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Intermediate Court of Appeals
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NO. CAAP-26-0000360

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

SPENCE B. AGUIAR, Plaintiff-Appellee,
v.
KYLE B. AGUIAR, Defendant-Appellant,
and
DOE DEFENDANTS 1-10, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CCV-23-0000105)

ORDER GRANTING MOTION TO DISMISS APPEAL
(By: Leonard, Presiding Judge, Guidry and Gluck, JJ.)

Upon consideration of Plaintiff-Appellee Spence B. Aguiar's (**Spence**) July 1, 2026 Motion to Dismiss Appeal for Lack of Appellate Jurisdiction, the papers in support, the record, and there being no opposition filed, it appears that Spence seeks dismissal of self-represented Defendant-Appellant Kyle B. Aguiar's (**Kyle**) appeal from the Circuit Court of the Fifth Circuit's April 9, 2026 Order Granting Plaintiff's Motion to Confirm Defendant's Intention to Buyout Plaintiff's Interest in Subject Properties for Proof of Funds and Deadline to Close (**Buyout Order**).

The court lacks appellate jurisdiction because the Circuit Court has not entered a final, appealable order or judgment, see Hawai'i Revised Statutes (**HRS**) § 641-1(a) (2016); Hawai'i Rules of Civil Procedure Rules 54(b), 58; Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). The Buyout Order does not fully resolve any of the claims raised in the complaint, is not independently appealable under the collateral order or Forgay¹ doctrines, and the Circuit Court has not granted leave for an interlocutory appeal under HRS § 641-1(b). See Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016) (setting forth the requirements for appealability under the collateral-order doctrine and the Forgay doctrine); HRS § 641-1(b) (specifying requirements for leave to file interlocutory appeal).

Therefore, IT IS HEREBY ORDERED that the motion is granted, and this appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, August 27, 2026.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Kimberly T. Guidry
Associate Judge

/s/ Daniel M. Gluck
Associate Judge

¹ Forgay v. Conrad, 47 U.S. 201 (1848). "[T]he Forgay doctrine permits a direct appeal from a non-final, interlocutory order or decree that commands the immediate transfer of property, where the losing party will be subjected to undue hardship and irreparable injury if appellate review must wait until the final outcome of the litigation." Lambert v. Teisina, 131 Hawai'i 457, 461, 319 P.3d 376, 380 (2014).