NO. CAAP-15-0000911

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

SHANELLE N. CATEIL and PAZ R. CATEIL,
Plaintiffs-Appellants,
v.
HAWAII PACIFIC UNIVERSITY, Defendant-Appellee,
and
JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10,
DOE PARTNERSHIPS 1-10, and DOE ENTITIES 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 15-1-0582-03)

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

Upon review of the record on appeal for Plaintiff-Appellant Paz R. Cateil's (Appellant Paz Cateil) appeal from the Honorable Karen T. Nakasone's December 29, 2015 judgment in favor of Defendant-Appellee Hawaii Pacific University (Appellee Hawaii Pacific University) and against the Appellant Paz Cateil as to Count 1, Count 4, Count 5, Count 6 and Count 8 of Appellant Paz Cateil and Plaintiff-Appellee Shanelle N. Cateil's (Appellee Shanelle Cateil) eight-count complaint in Civil No. 15-1-0582-03 (KTN), it appears that we lack appellate jurisdiction because the December 29, 2015 judgment does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2015), Rule 54(b) and Rule 58 of the Hawaiʻi Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaiʻi 115, 119, 869 P.2d 1334, 1338 (1994).

Under HRS § 641-1(a), an "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. "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 Hawaiʻi 245, 254, 195 P.3d 1177, 1186 (2008); Bailey v. DuVauchelle, 135 Hawaiʻi 482, 489, 353 P.3d 1024, 1031 (2015). Nevertheless, because a judgment must be final in order to be appealable under HRS § 641-1(a) and HRCP Rule 58, "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 HRCP [Rule] 54(b)." Jenkins, 76 Hawaiʻi at 119, 869 P.2d at 1338.

The December 29, 2015 judgment neither resolves all claims against all parties nor contains the finding necessary for certification under HRCP Rule 54(b). Although the circuit court subsequently entered a separate December 30, 2015 amended order that contains an express finding of no just reason for delay in the entry of judgment as to Count 1, Count 4, Count 5, Count 6 and Count 8 of Appellant Paz Cateil and Appellee Shanelle Cateil's eight-count complaint in Civil No. 15-1-0582-03 (KTN), the Supreme Court of Hawaiʻi has explained that "a party cannot appeal from a circuit court order even though the order may contain [HRCP Rule] 54(b) certification language; the order must be reduced to a judgment and the [HRCP Rule] 54(b) certification language must be contained therein." Oppenheimer v. AIG Hawaii Ins. Co., 77 Hawaiʻi 88, 93, 881 P.2d 1234, 1239 (1994) (emphases added). In other words, "[i]f a judgment purports to be certified under HRCP [Rule] 54(b), the necessary finding of no just reason for delay . . . must be included in the judgment." Jenkins, 76 Hawaiʻi at 120, 869 P.2d at 1339 (citation omitted; emphasis added). The December 29, 2015 judgment does not contain the HRCP Rule 54(b) certification language, namely an express

determination that "there is no just reason for delay" in the entry of judgment as to one or more but fewer than all of the claims or parties. Therefore, the December 29, 2015 judgment does not satisfy the requirements for an appealable final judgment under HRS § 641-1(a), HRCP Rule 54(b), HRCP Rule 58, and the holding in Jenkins. Absent an appealable final judgment, we lack appellate jurisdiction, and the Appellant Paz Cateil's appeal is premature.

Therefore, IT IS HEREBY ORDERED AND DECREED that appellate court case number CAAP-15-0000911 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawaiʻi, May 20, 2016.

Presiding Judge

Associate Judge

Associate Judge