

NO. CAAP-22-0000457

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR ADJUSTABLE RATE MORTGAGE TRUST 2005-2, ADJUSTABLE RATE MORTGAGE-BACKED PASS-THROUGH CERTIFICATES, SERIES 2005-2, Plaintiff-Appellee, v. THE ESTATE OF STUART D. EDWARDS, aka STUART DENZIL EDWARDS; KELLY EDWARDS, aka KELLY ANNE EDWARDS, individually and as Trustee of the Edwards Family Trust U/D/T dated September 19, 1996, Defendants-Appellants, and DOES 1 through 20, inclusive

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 3CC15100031K)

ORDER GRANTING MOTION TO DISMISS APPEAL
(By: Ginoza, Chief Judge, Wadsworth and Chan, JJ.)

Upon consideration of the Motion for Order Dismissing Appeal (**Motion**), filed September 28, 2022, by Plaintiff-Appellee U.S. Bank National Association, the papers in support and in opposition, and the record, it appears we lack appellate jurisdiction over self-represented Defendant-Appellant Kelly Edwards AKA Kelly Anne Edwards, Individually and as Trustee of the Edwards Family Trust U/D/T Dated September 19, 1996's (**Edwards**) appeal from the Circuit Court of the Third Circuit's (**Circuit Court**) June 28, 2022 "Order Granting Plaintiff's Motion for Leave to File First Amended Complaint, Filed June 3, 2022" (**Order**) in Civil No. 3CC15100031K, because the Circuit Court has not entered a final, appealable judgment under Hawaii Revised Statutes (**HRS**) §§ 641-1(a) (2016) or 667-51 (2016). Bank of America, N.A. v. Reyes-Toledo, 139 Hawai'i 361, 371, 390 P.3d 1248, 1258 (2017); Jenkins v. Cades Schutte Fleming & Wright, 76

Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994); Hawai'i Rules of Civil Procedure (**HRCP**) Rule 58. Additionally, the Circuit Court has not certified the Order for appeal in a HRCP Rule 54(b) judgment or granted leave to file an interlocutory appeal under HRS § 641-1(b) (2016), and neither the Forgay¹ doctrine nor the collateral order exception apply here. Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016).

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

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, October 21, 2022.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Derrick H.M. Chan

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