

**Electronically Filed
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CAAP-21-0000036
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NO. CAAP-21-0000036

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

630 COOKE STREET PARTNERSHIP LP doing business as
NOHONA HALE, Plaintiff-Appellee, v.
MERCEDEZ GONZALEZ, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CIVIL NO. 1DRC-20-0005164)

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

Upon consideration of the Motion for Clarification of Notice of Appeal, which we construe as a motion to dismiss the appeal, by Plaintiff-Appellee 630 Cooke Street Partnership LP doing business as Nonoha Hale, the papers in support, and the record here, CAAP-21-0000036, and in the underlying case, Civil No. 1DRC-20-0005164, it appears we lack jurisdiction over the appeal by self-represented Defendant-Appellant Mercedes Gonzalez (**Gonzalez**) from Civil No. 1DRC-20-0005164 because the record for the underlying case lacks an appealable, final judgment or order.¹

On January 27, 2021, after the District Court of the First Circuit, Honolulu Division (**district court**) entered its January 19, 2021 Judgment for Possession (**Judgment**), it granted Gonzalez's Motion to Set Aside Default Judgment or Dismissal

¹ The court takes judicial notice of the record in the underlying case. See Hawai'i Rules of Evidence Rule 201.

(**Motion to Set Aside**)² and set aside the Judgment. Absent an appealable final judgment or order, the appeal is premature and we lack appellate jurisdiction. See Hawaii Revised Statutes (HRS) § 641-1(a) (2016); Morneau v. Kaiser Found. Hospitals, 48 Haw. 534, 536, 404 P.2d 899, 900 (1965) ("If a new trial is granted and the judgment consequently is set aside there is no final judgment from which to appeal.") (citation omitted).

Once the district court enters a final, appealable amended judgment or an appealable order, any aggrieved party may obtain appellate review of it and any interlocutory order issued in the case through a timely appeal. See HRS § 641-1(a); Ueoka v. Szymanski, 107 Hawai'i 386, 396, 114 P.3d 892, 902 (2005) ("An appeal from a final judgment brings up for review all interlocutory orders not appealable directly as of right which deal with issues in the case.").

Therefore, IT IS HEREBY ORDERED that the appeal in CAAP-21-0000036 is dismissed.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, May 21, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Karen T. Nakasone
Associate Judge

² Gonzalez did not cite to authority for the Motion to Set Aside, but it appears District Court Rules of Civil Procedure Rule 59 applies.