

NO. CAAP-15-0000713

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

MAUI LANI NEIGHBORS, INC., a Hawaii Nonprofit corporation,
Plaintiff-Appellant,

v.

STATE OF HAWAII; STATE OF HAWAII DEPARTMENT OF LAND AND
NATURAL RESOURCES; STATE OF HAWAII BOARD OF LAND AND
NATURAL RESOURCES; WILLIAM AILA, JR., in his official
capacity as chair of the State of Hawaii Board of Land
and Natural Resources; COUNTY OF MAUI; COUNTY OF MAUI
PLANNING COMMISSION; COUNTY OF MAUI DEPARTMENT OF
PLANNING; WILLIAM SPENCE in his official capacity as
County of Maui Planning Director, Defendants-Appellees,
and

JOHN DOES 1-10; JANE DOES 1-10; and DOE PARTNERSHIPS,
CORPORATIONS, GOVERNMENTAL UNITS OR OTHER ENTITIES, 1-10,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 14-1-0501(2))

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

Upon review of the record, it appears that this court
lacks jurisdiction over Plaintiff-Appellant Maui Lani Neighbors,
Inc., a Hawaii Nonprofit Corporation's (**Appellant's**), appeal in

this case from the Circuit Court of the Second Circuit's February 23, 2015 "Findings of Fact, Conclusions of Law, and Order Granting (1) [Defendants-Appellees] State of Hawai'i, State of Hawai'i, Department of Land and Natural Resources, State of Hawai'i Board of Land and Natural Resources, and William Aila, Jr.'s [sic], in his Official Capacity as Chair of the State of Hawai'i Board of Land and Natural Resources, December 5, 2014 Motion for Partial Dismissal of [Appellant's] Motion and (2) Dismissing With Prejudice Counts I, II, III, IV, V, VI, VIII, and IX of the First Amended Verified Complaint" (**Order Granting State Appellees' Motion to Dismiss**) and September 10, 2015 "Order Granting [Appellant's] July 6, 2015 Motion: (1) For Dismissal Without Prejudice of Count VII; and (2) For Final Judgment"¹ (**Order Granting Appellant's Motion for Dismissal and Final Judgment**). The foregoing have not yet been reduced to a separate judgment that resolves all claims against all parties in this case pursuant to Rule 58 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).

Under Hawai'i law, "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" HRS § 641-1(a) (Supp. 2015). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c) (Supp. 2015). Rule 58 of the HRCP requires that "[e]very judgment shall be set forth on a separate document." The Supreme Court of Hawai'i has held that

¹ The Honorable Peter T. Cahill issued the orders.

"[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, 76 Hawaii at 119, 869 P.2d at 1338. "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 Hawaii 245, 254, 195 P.3d 1177, 1186 (2008); Bailey v. DuVauchelle, 135 Hawaii 482, 489, 353 P.3d 1024, 1031 (2015). Furthermore, "an 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 HRCPP [Rule] 54(b)." Jenkins, 76 Hawaii at 119, 869 at 1338. When interpreting the requirements for a judgment under HRCPP Rule 58, the Supreme Court of Hawaii 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 HRCPP [Rule] 58.

Jenkins, 76 Hawaii at 119, 869 P.2d at 1338. "An 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 record on appeal in appellate court case number CAAP-15-0000713 contains no final judgment. Therefore, this appeal is premature.

IT IS HEREBY ORDERED that Appellate Case No. CAAP-15-0000713 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 4, 2016.

Presiding Judge

Associate Judge

Associate Judge