

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25967

IN THE SUPREME COURT OF THE STATE OF HAWAII

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HAWAII VENTURES, LLC,  
Plaintiff/Counterclaim-Defendant/Appellee/

vs.

OTAKA, INC. and YUKIO TAKAHASHI,  
Defendants/Counterclaim-Plaintiffs/Cross-Claim  
Defendants/Appellees

and

TAKAO BUILDING CO., LTD. (TAKAO), K.K. DAINI SEVEN (DAINI SEVEN),  
HAWAIIAN WAIKIKI BEACH, INC.,  
Defendants/Counterclaim-Plaintiffs/Appellees

and

ALAKA'I MECHANICAL CORPORATION, and HEWLETT-PACKARD COMPANY,  
Defendants/Appellees

and

BUSINESS MANAGEMENT GROUP, INC.,  
Defendant/Cross-Claim Plaintiff/Appellee

and

BEACH SNACK EXPRESS, INC., dba HAMACHAYA JUBEI, and  
HAWAII ENERGY MANAGEMENT CO., LLC  
Defendants/Appellees

and

ILWU LOCAL 142, AFL-CIO  
Intervenor-Defendant/Appellee

and

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THEODORE H. SMYTH, AS TRUSTEE OF THE SMYTH FAMILY TRUSTS, and  
KARL W. WILLIG  
Intervenors-Defendants/Counterclaim-Plaintiffs/Appellants

and

ARGONAUT INSURANCE COMPANY,  
Intervenor-Defendant/Appellee

and

LEUCADIA NATIONAL CORPORATION,  
Additional Counterclaim-Defendant/Appellee

and

PATRICIA KIM PARK,  
Receiver/Appellee

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 00-1-2427)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over this appeal because the Honorable Karen N. Blondin's June 18, 2003 judgment does not satisfy the requirements for an appealable final judgment.

With respect to the requirement of a final judgment, order or decree pursuant to HRS § 641-1(a) (1993), "[t]his court has previously noted that foreclosure cases are bifurcated into two separately appealable parts: (1) the decree of foreclosure and the order of sale, if the order of sale is incorporated within the decree; and (2) all other orders." Beneficial Hawai'i, Inc. v. Casey, 98 Hawai'i 159, 165, 45 P.3d 359, 365 (2002) (citations and internal quotation marks omitted).

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Therefore, although the foreclosure decree in part-one of a foreclosure case is immediately appealable upon entry, the "matters subsequent to the foreclosure decree, [i.e., in part-two of a foreclosure case,] such as the confirmation of sale or the issuance and enforcement of the writ of possession . . . would have to wait until entry of the circuit court's final order in the case." Id. (citation omitted). "[T]he last and final order . . . [in part-two of a foreclosure case] is usually the deficiency judgment." Security Pacific Mortgage Corporation v. Miller, 71 Haw. 65, 70, 783 P.2d 855, 858 (1989) (citation and internal quotation marks omitted); Hoge v. Kane, 4 Haw. App. 246, 247, 663 P.2d 645, 647 (1983) ("In foreclosure cases, which result in a deficiency, the last and final order . . . is usually the deficiency judgment."). In the instant case, Intervenor-Defendants/Counterclaim-Plaintiffs/Appellants Theodore H. Smyth and Karl W. Willig are attempting to appeal from a judgment in part-two of this foreclosure case.

"An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or

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contain the finding necessary for certification under HRCP [Rule] 54(b).” Id. Despite the multiple parties and multiple claims in this case, the June 18, 2003 judgment neither resolves all claims against all parties nor contains the finding necessary for certification under HRCP Rule 54(b). Therefore, the June 18, 2003 judgment is not final for the purpose of an appeal. Absent an appealable final judgment, the appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai‘i, October 24, 2003.