

NO. 24358

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PETER A BATANGAN and HELEN B. BATANGAN,
Plaintiffs/Counterclaim Defendants-Appellants

vs.

FIRST HAWAIIAN BANK, Defendant/Counterclaimant-Appellee

and

FIRST HAWAIIAN BANK, Third-Party Plaintiff

vs.

DEL NORTE REFI LLC, Successor in Interest to Life
Savings Bank, F.S.B., HOUSEHOLD FINANCE CORPORATION
OF HAWAII, JOHN DOES 1-50, JANE DOES 1-50, DOE
PARTNERSHIPS 1-50, DOE CORPORATIONS 1-50, DOE ENTITIES 1-50,
and DOE GOVERNMENTAL UNITS 1-50, Third-Party Defendants

APPEAL FROM THE FIFTH CIRCUIT COURT
(CIV. NO. 00-01-0178)

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

Upon review of the record, it appears that the circuit court's February 14, 2001 decision granted summary judgment on the defendant's counterclaim for foreclosure and on the third-party claims, but it also effectively granted summary judgment on the plaintiffs' complaint for rescission inasmuch as the rescission issue was litigated in the summary judgment proceeding and the February 14, 2001 decision determined that the plaintiffs had no right of rescission under federal and state law. The circuit court's February 14, 2001 judgment, the Honorable George M. Masuoka, presiding, was intended to be a judgment on the counterclaim and third-party claims, but the judgment did not

identify the counterclaim and the third-party claims as the claims for which the judgment was entered; see Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119-120, 869 P.2d 1334, 1338-39 (1994) (In a multiple claim or multiple party circuit court case, a judgment that purports to be the final judgment must identify the claims for which the judgment is entered.). Certification of the February 14, 2001 judgment under HRCP 54(b) was improper inasmuch as all claims in Civil No. 00-01-0178 had been resolved; see HRCP 54(b). Absent entry of a judgment in favor of the defendant and against the plaintiffs and the third-party defendants on the complaint, counterclaim and third-party claims, the appeal of the February 14, 2001 judgment 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, September 24, 2001.