

NO. 28219

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

GEORGE MIYASHIRO, Plaintiff-Appellant,
v.

ROEHRIG, ROEHRIG, WILSON & HARA; STANLEY H. ROEHRIG,
Attorney at Law, ALC; GLENN HARA, Attorney at Law;
CAROL MIYASHIRO; JEFF MIYASHIRO; TITLE GUARANTY CO;
and DOE DEFENDANTS 1-100, Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CV. NO. 04-1-0211)

ORDER DISMISSING APPEAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant George Miyashiro's (Appellant Miyashiro) appeal from the Honorable George M. Masuoka's October 11, 2006 "Order Granting Defendant Title Guaranty Escrow Services, Inc.'s Motion for Entry of Final Judgment," because the October 11, 2006 order is not an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rules 54(b) and 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 the HRCP Rule 58 separate document rule, "[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

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2006 DEC 29 AM 7:57

FILED

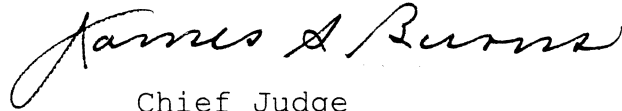
against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted). "HRCP [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'" Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996). Therefore, "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 Insurance Co., 77 Hawai'i 88, 93, 881 P.2d 1234, 1239 (1994).

The October 11, 2006 order purports to both (1) grant Defendant/Cross-Claim Plaintiff/Appellee Title Guaranty Co.'s (Appellee Title Guaranty) motion for the entry of a final judgment and (2) enter judgment in favor of Appellee Title Guaranty and against Appellant Miyashiro pursuant to HRCP Rule 54(b). However, the circuit court has not yet entered a separate judgment, as HRCP Rule 58 expressly requires for an appealable final judgment under the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent a separate, appealable, final judgment, this appeal is premature. Therefore,

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

IT IS HEREBY ORDERED that the appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, December 29, 2006.



Chief Judge



Associate Judge



Associate Judge