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NO. CAAP-25-0000699

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

A.M., Plaintiff-Appellee, v.
J.M., Defendant-Appellant.

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(CASE NO. 3DV221000037)

SUMMARY DISPOSITION ORDER

(By: Leonard, Presiding Judge, Hiraoka and Gluck, JJ.)

Self-represented Defendant-Appellant J.M. (**J.M.**) appeals from the Family Court of the Third Circuit's (**Family Court**) September 9, 2025 "Decree Granting Divorce with Children" (**Divorce Decree**)¹ dissolving the marriage between J.M. and Plaintiff-Appellee A.M. (**A.M.**) and, inter alia, dividing the parties' property pursuant to Hawai'i Revised Statutes (**HRS**) § 580-47 (Supp. 2025). J.M.'s single point of error on appeal²

¹ The Honorable Jeffrey W. Ng presided.

² We disregard the points of error raised in J.M.'s original opening brief (**OB**) (filed January 14, 2026) which were not carried forward into the amended opening brief (**Amended OB**) (filed June 4, 2026). See State v. Apollonio, 130 Hawai'i 353, 362, 311 P.3d 676, 685 (2013) ("Petitioner's arguments . . . were not raised in Petitioner's [OB] before the [Intermediate Court of Appeals], and are therefore waived."); Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 28(b)(7) (eff. 2022) ("Points not argued may be deemed waived."). Moreover, HRAP Rule 28(b) authorizes a single OB, not multiple briefs, and this court's February 23, 2026 order authorized J.M. to file an amended brief.

in her operative, Amended OB is that the Family Court abused its discretion by failing to make adequate findings regarding the "differing inputs" in the property division chart adopted by the Family Court.

Both A.M. and J.M. owned properties prior to the marriage and sold those properties during the marriage. J.M. contends that the Family Court applied "materially different . . . valuation inputs" to the parties' respective premarital real property interests without adequate findings. In other words, J.M. argues that the Family Court used a different method for calculating J.M.'s premarital asset (her home, the premarital equity of which was found to be \$50,000.00) than the method used to calculate A.M.'s premarital asset (his home, the premarital value of which was found to be \$110,000.00).

Upon careful review of the record, J.M.'s Amended OB, and A.M.'s answering brief (**AB**), and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve J.M.'s point of error as follows, and affirm.

We first note that transcripts of the Family Court proceedings (including the trial conducted on January 23 and 27, 2025) have not been made a part of the record on appeal. By February 23, 2026 order, we granted in part J.M.'s January 14, 2026 motion for additional time to obtain transcripts. There are no transcripts in the record on appeal, however. Instead, J.M.'s Amended OB and A.M.'s AB refer to appended transcript excerpts that are not included in the record on appeal. The court cannot consider transcript excerpts attached to and referenced in the parties' briefs but not included in the record on appeal. See Bettencourt v. Bettencourt, 80 Hawai'i 225, 229 n.2, 909 P.2d 553, 557 n.2 (1995) ("Because . . . the hearing transcript was never made a part of the record on appeal, these quotations alone are improper.").

This court has held that "[a]n appellant must include in the record all of the evidence on which the lower court might have based its findings and if this is not done, the lower court must be affirmed." Union Bldg. Materials Corp. v. Kakaako Corp., 5 Haw. App. 146, 151-52, 682 P.2d 82, 87 (App. 1984). Nevertheless, Thomas-Yukimura v. Yukimura, 130 Hawai'i 1, 10 n.19, 304 P.3d 1182, 1191 n.19 (2013), instructs that in the absence of a complete record, the court may determine whether the available record "clearly discloses" an error by the lower court. But even after examining the available record in this case, and reaching the merits of J.M.'s argument on appeal to the extent we are able, we fail to identify a clear, dispositive error in the Family Court's findings or conclusions concerning J.M.'s sole point of error.

J.M.'s property division chart submitted to the Family Court valued her premarital equity in her home at \$50,000.00. A.M.'s property division chart asserted he was entitled to \$168,000.00 for his premarital home. However, the \$168,000.00 figure seemingly represents the proceeds from the sale of A.M.'s home several years into the marriage. The Family Court did not accept A.M.'s proposed \$168,000.00 figure, but instead credited him \$110,000.00. The available record permits the inference that the Family Court reasonably regarded the price of A.M.'s purchase of his separate premarital home a year or two before the marriage (\$110,000.00) as the approximate equivalent of A.M.'s net equity on the date of marriage (given that the documentary record does not establish whether or to what extent A.M.'s real property was financially encumbered as of the date of marriage). In the absence of a significant encumbrance on the date of marriage, the Family Court may have considered a price-based valuation for A.M.'s Category 1 real property to be the functional equivalent of the equity-based valuation for J.M.'s Category 1 real property.

Indeed, both parties ultimately advocated below for Category 1 capital contribution credits equal to their respective net proceeds from the sale of their separately owned premarital real properties during the marriage. The parties appear to confuse Category 1 net equity as of the date of marriage with net proceeds from the sale of Category 1 property during the marriage. The relevant amount in determining a Category 1 capital contribution is the "net market value" as of the date of marriage – not net sale proceeds received during the marriage (the latter of which could include a post-marriage-date increase in value ordinarily subject to equal division). See Gordon v. Gordon, 135 Hawai'i 340, 349, 350 P.3d 1008, 1017 (2015).

"Pursuant to HRS § 580-47(a), the family court has broad discretion to divide the estate of divorcing parties in a 'just and equitable' manner." Balogh v. Balogh, 134 Hawai'i 29, 38, 332 P.3d 631, 640 (2014). The Family Court declined to credit each party with their entire net sales proceeds as Category 1 capital contributions, and J.M. does not demonstrate any error by the Family Court. Nor does the record show that the Family Court applied "materially different Category 1 valuation inputs regarding the parties' premarital properties[,]" as presumed by J.M. We therefore conclude that, unlike in Yukimura, the available record in this case does not clearly show clear error or abuse of discretion by the Family Court.³

Finally, we address the Notice of Cross-Appeal filed – and then voluntarily dismissed – by A.M.

³ Additionally, we note that J.M. does not expressly challenge Finding of Fact 9(i) from the December 26, 2025 Findings of Fact and Conclusions of Law, in which the Family Court found that "[A.M.] purchased his residence . . . for \$110,000.00" with no mention of any encumbrance.

The Family Court entered the Divorce Decree on September 9, 2025. J.M. filed a motion for reconsideration on September 18, and the Family Court denied that motion on September 25, 2025. J.M.'s counsel filed a notice of appeal with the Family Court on October 6; the notice of appeal was docketed with this court on October 10, 2025.⁴ A.M.'s cross-appeal was not filed until October 28, 2025. This was untimely pursuant to HRAP Rule 4.1(b)(1) (eff. 2020), which requires that "[a] notice of cross-appeal shall be filed within 14 days after the notice of appeal is served on the cross-appellant, or within the time prescribed for filing the notice of appeal, whichever is later." J.M.'s counsel then filed a notice of dismissal of cross-appeal – again, in Family Court – on December 12, 2025, though the notice of dismissal did not comply with HRAP Rule 42 (eff. 2016). The cross-appeal is dismissed.

For the foregoing reasons, we affirm the Family Court of the Third Circuit's September 9, 2025 "Decree Granting Divorce with Children."

DATED: Honolulu, Hawai'i, September 23, 2026.

On the briefs:

J.M.,
Self-represented
Defendant-Appellant.

Kathleen Kentish Lucero,
for Plaintiff-Appellee.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Daniel M. Gluck
Associate Judge

⁴ Pursuant to HRAP Rule 3(a) (eff. 2019), the notice of appeal should have been filed directly with this court.