

NO. CAAP-19-0000359

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

HOMESTREET BANK, Plaintiff-Appellee, v.
CESAR RENOL CABA; EVELYN SAHAGUN CABA, Defendants-Appellants,
and JOHN DOES 1-50; JANE DOES 1-50; and
DOE ENTITIES 1-50, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 16-1-0571(2))

ORDER GRANTING JULY 13, 2020 MOTION TO DISMISS APPEAL
(By: Leonard, Presiding Judge, Chan and Hiraoka, JJ.)

Upon review of (1) the motion to dismiss appeal filed by Plaintiff-Appellee Homestreet Bank (**Bank**) on July 13, 2020; (2) the amended Civil Appeal Docketing Statement filed by self-represented Defendants-Appellants Cesar Renol Caba and Evelyn Sahagun Caba (the **Cabas**), on July 21, 2020 (which we deem to be a non-conforming memorandum in opposition to the Bank's motion to dismiss); (3) our July 29, 2020 order authorizing the Bank to file a reply memorandum; (4) the Bank's July 29, 2020 reply memorandum in support of its 2020 motion to dismiss; and (5) the record, as supplemented, it appears that we no longer have jurisdiction over the Cabas' appeal from the judgment entered by the circuit court on April 8, 2019, because the judgment has been vacated and the Cabas' appeal is now moot.

On June 5, 2020, we granted the Bank's motion to remand this case to the circuit court under Life of the Land v. Ariyoshi, 57 Haw. 249, 252, 553 P.2d 464, 466 (1976), after the

circuit court certified its intent to grant Bank's motion to vacate the April 8, 2019 judgment pursuant to Rule 60(b) of the Hawai'i Rules of Civil Procedure. On July 6, 2020, the circuit court entered an order vacating the April 8, 2019 judgment and directing the foreclosure commissioner to hold a new auction of the foreclosed property at some time in the future. Because the judgment from which this appeal was taken has been vacated, this appeal is now moot. See In Re Marn Family, 141 Hawai'i 1, 7, 403 P.3d 621, 627 (2016) ("As a general rule, a case is moot if the reviewing court can no longer grant effective relief.").

Therefore, IT IS HEREBY ORDERED that the Bank's July 13, 2020 motion to dismiss appeal is granted, and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, August 10, 2020.

/s/ Katherine G. Leonard
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge