

NO. CAAP-18-0000765

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WILMINGTON SAVINGS FUND SOCIETY, FSB, D/B/A CHRISTIANA TRUST, NOT
INDIVIDUALLY BUT AS TRUSTEE FOR CARLSBAD FUNDING MORTGAGE TRUST,
Plaintiff-Appellee,

v.

AH-MEI CHUN, Defendant-Appellant,
and
JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS 1-50;
DOE CORPORATIONS 1-50; DOE ENTITIES 1-50; and
DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEALS FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 12-1-1819)

SUMMARY DISPOSITION ORDER

(By: Ginoza, Chief Judge, Fujise and Hiraoka, JJ.)

Defendant-Appellant Ah-Mei Chun (**Chun**) appeals from the "Judgment" (**Judgment Confirming Sale**) entered pursuant to the "Order Approving Commissioner's Report and Granting Plaintiff's Motion for Confirmation of Foreclosure Sale, Allowance of Costs, Commissions and Fees, Distribution of Proceeds, Directing Conveyance and For Writ of Possession/Ejectments" (**Order Confirming Sale**), and "Writ of Possession", all entered on September 7, 2018, by the Circuit Court of the First Circuit (**Circuit Court**).¹

¹ The Honorable Jeannette H. Castagnetti presided over the Confirmation of Sale Proceedings.

Chun's sole point of error in this appeal is that the Circuit Court erred in entering its Judgment Confirming Sale because Plaintiff-Appellee Wilmington Savings Fund Society, FSB, D/B/A Christiana Trust, not individually but as Trustee For Carlsbad Funding Mortgage Trust (**Wilmington Savings**) failed to establish its standing to foreclose under Bank of America, N.A. v. Reyes-Toledo, 139 Hawai'i 361, 390 P.3d 1248 (2017).

We affirm.

On May 5, 2017, the Circuit Court entered the "Findings of Fact and Conclusions of Law; Order Granting Plaintiff's Motion for Default Judgment and Summary Judgment and Decree of Foreclosure Against all Defendants" (**Foreclosure Decree**) and the corresponding Judgment (**Foreclosure Judgment**) in favor of Wilmington Savings. Chun did not appeal from the Foreclosure Judgment, and thus the Foreclosure Judgment became final and binding as to Wilmington Savings' right to foreclose on the subject property. See Mortg. Elec. Registration Sys., Inc. v. Wise, 130 Hawai'i 11, 17, 304 P.3d 1192, 1198 (2013).

On February 13, 2018, Wilmington Savings filed a motion to confirm sale. The Circuit Court subsequently entered its Order Confirming Sale, Judgment Confirming Sale, and Writ of Possession on September 7, 2018. This appeal follows.

In this appeal from the Judgment Confirming Sale, Chun does not challenge any aspect of the proceedings related to the confirmation of sale of the subject property. Chun instead solely contends that the Circuit Court erred in entering the Order Confirming Sale and Foreclosure Judgment because Wilmington Savings failed to establish its standing to foreclose under Reyes-Toledo, 139 Hawai'i 361, 390 P.3d 1248. However, as explained in Wise where a defendant failed to appeal from a foreclosure judgment, "[u]nder the doctrine of res judicata, challenges to [the foreclosing party's] standing were subsumed under the foreclosure judgment, which had become final and binding." Wise, 130 Hawai'i at 17, 304 P.3d at 1198. Here, as in Wise, Chun is precluded from challenging Wilmington Savings' standing to foreclose.

Therefore, IT IS HEREBY ORDERED that the "Judgment" entered pursuant to the "Order Approving Commissioner's Report and Granting Plaintiff's Motion for Confirmation of Foreclosure Sale, Allowance of Costs, Commissions and Fees, Distribution of Proceeds, Directing Conveyance and For Writ of Possession/Ejectments", and "Writ of Possession", all entered on September 7, 2018, by the Circuit Court of the First Circuit, is affirmed.

DATED: Honolulu, Hawai'i, December 18, 2019.

On the briefs:

Chief Judge

Gary Victor Dubin,
Frederick J. Arensmeyer,
for Defendant-Appellant.

Associate Judge

David B. Rosen,
David E. McAllister,
Justin S. Moyer,
Anna Valiente Gomez,
(Aldridge Pite, LLP)
for Plaintiff-Appellee.

Associate Judge