

NO. CAAP-21-0000506

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

THE BANK OF NEW YORK MELLON, fka THE BANK OF NEW YORK,
AS TRUSTEE FOR THE CERTIFICATE-HOLDERS OF CWMBS, INC.,
CHL MORTGAGE PASS-THROUGH TRUST 2006-21 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-21, Plaintiff-Appellee, v.
TOBY ALAMOANA KEOHOKAPU, JR.; KELLY SHANDELLE CORPUZ KEOHOKAPU,
Defendants-Appellants, and JOHN DOES 1-20; JANE DOES 1-20;
DOE CORPORATIONS 1-20; DOE ENTITIES 1-20;
DOE GOVERNMENTAL UNITS 1-20, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC121001026)

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

Upon consideration of Plaintiff-Appellee Bank of New York Mellon's (**Appellee**) December 29, 2022 Motion for Order Dismissing Appeal (**Motion**), the papers in support, the record, and there being no opposition, it appears that Appellee requests that the court dismiss this appeal as untimely.

Even assuming, *arguendo*, that the Circuit Court of the First Circuit's July 12, 2021 "Order Denying Emergency Motion to Vacate the Findings of Fact, Conclusions of Law and Order Granting Plaintiff's Motion for Summary Judgment Against All Defendants and to Set Aside and Vacate the Interlocutory Decree of Foreclosure; Motion to Compel Plaintiff to Prove Standing and Jurisdiction, or, in the Alternative, Motion for Satisfaction of Judgment and Sanctions for Perpetrating a Fraud on the Court, Including Terminating Sanctions, Filed March 23, 2021" (**Order**) appealed from is a final, appealable order, self-represented

Defendants-Appellants Toby Alamoana Keohokapu, Jr. and Kelly Shandelle Corpuz Keohokapu failed to file their Notice of Appeal within 30 days after entry of the Order, as required by Rule 4(a) of the Hawai'i Rules of Appellate Procedure, and "[a]n appellant's failure to file a timely notice of appeal is a jurisdictional defect that can neither be waived by the parties nor disregarded by the court in the exercise of judicial discretion." Enos v. Pac. Transfer & Warehouse, Inc., 80 Hawai'i 345, 349, 910 P.2d 116, 120 (1996) (citation omitted).

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

DATED: Honolulu, Hawai'i, January 25, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge