

*** NOT FOR PUBLICATION ***

NO. 26650

IN THE SUPREME COURT OF THE STATE OF HAWAII

TYLER O. YAMASHITA, Trustee of that Certain Unrecorded Trust
Dated August 9, 1990, Plaintiff-Appellee

vs.

DAE YOUNG DEVELOPMENT CORPORATION, a Hawai'i corporation, SUN
YONG LEE, Defendants-Appellants

and

WATUMULL INVESTMENT CO., LLC, Defendant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIV. NO. 1RC03-1-3783)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of appellants' statement of jurisdiction, appellee's motion to dismiss appeal and the record, it appears that the May 25, 2004 and June 4, 2004 orders denying relief from the judgment for possession were not appealable as an appeal from the judgment for possession inasmuch as the motion for relief from the judgment was not filed within ten days after entry of the judgment for possession. See HRAP 4(a)(3). The May 25, 2004 and June 4, 2004 orders did not finally end the litigation in Civil No. 1RC03-1-3783 inasmuch as the plaintiff's claim for damages has not been decided and the claims against defendant Watumull Investment Company have not been resolved by disposition entered on the record. Thus, the appeal of the May 25, 2004 and June 4, 2004 orders is premature and we lack jurisdiction. See

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HRS § 641-1(a); Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 427, 984 P.2d 1251, 1253 (1999) (a district court judgment or order is final and appealable under HRS § 641-1(a) if it ends the litigation by fully deciding the rights and liabilities of all parties and leaves nothing further to be adjudicated.).

Therefore,

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

DATED: Honolulu, Hawai'i, January 21, 2005.