

NO. 23300

IN THE SUPREME COURT OF THE STATE OF HAWAII

FIRST HAWAIIAN CREDITCORP, INC., Plaintiff-Appellant

vs.

VICTOR AGMATA, JR.; HERITA YULO-AGMATA now known as HERITA
ALCARAZ YULO, Individually and as Trustee of the Herito Yulo
Agmata Trust Agreement dated July 20, 1992; VICTOR AGMATA III,
MARIAN YULO AGMATA; CYNTHIA AGMATA; DEPARTMENT OF TAXATION, STATE
OF HAWAII, and BEATRIZ AGMATA, Defendants-Appellees

and

MARCELINE MARSH GREEN, JOHN DOES 1-50; JANE DOES 1-50; DOE
PARTNERSHIPS 1-50; DOE CORPORATIONS 1-50; DOE ENTITIES 150 and
DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 95-4107)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Moon, C.J., Levinson, Nakayama, and Ramil, JJ.,
and Circuit Judge Milks, in place of Acoba, J., recused)

Upon consideration of the motion for reconsideration of the August 9, 2000 order dismissing appeal, the papers in support and the record, it appears that the amount of a deficiency in a foreclosure case is not a claim for relief in the foreclosure action, but is simply a matter incident to enforcement of the judgment of foreclosure. See MDG Supply v. Diversified Investments, Inc., 51 Haw. 375, 380, 463 P.2d 525, 529 (1969); Sturkie v. Han, 2 Haw. App. 140, 146-147, 627 P.2d 246, 301-302 (1981). In Civil No. 95-4107, the matter of whether the deficiency amount was chargeable to the defendants was not a claim for relief for which certification under HRCF 54(b) was required and the purported certification of the matter in the

March 2, 2000 judgment is of no legal effect.

The first part of the foreclosure case ended with entry of the May 7, 1996 certified judgment of foreclosure and the second part ended with entry of the March 12, 1998 and May 22, 1998 orders denying entry of a deficiency judgment. But for the fact that the May 7, 1996 certified judgment was invalid as entered during the bankruptcy stay, the second part would have been appealable when the deficiency judgment orders were entered. The second part became appealable when the new and valid certified judgment of foreclosure was entered on November 5, 1998. Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, August 28, 2000.

Louis L.C. Chang,
for plaintiff-appellant
on the motion