

NO. 30614

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BANK OF HAWAII, Plaintiff-Appellee,
v.
STEPHEN MICHAEL SCHWARTZ and ALMA B. SCHWARTZ,
Defendants-Appellants,
and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
a solely as Nominee for GMAC Mortgage USA Corporation;
MAKALEI ESTATES COMMUNITY ASSOCIATION;
DIRECTOR OF FINANCE, COUNTY OF HAWAII; JOHN DOES 1-50
and JANE DOES 1-50 et al, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 09-1-340K)

ORDER DISMISSING THE APPEAL

(By: Nakamura, C.J., Foley and Ginoza, JJ.)

Upon consideration of the "Status Report" and "Declaration of Counsel," filed December 2, 2015, by Plaintiff-Appellee Bank of Hawaii (Appellee), and the "Reply to This Court's December 1, 2015 Order and Rule to Show Cause," filed December 21, 2015, by Defendant-Appellant Stephen M. Schwartz, each filed in response to this court's December 1, 2015 order and orders to show cause, the "Status Report," filed January 12, 2016, by Appellee, in response to this court's December 30, 2015 order and further order to show cause, the papers in support, and the record, it appears that:

(1) On July 19, 2010, Defendant-Appellant Alma B. Schwartz, pro se, filed a bankruptcy case in the United States Bankruptcy Court for the District of Hawaii, case number 10-02178;

(2) Appellant Alma B. Schwartz's bankruptcy case stayed this appeal, pursuant to 11 U.S.C. § 362(a)(1) and (3) (2006),¹ and Hawai'i Rules of Appellate Procedure Rule 54(c);

(3) On January 7, 2011, the bankruptcy court dismissed Appellant Alma B. Schwartz's bankruptcy case in case number 10-02178;

(4) On January 12, 2016, Plaintiff-Appellee Bank of Hawaii filed a certified copy of the relevant bankruptcy court dismissal order;

(5) Appellants did not file a response to the December 30, 2015 order and further orders to show cause why the appeal should not be dismissed for failure to prosecute; and

(6) Appellants failed to show good cause why the appeal should not be dismissed for failure to prosecute.

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed. The court will take no further action on the December 1 and 30, 2015 orders to show cause.

DATED: Honolulu, Hawai'i, February 25, 2016.

Chief Judge

Associate Judge

Associate Judge

¹ In 2010, technical corrections were made to 11 U.S.C. § 362 that do not affect this appeal. See Pub.L. 111-327, § 2(a)(12), 124 Stat. 3558 (2010).