

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-22-0000112

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE OF
J.P. MORGAN ALTERNATIVE LOAN TRUST 2006-A7,
Plaintiff-Appellee,

v.

MARK ALLEN MCMILLAN, INDIVIDUALLY AND TRUSTEE FOR THE
MCMILLAN ESTATE TRUST, AN IRREVOCABLE TRUST ESTATE
DATED MARCH 13, 2011 also known as MARK ALLEN MCMILLAN,
TRUSTEE FOR THE MCMILLAN ESTATE TRUST,
Defendant-Appellant,

and

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS
NOMINEE FOR MORTGAGEIT, INC.; UNITED STATES OF AMERICA;
STATE OF HAWAII - DEPARTMENT OF TAXATION; EDWARD HAUSMAN;
LORRAINE SILVA-HAUSMAN; THE PRINCIPALITY OF ALOHA;
CROWN LAND ESTATE OF KAUIKEAOULI PROBATE ESTATE 2410
also known as THE CROWN ESTATE OF KING KAUIKEAOULI P-2410,
A ROYAL PROBATE TRUST ESTATE RECEIVED IN ACCOMMODATION
BY TRUSTEE, KAILINAMOIWALE PAIEA; INTERNATIONAL MONETARY FUND,
Defendants-Appellees,

and

JOHN and MARY DOES 1-20; DOE PARTNERSHIPS, CORPORATIONS OR
OTHER ENTITIES 1-20, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CC171000387)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, Nakasone and McCullen, JJ.)

Mark Allen **McMillan**, representing himself, appeals from
the February 16, 2022 Judgment for **HSBC** Bank USA, National

Association, entered by the Circuit Court of the Second Circuit.¹ We affirm.

HSBC filed a foreclosure complaint against McMillan and others on September 13, 2017. The circuit court granted HSBC's motion for summary judgment and interlocutory decree of foreclosure on November 19, 2019. A **Foreclosure Judgment** was entered on October 21, 2019.² McMillan filed a notice of appeal on November 27, 2019. We dismissed the appeal for lack of jurisdiction because McMillan's notice of appeal was not filed within 30 days after entry of the Foreclosure Judgment, as required by Hawai'i Rules of Appellate Procedure Rule 4(a)(1). HSBC Bank USA v. McMillan, No. CAAP-19-0000829, 2020 WL 1903844 (Haw. App. Apr. 17, 2020) (order).

The circuit court entered an order granting HSBC's motion to confirm the foreclosure sale on February 16, 2022. The Judgment (**Confirmation of Sale Judgment**) was also entered on February 16, 2022. This appeal followed.

McMillan's opening brief states a single point of error:³ "Whether the court erred to proceed with foreclosure action without proof [HSBC] were in possession of the original Note, upon filing the complaint." McMillan thus challenges HSBC's standing to foreclose. See Bank of Am., N.A. v. Reyes-Toledo, 139 Hawai'i 361, 368, 390 P.3d 1248, 1255 (2017) (stating that "a foreclosing plaintiff must establish entitlement to enforce the note at the time the action was commenced").

McMillan's appeal from the Foreclosure Judgment was dismissed for lack of jurisdiction. The Foreclosure Judgment is final and binding. HSBC's right to foreclose was finally decided

¹ The Honorable Kelsey T. Kawano presided.

² The Honorable Joseph E. Cardoza presided.

³ The opening brief doesn't comply with Hawai'i Rules of Appellate Procedure Rule 28(b). To promote access to justice, pleadings prepared by self-represented litigants are to be interpreted liberally. Erum v. Llego, 147 Hawai'i 368, 380-81, 465 P.3d 815, 827-28 (2020). We don't foreclose McMillan from appellate review because he failed to comply with court rules.

in its favor. Res judicata prevents McMillan from challenging HSBC's standing to foreclose in this appeal from the Confirmation of Sale Judgment. Mortg. Elec. Registration Sys., Inc. v. Wise, 130 Hawai'i 11, 17, 304 P.3d 1192, 1198 (2013).

McMillan makes no other argument why the Confirmation of Sale Judgment should be vacated. The February 16, 2022 Judgment for HSBC is affirmed.

DATED: Honolulu, Hawai'i, May 12, 2025.

On the briefs:

Mark Allen McMillan,
Self-represented
Defendant-Appellant.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Karen T. Nakasone
Associate Judge

Patricia J. McHenry,
Lisa K. Swartzfager,
for Plaintiff-Appellee
HSBC Bank, USA, National
Association, as Trustee of
J.P. Morgan Alternative Loan
Trust 2006-A7.

/s/ Sonja M.P. McCullen
Associate Judge