

NO. CAAP-21-0000360

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, Fujise and Hiraoka, JJ.)

Upon review of the record, it appears we lack appellate jurisdiction over self-represented Defendant/Counterclaimant-Appellant Mary L. Dressler's (**Dressler**) appeal in CAAP-21-0000360. Dressler's March 17, 2021 notice of appeal states that she appeals from unidentified orders filed on March 3, 2021 and March 16, 2021 in the Circuit Court of the Third Circuit, Hilo Division (**circuit court**), and her Civil Appeal Docketing Statement indicates she appeals from March 3, 2021 and March 16, 2021 rulings by the circuit court. She attached to her notice of appeal a "Judgment on Amended 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 [(Amended FOF/COL/Order)]" (Amended Judgment), which was entered by the circuit court on March 3, 2021. We note that on March 16, 2021, the circuit court clerk filed a "Notice of Entry of [Amended Judgment]."

The Amended Judgment amended the circuit court's November 13, 2018 "Judgment on 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 [(FOF/COL/Order)]" (Judgment). The Amended Judgment differs from the Judgment only in that it refers to the Amended FOF/COL/Order rather than the FOF/COL/Order. The Amended FOF/COL/Order differs from the original FOF/COL/Order only in that Exhibit "A" -- a Legal Description of the property that was referenced in the original FOF/COL/Order but mistakenly not attached -- was attached to the Amended FOF/COL/Order after Bank filed a motion under Rule 60(a) of the Hawai'i Rules of Civil Procedure for the FOF/COL/Order to be amended by attaching Exhibit "A" due to a clerical mistake. The original FOF/COL/Order had already contained the address and TMK number for the subject property.

Because the Amended Judgment does not amend the Judgment in a material and substantial way, the time to appeal ran from entry of the Judgment. See Wiesenbergh v. Univ. of Hawaii, 138 Hawai'i 210, 215-16, 378 P.3d 926, 931-32 (2016); Marlowe v. Lanai Resorts, LLC, No. CAAP-13-0003547, 2014 WL 551586, at *2 (App. Feb. 11, 2014) (Order Dismissing Appeal for Lack of Appellate Jurisdiction).

Dressler did not file the March 17, 2021 notice of appeal within thirty days after entry of the November 13, 2018 Judgment, as required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1). "When we perceive a jurisdictional defect in an appeal, we must, sua sponte, dismiss that appeal." Familian Nw., Inc. v. Cent. Pac. Boiler & Piping, Ltd., 68 Haw. 368, 369, 714 P.2d 936, 937 (1986); see also 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."); HRAP Rule 26(e) ("The reviewing court for good cause shown may relieve a party from a default occasioned by any failure to comply with these rules, except the failure to give timely notice of appeal.").

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, June 25, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Alexa D.M. Fujise
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge