

NO. CAAP-17-0000090

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

PFLUEGER HAWAII, INC., Plaintiff-Appellant,
vs.
HAWAII AUTOMOTIVE, LLC; and DANIEL J. KEPPEL,
Defendants-Appellees,
and
JOHN DOES 1-20; JANE DOES 1-20; DOE CORPORATIONS 1-20;
DOE GOVERNMENTAL AGENCIES 1-20; and DOE ENTITIES 1-20,
Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 15-1-1524)

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

Upon review of the record, it appears that we lack jurisdiction over this appeal by Plaintiff-Appellant Pflueger Hawaii, Inc. (**Appellant**) because the Circuit Court of the First Circuit¹ (**circuit court**) has not has not yet reduced its dispositive rulings on substantive claims to a separate judgment that resolves all claims against all parties in the case pursuant to Rule 58 of Hawai'i Rules of Civil Procedure (**HRCP**) and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

¹ The Honorable Rhonda A. Nishimura presided.

Under Hawai'i law, "[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) (Repl. 2016). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c) (1993). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." 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 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); Bailey v. DuVauchelle, 135 Hawai'i 482, 489, 353 P.3d 1024, 1031 (2015).

The Hawai'i Supreme Court has held that a final judgment in a case involving multiple claims or parties "(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 Haw. at 119, 869 P.2d at 1338.

"[A]n appeal from any judgment will be dismissed as premature if the judgment does not, *on its face*, either resolve all claims against all parties or contain the finding necessary for certification under HRCP 54(b)." Id. The Supreme Court of Hawai'i has noted:

If 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.

In this case, the Complaint alleges four counts: Counts I, II, II [sic], and III. The August 4, 2016 Stipulated Judgment is not final and appealable because it fails to identify the claim(s) on which the circuit court intended to enter judgment.

The December 27, 2016 "Order Granting in Part and Denying Part '[Appellant's] Motion for Charging Order and Foreclosure of Lien on Judgment Debtor [Defendant-Appellee] Daniel J. Keppel's [(Keppel's)] Interest in Maui Automotive, LLC [(Maui Auto)]' Filed on September 15, 2016," and the January 23, 2017 "Order Denying '[Appellant's] Motion for Reconsideration of Order Granting in Part and Denying in Part Motion for Charging Order and Foreclosure of Lien on Judgment Debtor [Keppel's] Interest in [Maui Auto] Filed September 15, 2016 [Filed on December 27, 2016],' Which Motion for Reconsideration was Filed on January 6, 2017" are interlocutory orders, which are not final because they do not end the proceedings, leaving nothing further to be accomplished. Although exceptions to the final judgment requirement exist under the Forgay v. Conrad, 47 U.S. 201 (1848), doctrine (the Forgay doctrine), the collateral-order doctrine, and HRS § 641-1(b), none of these exceptions applies. See Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995); Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 322, 966 P.2d 631, 634 (1998); HRS § 641-1(b).

Absent an appealable, final judgment, this court lacks jurisdiction over the appeal.

Therefore, IT IS HEREBY ORDERED that Appeal No. CAAP-17-0000090 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 29, 2017.

Presiding Judge

Associate Judge

Associate Judge