

NO. CAAP-13-00000661

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

WAIANAЕ COMMUNITY DEVELOPMENT PROJECT ASSOCIATION,
by its Board of Directors,
Plaintiff/Counterclaim-Defendant/Appellee
v.
ROBERT QUARTERO,
Defendant/Cross-Claim Defendant/Counterclaim-Plaintiff/Appellant,
and
BANK OF HAWAI'I,
Defendant/Cross-Claim Plaintiff/Counterclaim-Plaintiff/Appellee,
and
KEHAULANI QUARTERO and CITY AND COUNTY OF HONOLULU,
Defendants/Cross-Claim Defendants/Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 11-1-002612-10)

ORDER

(1) DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION

AND

(2) DIRECTING THE CIRCUIT COURT CLERK TO ELECTRONICALLY
FILE AND OPEN AN APPELLATE COURT CASE FOR APPELLANT
ROBERT QUARTERO'S DECEMBER 28, 2012 NOTICE OF APPEAL FROM
THE DECEMBER 21, 2012 JUDGMENT ON A DECREE OF FORECLOSURE

(By: Nakamura, Chief Judge, Foley and Reifurth, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over appellate court case number CAAP-13-0000661 in which Defendant/Cross-Claim Defendant/Counterclaim-Plaintiff/Appellant Robert Quartero (Appellant Robert Quartero) has attempted to appeal from the Honorable Bert Ayabe's April 2, 2013 announcement in circuit court minutes that the circuit court

intends to enter a written order granting Defendant/Cross-Claim Plaintiff/Counterclaim-Plaintiff/Appellee Bank of Hawaii's (Appellee Bank of Hawaii) motion to sell the subject property of this foreclosure action without holding an open house. We lack jurisdiction because the circuit court has not yet reduced the circuit court minutes to a written order, and, even if the circuit court had done so, such a written order would merely be an interlocutory order that would not be eligible for appellate review under HRS § 667-51(a)(2) (Supp. 2012).

In reviewing the record on appeal, it appears that on December 28, 2012, Appellant Robert Quartero filed a pleading in the circuit court entitled "Cross Claim Defendant Appellant's Terms of Appearance[;] Judicial Notice of Foreign Law[;] Cross-Claim Defendant/Appellant's Notice of Appeal." We construe this pleading to constitute a notice of appeal from the December 21, 2012, Judgment on a decree of foreclosure entered by the circuit court. We note, however, that the circuit court clerk did not electronically file Appellant Robert Quartero's December 28, 2012, notice of appeal and therefore did not open a new appellate court case number for this appeal from the circuit court's December 21, 2012, Judgment.

Based on the foregoing,

IT IS HEREBY ORDERED that appellate court case number CAAP-13-0000661 is dismissed for lack of appellate jurisdiction.

IT IS FURTHER HEREBY ORDERED that the circuit court clerk of the First Circuit shall, within ten days after entry of this order, electronically file with the intermediate court of

appeals the December 28, 2012 notice of appeal that Appellant Robert Quartero filed in Civil No. 11-1-2612-10 and thereby open a new appellate court case number for Appellant Robert Quartero's separate appeal from the December 21, 2012 Judgment on a decree of foreclosure. The circuit court clerk shall, within ten (10) days after opening the said new appellate case, file in that new appellate case the record on appeal.

IT IS FURTHER HEREBY ORDERED that all pending motions in appellate court case number CAAP-13-0000661 are dismissed as moot.

DATED: Honolulu, Hawai'i, August 1, 2013.

Chief Judge

Associate Judge

Associate Judge