

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 30056

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

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

v.

DEPARTMENT OF HEALTH, STATE OF HAWAII,
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 Hawaii Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 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

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JULIA HONOHONO
CLERK OF THE COURT
STATE OF HAWAII

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& Supp. 2008). 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) (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 Hawai'i 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 Hawai'i 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 Hawai'i, 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), Wai'ola O Molokai, Inc. (Appellee Wai'ola O Molokai) and Mosco, Inc. (Appellee Mosco) because the August 18, 2009 judgment neither (a) enters judgment as to Appellees MPU, Wai'ola O Molokai and Mosco nor (b) dismisses this administrative appeal as to Appellees MPU, Wai'ola O Molokai and Mosco, despite that they are named parties in this administrative appeal. The fact that Appellees MPU, Wai'ola 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, Wai'ola 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 not a judgment. 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 "all other claims, counterclaims, and cross-claims are dismissed."

Jenkins, 76 Hawai'i at 119-20 n.4, 869 P.2d at 1338-39 n.4

(emphases added).

Because the August 18, 2009 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), HRCF Rule 58, HRCF Rule 72(k), and the holding in Jenkins. 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