NO. CAAP-15-0000340

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

CITIMORTGAGE, INC.,
Plaintiff/Counterclaim-Defendant/Appellee,
v.
RAY MENDOZA PERALTA, NOVELITA JARAMILLA PERALTA,
Defendants/Counterclaim-Plaintiffs/Appellants,
and
CITIBANK (South Dakota) N.A.,
Defendant-Appellee,

RAY MENDOZA PERALTA, NOVELITA JARAMILLA PERALTA,
Third-Party Plaintiffs/Appellants,
v.
STATE FARM FIRE AND CASUALTY COMPANY,
Third-Party Defendant/Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CIVIL NO. 13-1-0033)

ORDER
DISMISSING APPELLATE COURT CASE NUMBER
CAAP-15-0000340 FOR LACK OF APPELLATE JURISDICTION
AND
DISMISSING AS MOOT ALL PENDING MOTIONS

(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over Defendants/Counterclaim-Plaintiffs/Third-Party Plaintiffs/Appellants Ray Mendoza Peralta (Appellant Ray Peralta) and Novelita Jaramilla Peralta's (Appellant Novelita Peralta) appeal from the Honorable Randal G.B. Valenciano's

March 17, 2015 order granting Third-Party Defendant/Appellee State Farm Fire and Casualty Company's (Appellee State Farm) motion for summary judgment as to Appellant Ray Peralta and Novelita Peralta's amended third-party complaint, because the circuit court has not yet reduced that particular order to a separate judgment.

Hawaii Revised Statutes ("HRS") § 641-1(a) (1993 & Supp. 2014) authorizes appeals to the Hawaiʻi Intermediate Court of Appeals from final judgments, orders, or decrees. Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). Rule 58 of the Hawaiʻi Rules of Civil Procedure (HRCP) requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement under HRCP Rule 58, the Supreme Court of Hawaiʻi has held that "[a]n appeal may be taken . . . only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaiʻi 115, 119, 869 P.2d 1334, 1338 (1994). "Thus, based on Jenkins and HRCP Rule 58, an order is not appealable, even if it resolves all claims against the parties, until it has been reduced to a separate judgment." Carlisle v. One (1) Boat, 119 Hawaiʻi 245, 254, 195 P.3d 1177, 1186 (2008). Consequently, "[a]n appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Jenkins, 76 Hawaiʻi at 120, 869 P.2d at 1339 (footnote omitted). On June 15, 2015, the circuit court clerk filed the record on appeal for appellate court case number CAAP-15-0000340, which does not include a final judgment on the March 17, 2015 interlocutory order.

Although exceptions to the final judgment requirement exist under the doctrine in Forgay v. Conrad, 47 U.S. 201 (1848) (the Forgay doctrine), the collateral order doctrine, and HRS § 641-1(b) (1993 & Supp. 2014), the March 17, 2015 interlocutory order does not satisfy the requirements for appealability under the Forgay doctrine, the collateral order doctrine, or HRS § 641-1(b). See Ciesla v. Reddish, 78 Hawaiʻi 18, 20, 889 P.2d

702, 704 (1995) (regarding the two requirements for appealability under the Forgay doctrine); Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawaiʻi 319, 322, 966 P.2d 631, 634 (1998) (regarding the three requirements for the collateral order doctrine); HRS § 641-1(b) (regarding the requirements for an appeal from an interlocutory order). Absent an appealable final judgment on the March 17, 2015 interlocutory order, we lack appellate jurisdiction and Appellant Ray Peralta and Appellant Novelita Peralta's appeal is premature. Therefore,

IT IS HEREBY ORDERED that appellate court case number CAAP-15-0000340 is dismissed for lack of appellate jurisdiction.

IT IS FURTHER HEREBY ORDERED that all pending motions in appellate court case number CAAP-15-0000340 are dismissed as moot.

DATED: Honolulu, Hawaiʻi, August 20, 2015.

Presiding Judge

Associate Judge

Associate Judge