

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-24-0000084

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

U.S. BANK TRUST, N.A., AS TRUSTEE FOR
LSF9 MASTER PARTICIPATION TRUST, Plaintiff-Appellee, v.
ROBERT FREITAS, JR., aka ROBERT FREITAS, Defendant-Appellant, and
STATE OF HAWAI'I, DEPARTMENT OF SOCIAL SERVICES AND HOUSING;
STATE OF HAWAI'I, DEPARTMENT OF TAXATION;
KONA PALISADES ESTATES COMMUNITY ASSOCIATION,
Defendants-Appellees, and
DOES 1 through 20, inclusive, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 3CC18100175K)

ORDER GRANTING MOTION TO DISMISS APPEAL

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

Upon consideration of the October 22, 2025 Plaintiff-Appellee's Motion for: (1) Determination That Property Has Been Conveyed to a Bona Fide Third Party Purchaser; (2) Determination That Defendant-Appellant's Appeal is Moot; and (3) Dismissal of Instant Appeal as Moot (**Motion to Dismiss**), filed by Plaintiff-Appellee U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust (**US Bank**), the papers in support, noting no opposition, and the record, it appears that:

On July 21, 2025, the Circuit Court of the Third Circuit, Kona Division (**Circuit Court**), entered an Amended Order Approving Commissioner's Report and Granting Plaintiff's Renewed

Motion for Confirmation of Foreclosure Sale, Allowance of Costs, Commissions and Fees, Distribution of Process, Directing Conveyance and for Writ of Possession/Ejectments [Dkt. 203] (**Amended Order**) and an Amended Judgment thereon [Dkt. 205]. In the Amended Order, the Circuit Court determined, *inter alia*, that the buyer of the subject property was a bona fide good faith purchaser of the property, without any affiliation to US Bank or its agents or any other party in this action. No appeal was taken from the Amended Order and Amended Judgment. No supersedeas bond was posted and no stay has been ordered.

When a defendant appeals from a foreclosure case, but fails to post a supersedeas bond or otherwise obtain a stay of the foreclosure, and the property is subsequently sold to a bona fide purchaser at a judicial sale, the appeal is moot. See Bank of New York Mellon v. R. Onaga, Inc., 140 Hawai'i 358, 400 P.3d 559 (2017) ("The general rule is that the right of a good faith purchaser to receive property acquired at a judicial sale cannot be affected by the reversal of an order ratifying the sale where a supersedeas bond has not been filed.").

In accordance with the Circuit Court's relevant findings and conclusions, and pursuant to the holding in Onaga, we conclude that this appeal is moot.

Therefore, IT IS HEREBY ORDERED that the October 22, 2025 Motion to Dismiss is granted, and the appeal is dismissed.

DATED: Honolulu, Hawai'i, November 21, 2025.

/s/ Karen T. Nakasone
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge