

NO. CAAP-17-0000073

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

PENNYMAC CORP., Plaintiff-Appellee,
vs.

LOIDA R. DOMINGO aka Loida Redondo Domingo and
MANUEL P. DOMINGO aka Manuel Palilio Domingo aka Manuel Domingo,
Defendants-Appellants,

and

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
AS NOMINEE FOR GMAC MORTGAGE CORPORATION; and SUNRUN, INC.,
Defendants-Appellees,

and

JOHN DOES 1-10; JANE DOES 1-20; DOE CORPORATIONS 1-20;
DOE ENTITIES 1-20; and DOE GOVERNMENTAL UNITS 1-20,
Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 15-1-0621(3))

ORDER VACATING THE JANUARY 23, 2018 ORDER DISMISSING APPEAL
AND GRANTING THE JANUARY 10, 2018 MOTION FOR RELIEF FROM DEFAULT
(By: Leonard, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon consideration of "Appellant Manuel Domingo's Motion for Relief From Default Judgment, Default of Opening Brief Filed on August 04, 2017" (Motion), filed January 10, 2018, by pro se Defendant-Appellant Manuel P. Domingo, which the court construes as a motion for relief from default and first extension of time for the opening brief for both Manuel P. Domingo and pro

se Defendant-Appellant Loida R. Domingo (Appellants), the papers in support, and the record, it appears that:

(1) On February 10, 2017, Appellants filed the notice of appeal;

(2) A bankruptcy stay was terminated on June 13, 2017, making the opening brief due on or before July 24, 2017. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 54(a);

(3) On August 4, 2017, the appellate clerk notified Appellants that the time for filing the opening brief had expired on July 24, 2017, the matter would be called to the court's attention on August 14, 2017, for appropriate action, which could include dismissal of the appeal, pursuant to HRAP Rule 30, and Appellants may request relief from default by motion;

(4) On January 23, 2018, the court entered an order dismissing the appeal for failure to file the opening brief;

(5) Meanwhile, on January 10, 2018, Manuel Domingo filed the instant Motion, seeking relief from default and a first extension of time for the opening brief because he is proceeding pro se, he temporarily lost his job, his sister died, and he is in the process of obtaining a divorce; and

(6) Pursuant to HRAP Rule 26(b) and (e), and in light of the court's inadvertent entry of the January 23, 2018 order while the January 10th motion was pending, there appears to be good cause to grant the requested relief for both Appellants.

Therefore, IT IS HEREBY ORDERED that the January 23, 2018 order dismissing appeal is vacated.

IT IS FURTHER ORDERED that the Motion is granted. The deadline to file the opening brief is extended to February 23, 2018. Any further default of the opening brief may result in sanctions authorized by HRAP Rule 30, including, without limitation, monetary sanctions, the appeal being dismissed, or both.

IT IS FURTHER ORDERED that any future documents submitted for filing by both Appellants shall be signed by both Appellants. A document submitted for filing by only one appellant shall clearly indicate as much on the flyleaf. If the

opening brief or other documents are not signed by both Appellants, then the appeal may be dismissed or the requested relief denied as to the appellant who does not sign the opening brief or other document.

DATED: Honolulu, Hawai'i, January 24, 2018.

Presiding Judge

Associate Judge

Associate Judge