NO. 30056

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

MOLOKAI PROPERTIES LIMITED fka MOLOKAI RANCH, LIMITED, Appellant-
Appellant

v.

DEPARTMENT OF HEALTH, STATE OF HAWAI'I,
COUNTY OF MAUI; MOLOKAI PUBLIC UTILITIES, INC.;
WAI'OLA O MOLOKAI, INC., and MOSCO, INC., Appellees-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 08-1-1877)

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

        Upon review of the record, it appears that we lack

jurisdiction over this appeal that Appellant-Appellant Molokai

Properties, Limited, fka Molokai Ranch, Limited (Appellant

Molokai Properties), asserted from the Honorable Eden Elizabeth

Hifo's August 18, 2009 judgment, because the August 18, 2009

judgment does not satisfy the requirements for an appealable

final judgment under Hawaii Revised Statutes (HRS) § 641-1(a)

(1993 & Supp. 2008), Rules 58 and 72(k) of the 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).

        When a circuit court adjudicates an appeal from an

administrative agency order, "[r]eview of any final judgment of

the circuit court under this chapter shall be governed by chapter

602." HRS § 91-15 (1993). The intermediate court of appeals has

jurisdiction "[t]o hear and determine appeals from any court or

agency when appeals are allowed by law[.]" HRS § 602-57(1) (1993 & Supp. 2008). Under Hawaiʻi law, "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" HRS § 641-1(a) (1993 & Supp. 2008). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement under HRCP Rule 58, the supreme court 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 Hawaiʻi at 119, 869 P.2d at 1338 (emphasis added). 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[.]

Id. (emphases added). HRCP Rule 72(k) similarly requires that, upon a circuit court's adjudication of an administrative appeal, "the court having jurisdiction shall enter judgment." HRCP Rule 72(k). Therefore, the separate judgment document rule under the holding in Jenkins applies to a secondary appeal from a circuit court order that adjudicates an administrative appeal. See, e.g., Raquinio v. Nakanelua, 77 Hawaiʻi 499, 500, 889 P.2d 76, 77 (App. 1995) ("We conclude . . . that the requirements for appealability set forth in Jenkins apply to appeals from circuit court orders deciding appeals from orders entered by the Director of Labor and Industrial Relations.").

Although the circuit court reduced its dispositive order to the separate August 18, 2009 judgment, the August 18, 2009 judgment does not, on its face, resolve this administrative appeal with respect to all of the named parties in this case, as the holding in Jenkins requires. Instead, the August 18, 2009 judgment resolves this administrative appeal only as to Appellant Molokai Properties and Appellees-Appellees Department of Health, State of Hawaiʻi, and County of Maui. The August 18, 2009 judgment does not resolve this administrative appeal as to Appellees-Appellees Molokai Public Utilities, Inc. (Appellee MPU), Waiʻola O Molokai, Inc. (Appellee Waiʻola O Molokai) and Mosco, Inc. (Appellee Mosco) because the August 18, 2009 judgment neither (a) enters judgment as to Appellees MPU, Waiʻola O Molokai and Mosco nor (b) dismisses this administrative appeal as to Appellees MPU, Waiʻola O Molokai and Mosco, despite that they are named parties in this administrative appeal. The fact that Appellees MPU, Waiʻola O Molokai and Mosco chose not to be as active as other parties in this administrative appeal is irrelevant with respect to the requirement for a judgment to resolve all claims against all parties; Appellees MPU, Waiʻola O Molokai and Mosco are named parties and the administrative appeal will not end until the circuit court enters a judgment that, on its face, resolves the administrative appeal as to all named parties. Although the August 18, 2009 judgment states that there are no remaining claims, parties or issues in this case, the supreme court has explained that,

> [a] statement that declares "there are no other outstanding

claims" is <u>not a judgment</u>. 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 "<u>all other claims,
counterclaims, and cross-claims are dismissed</u>."

<u>Jenkins</u>, 76 Hawai'i at 119-20 n.4, 869 P.2d at 1338-39 n.4
(emphases added).

Because the August 18, 1009 judgment does not resolve
this administrative appeal as to all named parties, the
August 18, 2009 judgment does not satisfy the requirements for an
appealable final judgment under HRS § 641-1(a), HRCP Rule 58,
HRCP Rule 72(k), and the holding in <u>Jenkins</u>. Absent an
appealable final judgment, this appeal is premature and we lack
jurisdiction. Accordingly,

IT IS HEREBY ORDERED AND DECREED that Appeal No. 30056
is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, January 13, 2010.

Presiding Judge

Associate Judge

Associate Judge