

NO. 23898

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ALLAN LEE and BARBARA LEE,
Plaintiffs/Counterclaim Defendants-Appellees

vs.

PUAMANA COMMUNITY ASSOCIATION and BOARD OF DIRECTORS
OF THE PUAMANA COMMUNITY ASSOCIATION, Defendants-Appellants

and

MARK CIABURRI, Defendant/Counterclaimant,

and

JOHN DOES 1-100, JANE DOES 1-100, DOE
PARTNERSHIPS 1-100, DOE CORPORATIONS 1-100,
DOE MEMBERS OF THE BOARD OF DIRECTORS 1-100,
and DOE PUAMANA COMMITTEE MEMBERS 1-100, Defendants

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 99-0656(1))

ORDER DISMISSING APPEAL

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

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that: (1) the July 5, 2000 order granting partial summary judgment has not been reduced to a separate judgment certified under HRCP 54(b), as required by HRCP 58; Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994) (An order that disposes of claims is not appealable unless the order is reduced to a separate judgment. The judgment must be certified under HRCP 54(b) if it disposes of less than all the claims.); (2) the July 5, 2000

order is not an appealable collateral order denying a stay pending arbitration inasmuch as the order does not deny a stay of the circuit court proceedings pending mediation; (3) even if the July 5, 2000 order is tantamount to an order denying a stay pending arbitration, the order fails to meet the irreparable injury test of the collateral order doctrine inasmuch as the claim that was subject to mediation has been fully adjudicated and the right to mediation has already been irretrievably lost; (4) the July 5, 2000 order is not an appealable Forgay order inasmuch as the order does not effect the immediate transfer of property and entry of a certified judgment on the order permits review of the order without awaiting entry of final judgment; and, thus, (5) this appeal is premature and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, February 22, 2001.