Kihei Villages and against the Castro Appellants and Defendants/Cross-Claim Defendants/Appellees Argent Mortgage Company, LLC, Princeton Reconveyance Service, and Beneficial Hawaii, Inc. In the absence of any identification of the claim or claims on which the circuit court intends to enter judgment, the November 14, 2016 judgment fails to satisfy the requirements for an appealable final judgment under HRS 641-1(a), HRCP Rule 58, and the holding in Jenkins, and thus, the November 14, 2016 judgment is not eligible for appellate review. Accordingly,

IT IS HEREBY ORDERED that appellate court case number CAAP-16-0000857 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 31, 2017.

Presiding Judge

Associate Judge

Associate Judge