

NO. CAAP-22-0000424

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

IN THE MATTER OF MAXIMO P. ESTEBAN TRUST DATED MAY 20, 1993

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(TRUST NO. 1TR121000204)

ORDER GRANTING MOTION FOR DISMISSAL
(By: Ginoza, Chief Judge, Wadsworth and Nakasone, JJ.)

Upon review of Petitioner/Successor Trustee of the MAXIMO P. ESTEBAN TRUST DATED MAY 20, 1993/Attorney-Appellee Gary Y. Shigemura's September 14, 2022 "Motion to Strike Notice of Appeal Filed July 2, 2022 Appealing a Portion of the Circuit Court's Minute Order ROA DKT #875 MORD as Set Forth in Appellee's Statement Contesting Jurisdiction in Civil Appeal Docketing Statement ROA DKT 928 CA" (**Motion**), which we construe as a motion to dismiss the appeal for lack of jurisdiction, the papers in support, the record, and there being no opposition, it appears that we lack appellate jurisdiction over Respondent-Appellant Veronica Esteban's appeal from the Circuit Court of the First Circuit's (**circuit court**) June 3, 2022 "Minute Order Re: Petition to Sell 3007 Numana Road, Honolulu, Hawaii 96819, Filed on March 9, 2022" (**Minute Order**), because the circuit court has not entered a final appealable order or judgment, and the Minute Order is not independently appealable.

Pursuant to Hawaii's Probate Rules (**HPR**) Rule 34, appeals from proceedings arising under Hawaii's Revised Statutes (**HRS**) Chapter 560 (Uniform Probate Code) are permitted only from:

a final judgment concluding the proceeding; an order that does not finally end the proceeding, but is certified for appeal in the manner provided by Hawai'i Rules of Civil Procedure (HRCP) Rule 54(b); or an order certified for interlocutory appeal in accordance with HRS § 641-1(b).

Here, the circuit court has not entered a final judgment, and it has not certified the Minute Order for appeal under HRCP Rule 54(b) or HRS § 641-1(b). Therefore, the Minute Order is not appealable under HPR Rule 34.

Further, the Minute Order is not independently appealable under the collateral-order doctrine or the Forgay¹ doctrine, as it does not, respectively, resolve an important issue completely separate from the merits of the action or execute against an interest in real property. 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).

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

DATED: Honolulu, Hawai'i, October 4, 2022.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge

¹ See Forgay v. Conrad, 47 U.S. 201 (1848).