

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-24-0000622

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR
NEW CENTURY ALTERNATIVE MORTGAGE LOAN TRUST 2006-ALT2,
Plaintiff-Appellee, v.
DANIEL JOSEPH SPENCE; ELAINE DURLAO SPENCE,
Defendants-Appellants,
and
WILMINGTON SAVINGS FUND SOCIETY, FSB, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE FOR EASTERN SAT TRUST;
MILILANI TOWN 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.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC141000573)

ORDER GRANTING MOTION TO DISMISS APPEAL

(By: Leonard, Acting Chief Judge, Hiraoka, Wadsworth, JJ.)

Upon consideration of the *Motion to Dismiss Appeal as Moot* filed by Plaintiff-Appellee **U.S. Bank** National Association, as Trustee for New Century Alternative Mortgage Loan Trust 2006-ALT2 on June 6, 2025, the response filed by Defendants-Appellants Daniel Joseph Spence and Elaine Dumlao Spence on June 13, 2025, and the record, it appears that:

1. On April 29, 2025, we temporarily remanded this appeal to the Circuit Court in accordance with Wilmington Savings Fund Society, FSB v. Domingo, SCWC-18-0000099 & SCWC-18-0000712,

2023 WL 2017392 (Haw. Feb. 15, 2023) (mem. op.) to determine whether the **Property** at issue in the foreclosure proceeding had been sold to a good-faith purchaser;

2. The Circuit Court conducted an evidentiary hearing and, on May 23, 2025, entered *Findings of Fact, Conclusions of Law, and Order as to Third-Party Purchasers' Good Faith Purchaser Status in Accordance with Temporary Remand to Circuit Court*;

3. The Circuit Court's findings of fact were supported by substantial evidence in the record and were not clearly erroneous, see Est. of Klink ex rel. Klink v. State, 113 Hawai'i 332, 351, 152 P.3d 504, 523 (2007);

4. The Circuit Court's conclusions of law were right, see Wilmington Sav. Fund Soc'y, FSB v. Domingo, 155 Hawai'i 1, 9, 556 P.3d 347, 355 (2024);

5. The Circuit Court's conclusion that "(1) Mark Nicholas Chin and Jeanie Chi Hyon Chin, as tenants by the entirety; (2) Properinvest, LLC; (3) Kelakela 1069 LLC; (4) Zenith Realty Group, LLC; and (5) Small Pond Partners, LLC), were and are good faith purchasers of the Property under Hawai'i law" was supported by its findings of fact and reflected an application of the correct rule of law, Domingo, 155 Hawai'i at 9, 12, 556 P.3d at 355, 358; and

6. The Spences' appeal is moot, Bank of New York Mellon v. R. Onaga, Inc., 140 Hawai'i 358, 370, 400 P.3d 559, 570 (2017) (holding that if no stay is obtained and the foreclosed property is sold to a good faith purchaser, the appeal should be dismissed as moot).

Therefore, IT IS HEREBY ORDERED that U.S. Bank's Motion to Dismiss Appeal as Moot is granted, and this appeal is dismissed.

DATED: Honolulu, Hawai'i, June 20, 2025.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge