

NO. CAAP-22-0000365

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CITIGROUP MORTGAGE LOAN TRUST INC.
ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2007-AHL3,
Plaintiff/Counterclaim Defendant-Appellee, v.
PHYLLIS KEHAULANI DUNCAN CHUN,
Defendant/Counterclaimant-Appellant, and
ARROW FINANCIAL SERVICES, LLC, Defendant-Appellee, and
JOHN AND MARY DOES 1-20; DOE PARTNERSHIPS, CORPORATIONS,
OR OTHER ENTITIES 1-20, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC141002192)

ORDER GRANTING MOTION TO DISMISS APPEAL
(By: Leonard, Presiding Judge, Hiraoka and Chan, JJ.)

Upon consideration of the Motion to Dismiss Appeal and for an Award of Attorneys' Fees and Costs (**Motion to Dismiss**) filed August 5, 2022, by Plaintiff/Counterclaim Defendant-Appellee U.S. Bank National Association, the papers in support and in opposition, and the record, it appears that we lack appellate jurisdiction over self-represented Defendant/Counterclaimant-Appellant Phyllis Kehaulani Duncan Chun's (**Chun**) appeal from the Circuit Court of the First Circuit's (**Circuit Court**) interlocutory "Order Denying Counterclaim Defendant U.S. Bank National Association as Trustee for the Certificateholders Citigroup Mortgage Loan Trust Inc. Asset-Backed Pass through Certificates Series 2007-AHL3's Motion for Summary Judgment as to Counterclaim, Filed January 28, 2022" (**Denial Order**), entered April 13, 2022, in JIMS 1CC141002192, because the Circuit Court

has not entered a final, appealable judgment pursuant to Hawaii Revised Statutes (**HRS**) §§ 641-1(a) or 667-51, see Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994) ("An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRC [Rule] 58[.]"), and the Denial Order is not an appealable order under the collateral order doctrine, the Forgay doctrine, or HRS § 641-1(b) (2016). See Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016) (reciting the requirements for appeals under the collateral order doctrine and the Forgay doctrine); HRS § 641-1(b) (requirements for leave to file an interlocutory appeal).

As this court has no jurisdiction to consider the appeal on the merits, we deny the request for attorneys' fees made under Hawai'i Rules of Appellate Procedure Rule 38, without prejudice to a subsequent motion before the Circuit Court or, in the event that a new appeal is perfected to this court, before this court. See, e.g., Yoneji v. Yoneji, CAAP-13-0003566 (App. Mar. 5, 2014) (Order Denying Without Prejudice Motion for Attorney's Fees).

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

(1) The request to dismiss the appeal is granted. The appeal is dismissed for lack of appellate jurisdiction.

(2) The request for an award of attorneys' fees and costs is denied without prejudice.

DATED: Honolulu, Hawai'i, September 9, 2022.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge