

NO. 23742

IN THE SUPREME COURT OF THE STATE OF HAWAII

IMC MORTGAGE COMPANY, a Florida corporation, as Successor by
Merger to Industry Mortgage Company, L.P., a Delaware Limited
Partnership, Plaintiff-Appellee

vs.

JACK CHARLES HOWARD, Defendant-Appellant

and

JOHN AND MARY DOES 1-20, DOE PARTNERSHIPS, CORPORATIONS OR OTHER
ENTITIES 1-20, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIVIL NO. 98-1505)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that: (1) the appeal of the August 14, 2000 order confirming the foreclosure sale and awarding fees and costs is an appeal from the second part of the foreclosure case filed in Civil No. 98-1505; (2) the second part of the foreclosure case has not been finally completed inasmuch as a deficiency judgment has yet to be entered; see Hoge v. Kane I, 4 Haw. App. 246, 247, 663 P.2d 645, 647 (1983); (3) entry of the separate judgment on the August 14, 2000 order and the purported certification of the judgment under HRCF 54(b) are of no legal effect inasmuch as confirmation of the foreclosure sale and the award of fees and costs were not claims for relief in the foreclosure action, but were simply matters 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); and thus, (4) this appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, January 3, 2001.