

**Electronically Filed
Intermediate Court of Appeals
CAAP-21-0000544
11-FEB-2022
07:56 AM
Dkt. 43 OGMD**

NO. CAAP-21-0000544

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR
IN INTEREST TO BANK OF AMERICA NATIONAL
ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO
LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR
STRUCTURED ASSET INVESTMENT LOAN TRUST MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2004-11
Plaintiff-Appellee, v. ARTHUR EMIL GALANG;
NORIVIC V. GALANG; NORMA PASCUAL RODIL,
Defendants-Appellants, and LASALLE BANK NATIONAL
ASSOCIATION AS TRUSTEE FOR LEHMAN BROTHERS-
STRUCTURED ASSET INVESTMENT LOAN TRUST SALE
2004-11, Defendant-Appellee, and JOHN DOES 1-50;
JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS
1-50, DOE CORPORATIONS 1-50; DOE ENTITIES 1-50,
AND DOE GOVERNMENTAL UNITS 1-50, Defendants-
Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC151001045)

ORDER GRANTING MOTION TO DISMISS APPEAL

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

Upon consideration of the Motion to Dismiss Appeal
(**Motion to Dismiss**), filed by Plaintiff-Appellee U.S. Bank
National Association (**Appellee**) on December 1, 2021, the papers
in support, and the record, it appears that this court lacks
jurisdiction over the appeal by self-represented Defendants-
Appellants Arthur Emil Galang, Norivic V. Galang, and Norma
Pascual Rodil (**Rodil**) (collectively, **Appellants**) from Civil
No. 1CC151001045.

The Circuit Court of the First Circuit's (**circuit court**) February 22, 2020 "Judgment on Findings of Fact, Conclusions of Law and Order Granting [Appellee]'s Motion for Summary Judgment and Decree of Foreclosure Against All [Appellants] on Complaint Filed May 29, 2015 [(**Order Granting MSJ**)]" (**Judgment**) is final and appealable. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994); Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003); Ueoka v. Szymanski, 107 Hawai'i 386, 396, 114 P.3d 892, 902 (2005). However, Appellants failed to file their October 6, 2021 notice of appeal within thirty days after entry of the Judgment, as required by Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(a)(1). Therefore, we lack jurisdiction over the appeal from the Judgment. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995).¹

To the extent Appellants appeal from the circuit court's February 22, 2020 Order Granting MSJ, the Order Granting MSJ is not independently appealable under the Forgay doctrine, the collateral-order doctrine, or Hawaii Revised Statutes (**HRS**) § 641-1(b) (2016). See Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016); HRS § 641-1(b). Further, again, the October 6, 2021 notice of appeal would be untimely even if such order could be appealed.

To the extent Appellants appeal from a proposed order or judgment, these are not final and, therefore, not appealable. See HRS § 641-1(a) (2016).

Moreover, the appealed September 13, 2021 Amended Certificate of Service for the Order Granting MSJ is not appealable because it is not a final judgment, order, or decree. See HRS § 641-1(a).

The appealed January 8, 2020 oral order striking Appellants' opposition to Appellee's motion for summary judgment is not appealable because it is not written. See KNG Corp. v.

¹ Appellant Arthur Emil Galang previously appealed from the Judgment in CAAP-20-0000176, but that appeal was dismissed because he failed to file an opening brief.

Kim, 107 Hawai'i 73, 77, 110 P.3d 397, 401 (2005); HRAP Rule 4(a)(1).

And the "Order Denying Motion to Set Aside Default and to Appoint Counsel" is not independently appealable under the Forgay doctrine, the collateral-order doctrine, or HRS § 641-1(b). See Greer, 137 Hawai'i at 253, 369 P.3d at 836; HRS § 641-1(b).

Therefore, IT IS HEREBY ORDERED that the Motion to Dismiss is granted, and this appeal is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, February 11, 2022.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge