

Electronically Filed
Intermediate Court of Appeals
CAAP-20-0000745
07-JUN-2021
08:41 AM
Dkt. 23 ODSLJ

NO. CAAP-20-0000745

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DEUTSCHE BANK NATIONAL TRUST COMPANY,
AS TRUSTEE OF THE INDYMAC INDX MORTGAGE LOAN TRUST 2005-AR14,
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-AR14
UNDER THE POOLING AND SERVICING AGREEMENT DATED JUNE 1, 2005,
Plaintiff/Counterclaim Defendant-Appellee, v.
TODD A. DRESSLER and CHTD COMPANY,
Defendants/Counterclaimants-Appellees;
MARY L. DRESSLER, Defendant/Counterclaimant-Appellant;
JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10;
DOE CORPORATIONS 1-10; DOE ENTITIES 1-10 and
DOE GOVERNMENTAL UNITS 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 3CC171000024)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Hiraoka and Wadsworth, JJ.)

Upon review of the record, it appears we lack appellate jurisdiction over self-represented Defendant/Counterclaimant-Appellant Mary L. Dressler's (**Dressler**) appeal filed on December 2, 2020, in appellate case no. CAAP-20-0000745. Dressler's December 2, 2020 notice of appeal states that she appeals from an unidentified document filed on December 1, 2020 in the Circuit Court of the Third Circuit, Hilo Division (**circuit court**), and her Civil Appeal Docketing Statement indicates she appeals from an order entered on October 10, 2020. However, there are no documents filed on those dates in the underlying circuit court proceeding, Civil No. 3CC171000024.

We note the circuit court entered an order on October 15, 2020, but that order is not an appealable order, and

in any event the December 2, 2020 notice of appeal is untimely as to that order. See Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(a)(1). Similarly, a "Judgment on Findings of Fact, Conclusions of Law and Order Granting [Plaintiff/Counterclaim Defendant-Appellee Deutsche Bank National Trust Company's (**Bank**)] Motion for Default Judgment and Summary Judgment and Decree of Foreclosure Against All Defendants on Amended Complaint Filed February 24, 2017" (**Judgment**) was filed on November 13, 2018. The Judgment was final and appealable. See Hawaii Revised Statutes (**HRS**) § 667-51(a)(1) (2016). However, Dressler did not file the December 2, 2020 notice of appeal within thirty days after entry of the Judgment and it is untimely as to the Judgment.

"As a general rule, compliance with the requirement of the timely filing of a notice of appeal is jurisdictional, . . . and we must dismiss an appeal on our motion if we lack jurisdiction." Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) (cleaned up); see HRAP Rule 26(b) ("[N]o court or judge or justice is authorized to change the jurisdictional requirements contained in Rule 4 of these rules.").

Further, because the December 2, 2020 notice of appeal was untimely as to the Judgment, it did not divest the circuit court of jurisdiction to enter its March 3, 2021 "Judgment on Amended Findings of Fact, Conclusions of Law and Order Granting [Bank's] Motion for Default Judgment and Summary Judgment and Decree of Foreclosure Against All Defendants on Amended Complaint Filed February 24, 2017" (**Amended Judgment**). See State v. Ontiveros, 82 Hawai'i 446, 448-49, 923 P.2d 388, 390-91 (1996) ("Where the notice of appeal is jurisdictionally defective, filing the notice does not transfer jurisdiction from the trial court to the appellate court."). The Amended Judgment is final and appealable. See HRS § 667-51(a)(1) (2016). On March 17, 2021, Dressler filed another notice of appeal, which was timely as to the Amended Judgment, although the notice of appeal was filed in CAAP-20-0000745. Also, in another Civil Appeal

Docketing Statement (docket 19), originally filed March 17, 2021, Dressler states that she appeals from the Amended Judgment.

Therefore, IT IS HEREBY ORDERED that we lack appellate jurisdiction with regard to the appeal initiated by Dressler's notice of appeal filed on December 2, 2020 in Case No. CAAP-20-0000745, and therefore CAAP-20-0000745 is dismissed for lack of jurisdiction.

IT IS HEREBY FURTHER ORDERED that the appellate clerk shall re-file Dressler's March 17, 2021 notice of appeal (located at docket 15 in CAAP-20-0000745), such as to create a new appellate case. The appellate clerk shall also re-file in the new appellate case all documents filed in CAAP-20-0000745 since March 17, 2021.

DATED: Honolulu, Hawai'i, June 7, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge