

**Electronically Filed  
Intermediate Court of Appeals  
CAAP-17-0000554  
29-MAR-2018  
10:11 AM**

NO. CAAP-17-0000554

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

RICHARD K. ADKINS and BROWN EYED GIRL, LLC,  
an Illinois Limited Liability Company,  
Plaintiffs-Appellants,

v.

GARY R. FISCHER; SAMANTHA K. FISCHER; and  
ANINI ALOHA PROPERTIES, INC., a Hawai'i corporation,  
Defendants/Third-Party Plaintiffs/Appellees,

and

STEVEN NICKENS; CBIP, INC., dba  
COLDWELL BANKER ISLAND PROPERTIES; AMY J. MARVIN; and  
HANAIEI NORTH SHORE PROPERTIES, LTD.,  
Third-Party Defendants/Appellees,

and

JOHN DOES 1-10, JANE DOES 1-10, et al., Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CIVIL NO. 13-1-0032)

ORDER

GRANTING DECEMBER 7, 2017 MOTION TO DISMISS  
APPEAL FOR LACK OF APPELLATE JURISDICTION

(By: Fujise, Acting Chief Judge, Reifurth and Ginoza, JJ.)

Upon review of (1) Third-Party Defendants/Appellees Steven Nickens (Nickens) and CBIP, Inc., dba Coldwell Banker Island Properties' (CBIP), December 7, 2017 motion to dismiss CAAP-17-0000554 for lack of appellate jurisdiction, (2) Third-Party Defendant/Appellee Hanalei North Shore Properties, Ltd.'s December 11, 2017 joinder to Nickens and CBIP's December 7, 2017 motion to dismiss, (3) Plaintiffs-Appellants Richard K. Adkins and Brown Eyed Girl, LLC's (the Appellants), December 13, 2017

Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338 (citation omitted; original emphasis). Consequently, "an order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." Alford v. City and Count of Honolulu, 109 Hawai'i 14, 20, 122 P.3d 809, 815 (2005) (citation omitted; emphasis added). "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." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted).

On September 15, 2017, the circuit court clerk filed the record on appeal for CAAP-17-0000554, which does not contain a separate judgment resolving all claims as to all parties. Furthermore, the record does not clearly indicate that the circuit court intends to enter a final judgment at this time, because the circuit court has not yet dismissed all claims as to all parties in Civil No. 13-1-0032. For example, neither the June 19, 2017 order of dismissal nor any other order dismissed Defendants/Third-Party Plaintiffs/Appellees Gary R. Fischer, Samantha K. Fischer, and Anini Aloha Properties, Inc.'s, June 3, 2013 third-party complaint as to Third-Party Defendant/Appellee Amy J. Marvin, which, thus, is a claim that is still unresolved and pending before the circuit court.

Absent a separate and appealable final judgment that resolves all claims as to all parties or a judgment entered pursuant to HRCP Rule 54(b), we lack appellate jurisdiction, and the Appellants' appeal is premature.

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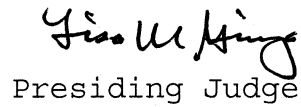
NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

Therefore, IT IS HEREBY ORDERED that Nickens and CBIP's December 7, 2017 motion to dismiss is granted, and appellate court case number CAAP-17-0000554 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 29, 2018.

  
Acting Chief Judge

  
Presiding Judge

  
Presiding Judge