

NOS. CAAP-18-0000099 AND CAAP-18-0000712

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

CAAP-18-0000099

WILMINGTON SAVINGS FUND SOCIETY, FSB, DOING BUSINESS AS
CHRISTINA TRUST, NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY
AS TRUSTEE FOR BCAT 2015-14BTT, Plaintiff-Appellee,

v.

ISABELO PACPACO DOMINGO; MICHELE ELANOR DOMINGO,
Defendants-Appellants,

and

BANK OF AMERICA, N.A.; HALEWILI PLACE COMMUNITY ASSOCIATION,
Defendants-Appellees,

and

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

AND

CAAP-18-0000712

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AS TRUSTEE FOR BCAT 2015-14BTT, Plaintiff-Appellee,

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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

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 13-1-202K)

ORDER GRANTING MOTION FOR RECONSIDERATION

(By: Ginoza, Chief Judge, Leonard and Nakasone, JJ.)

Upon consideration of Defendants-Appellants Isabelo Pacpaco Domingo and Michele Elanor Domingo's (**Domingos**) "Motion for Reconsideration of the Court's June 20, 2023 'Order Dismissing Appeal as Moot'", (**Motion for Reconsideration**) filed on June 20, 2023, the papers in support, and the record, it appears that:

(1) On August 26, 2022, this court entered an Amended Summary Disposition Order concluding the appeal is moot because the Domingos failed to obtain a stay pending the appeal and no effective relief can be granted to the Domingos given the sale of the property by Plaintiff-Appellee Wilmington Savings Fund Society, FSB, doing business as Christiana Trust, Not in Its Individual Capacity, but Solely as Trustee for BCAT 2015-14BTT (**Wilmington**) to BBNY REO LLC, a Florida Limited Liability Company (**BBNY**).

(2) On February 15, 2023, the Hawai'i Supreme Court vacated the Amended Summary Disposition Order with instructions to temporarily remand the case to the Circuit Court of the Third Circuit (**Circuit Court**) for an evidentiary hearing to determine whether BBNY is a third-party good-faith purchaser. Wilmington Sav. Fund Soc'y, FSB v. Domingo, SCWC-18-0000099, 2023 WL 2017392 (Haw. Feb. 15, 2023) (Mem. Op.).

(3) On February 24, 2023, pursuant to the supreme court's memorandum opinion, we entered an Order for Temporary Remand to the Circuit Court. [**JIMS doc. 128**]

(4) After an evidentiary hearing on April 11, 2023, the Circuit Court entered "Findings of Fact and Conclusions of Law Regarding Evidentiary Hearing to Determine Good Faith of Purchaser" on April 12, 2023 (**4/12/23 Findings and Conclusions**). [**3CC13100202K doc. 255**]

(5) After jurisdiction reverted to this court on April 14, 2023, no party requested review of the Circuit Court's 4/12/23 Findings and Conclusions.

(6) Given the Circuit Court's determinations that BBNY is a good-faith third-party purchaser of the subject property and the property is no longer in Wilmington or BBNY's possession, this appeal was dismissed as moot on June 20, 2023.

(7) The Hawai'i Supreme Court's memorandum opinion does not address whether further proceedings are appropriate after the Circuit Court's evidentiary determination.

(8) However, in the interest of allowing the parties to fully litigate the mootness issue, reconsideration will be granted.

THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Motion for Reconsideration is granted and the Order Dismissing Appeal as Moot, filed on June 20, 2023, is vacated; and

2. Within twenty (20) days of this order, a party may file a supplemental brief challenging the Circuit Court's 4/12/23 Findings and Conclusions or matters in the Supplemental Record on Appeal docketed on April 14, 2023. A responsive supplemental brief may be filed within twenty (20) days of the supplemental brief being served. Any supplemental brief or responsive supplemental brief shall not exceed ten (10) pages, exclusive of attachments from the record.

DATED: Honolulu, Hawai'i, June 30, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Karen T. Nakasone
Associate Judge