

*** NOT FOR PUBLICATION ***

NO. 25745

IN THE SUPREME COURT OF THE STATE OF HAWAII

ALLSTATE INSURANCE COMPANY, Plaintiff-Appellant

vs.

PEARL PRUETT; MEREDITH PRUETT; IKAIKA PRUETT, a Minor; CHARLENE MANGLICMOT; a minor; MICHELLE CASIL, a minor; SALVADOR PEBENITO; BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, Defendants-Appellees

and

DOES 1-10, Defendants

and

PEARL PRUETT, Individually and as Guardian of Ikaika Pruett and Meredith Pruett, Third-Party Plaintiffs-Appellees

vs.

AIG HAWAII INSURANCE COMPANY, a Hawaii corporation, Third-Party Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 02-1-1404)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we do not have appellate jurisdiction over Plaintiff/Counterclaim Defendant/ Appellant Allstate Insurance Company's (Appellant Allstate) and Third-Party Defendant/Appellant AIG Hawaii Insurance Company's (Appellant AIG) appeals from the Honorable Victoria S. Marks's April 3, 2003 judgment and March 4, 2003 summary judgment order.

A circuit court may certify an order for appeal pursuant to Rule 54(b) of the Hawai'i Rules of Civil Procedure (HRCP) only "where (1) more than one claim for relief is

*** NOT FOR PUBLICATION ***

presented or multiple parties (at least three) are involved, . . . and (2) the judgment entered completely disposes of at least one claim or all of the claims by or against at least one party.” Elliot Megdal and Associates v. Daio USA Corporation, 87 Hawai‘i 129, 133, 952 P.2d 886, 890 (App. 1998) (citations omitted) (emphasis added). The April 3, 2003 judgment is not certifiable for appeal pursuant to HRCP Rule 54(b) because the April 3, 2003 judgment does not completely dispose of at least one claim in its entirety. “The general rule is that where a claimant prays for several kinds of damages arising from the same set of facts, an order disposing of only some of the claims for damages cannot be made into a judgment under Rule 54(b).” Elliot Megdal and Associates v. Daio USA Corporation, 87 Hawai‘i at 133, 952 P.2d at 890 (citations and internal quotation marks omitted).

Although the circuit court exercised its discretion to certify the March 4, 2003 summary judgment order for Appellant Allstate’s and Appellant AIG’s respective interlocutory appeals pursuant to HRS § 641-1(b) (1993), the circuit court’s

discretion [wa]s not unfettered but [wa]s circumscribed; it [wa]s limited to those appeals “whenever the circuit court may think the same advisable for the speedy termination of litigation.” The words “speedy termination” are therefore crucial to the determination of whether the trial court exercised its discretion properly. Although these words are not specifically defined in the statute, they are not to be read in isolation but are to be read in the context of the nature and purpose of HRS § 641-1 and the previous admonitions by this court. The saving of time and litigation expenses, without more, do not meet the requirement of speedy termination.

Lui v. City and County of Honolulu, 63 Haw. 668, 672, 634 P.2d 595, 598 (1981) (footnote omitted) (emphases added).

Consequently, we have held that a circuit court abused its discretion by granting a party leave to file an interlocutory appeal under HRS § 641-1(b) where the “interlocutory appeal [wa]s

*** NOT FOR PUBLICATION ***

merely a request by the circuit court to have this court intervene in regard to tentative and incomplete decisions of the lower court in an unfinished and incomplete case.” Lui v. City and County of Honolulu, 63 Haw. at 672, 634 P.2d at 598. Based on the record, we conclude that the interlocutory appeals will not more speedily terminate this litigation, and, thus, the circuit court abused its discretion by granting leave for the interlocutory appeals pursuant to HRS § 641-1(b).

Absent an appealable final judgment, Appellant Allstate’s and Appellant AIG’s respective appeals are premature, and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai‘i, August 13, 2003.