

NO. CAAP-20-0000704

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WELLS FARGO BANK, NATIONAL ASSOCIATION,
AS TRUSTEE FOR STRUCTURED ASSET SECURITIES CORPORATION
MORTGAGE LOAN TRUST 2007-BC1, MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2007-BC1, Plaintiff-Appellee, v.
DAVID AUREO SALVADOR CORDERO; MARY TAN LLANOS CORDERO,
Defendants-Appellants,
and WAIALAE GOLF COURSE COMMUNITY ASSOCIATION;
Defendant-Appellee, and JOHN DOES 1-10; JANE DOES 1-10;
DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10;
DOES ENTITIES 1-10 and DOE GOVERNMENTAL UNITS 1-10,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC141002257)

ORDER

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

Upon consideration of Plaintiff-Appellee Wells Fargo Bank, National Association's (**Bank**) June 1, 2021 "Motion to Dismiss Appeal from: (1) Amended Findings of Fact, Conclusions of Law and Order Granting [Bank]'s Motion for Default Judgment Against [Defendant-Appellee Waialae Golf Course Community Association (**Waialae Golf Course**)] and Summary Judgment and Decree of Foreclosure Against All Defendants on Complaint Filed October 30, 2014, entered October 15, 2020 [(**Amended FOF/COL/Order**)] and (2) Amended Judgment, entered October 15, 2020" [(**Amended Judgment**)], " the papers in support and in opposition, it appears we have jurisdiction over Defendants-Appellants Davis Aureo Salvador Cordero and Mary Tan Llanos

Cordero's (collectively, **the Corderos**) appeal from the Circuit Court of the First Circuit's (**circuit court**) October 15, 2020 "Order Granting [Bank]'s Motion for Leave to Amend Findings of Fact, Conclusions of Law and Order Granting [Bank]'s Motion for Default Judgment Against [Waialae Golf Course] and Summary Judgment and Decree of Foreclosure Against All Defendants on Complaint Filed October 30, 2014 [(**FOF/COL/Order**)]" (**Order Granting Motion to Amend**) but not the circuit court's Amended Judgment and Amended FOF/COL/Order.

The Amended Judgment amended the circuit court's July 17, 2019 "Judgment on [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 referenced in the original FOF/COL/Order -- which was not attached to the original FOF/COL/Order, was attached to the Amended FOF/COL/Order upon Bank's motion under Rule 60(a) of the Hawai'i Rules of Civil Procedure based on an alleged clerical mistake (**Motion to Amend**). The original FOF/COL/Order did contain 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 Weisenberg 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).

The Corderos did not file the November 13, 2020 notice of appeal within thirty days after entry of the July 17, 2019 Judgment as required by Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(a)(1). Therefore, we lack appellate jurisdiction with regard to the Judgment. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) ("[C]ompliance with the requirement of the timely filing of a notice of appeal is jurisdictional" and "[w]e must dismiss an appeal on our own

motion if we lack jurisdiction."); 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.").

However, the Corderos filed the notice of appeal within thirty days after the circuit court issued its October 15, 2020 Order Granting Motion to Amend, which is a final, appealable post-judgment order. Therefore, we have jurisdiction over the Order Granting Motion to Amend.

Therefore, IT IS HEREBY ORDERED that the motion is granted in part and denied in part as follows:

1. The request to dismiss the appeal from the Amended Judgment and Amended FOF/COL/Order is granted.

2. All other requested relief is denied.

DATED: Honolulu, Hawai'i, June 30, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Alexa D.M. Fujise
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge