

NO. CAAP-21-0000386

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

GREENE LANE CAPITAL LLC, Plaintiff-Appellant, v.
DM KULANA HALE HOLDINGS LLC, Defendants-Appellees,
and JOHN DOES 1-20; JANE DOES 1-20; AND DOE ENTITIES 1-20,
Defendants-Appellees
(CIVIL NO. 1CCV-21-0000193)

AND

DM KULANA HALE HOLDINGS LLC; DENNIS W. MAHONEY,
AN INDIVIDUAL; DENNIS W. MAHONEY, TRUSTEE UNDER THAT CERTAIN
DECLARATION OF REVOCABLE TRUST OF DENNIS W. MAHONEY,
DATED NOVEMBER 15, 2004; and DM KULANA HALE HOLDINGS LLC,
derivatively on behalf of KULANA HALE LP; and
CAPITOL MARKET, LIMITED, Plaintiffs-Appellees, v.
YANG SUH, individually, GREENE LANE CAPITAL LLC,
Defendants-Appellants, and
BUON VIAGGIO LLC, Defendant-Appellee,
YANG D. SUH AND MARI IKEGUCHI,
TRUSTEES OF THE YANG D. SUH AND MARI IKEGUCHI LIVING TRUST,
DATED MARCH 14, 2019; GREENE LANE CAPITOL MARKET LLC,
Defendants-Appellants; and JOHN DOES 1-20;
JANE DOES 1-20; DOE PARTNERSHIPS 1-20;
DOE CORPORATIONS 1-20; DOE COMPANIES 1-20;
and DOE ENTITIES 1-20, Defendants-Appellees
(CIVIL NO. 1CCV-21-0000296)

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT

ORDER GRANTING MOTION TO DISMISS APPEAL

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

Upon consideration of the July 16, 2021 "Motion to Dismiss Defendants-Appellants Yang Suh, Greene Lane Capital LLC, Yang D. Suh and Mari Ikeguchi, Trustees of the Yang D. Suh and Mari Ikeguchi Living Trust, Dated March 14, 2019, and Greene Lane

Capitol Market LLC's [(collectively, **Appellants**)] Appeal from the Order Granting *Ex Parte* Motion for the Appointment of a Receiver *Pendente Lite* [(**Receiver**)], Filed May 17, 2021, Filed May 25, 2021 [(**Order Appointing Receiver**)] for Lack of Appellate Jurisdiction," it appears we lack jurisdiction over the appeal because the Circuit Court of the First Circuit (**circuit court**) has not entered a final, appealable judgment in the underlying case, Civil No. 1CCV-21-0000296, and the interlocutory Order Appointing Receiver is not independently appealable.

An aggrieved party cannot obtain appellate review of a circuit court's interlocutory orders in a civil case, under Hawaii Revised Statutes (**HRS**) § 641-1(a) (2016), until the circuit court has reduced its dispositive rulings to an appealable, final judgment under Rule 58 or Rule 54(b) of the Hawai'i Rules of Civil Procedure. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). The circuit court has not yet entered a final, appealable judgment in the underlying case, Civil No. 1CCV-21-0000296.

The Order Appointing Receiver does not qualify for an exception to the final-judgment requirement under the collateral-order doctrine because Appellants may seek review of the Order Appointing Receiver, and any other orders related to the appointment of the Receiver, once the circuit court enters a final, appealable judgment, and Appellants fail to demonstrate that the Receiver's actions pending resolution of the underlying case may cause them to suffer an irreparable loss of rights. See Greer v. Baker, 137 Hawai'i 249, 253, 255, 369 P.3d 832, 836, 838 (2016) (setting forth requirements for appeal under the collateral-order doctrine).

Further, it appears the Order Appointing Receiver is not appealable under the Forgay doctrine because it does not order the Receiver to sell or otherwise divest Appellants of their interest in the subject partnership. See Greer, 137 Hawai'i at 253, 369 P.3d at 836 (setting forth requirements for appeal under the Forgay doctrine). Also, it appears the Order Appointing Receiver is not appealable under HRS § 641-1(b)

because it is not HRS § 641-1(b)-certified, and it does not appear that Appellants sought certification. See HRS § 641-1(b) (2016).

Therefore, IT IS HEREBY ORDERED that the motion to dismiss the appeal is granted and the appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, September 3, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Alexa D.M. Fujise
Associate Judge