

NO. 25399

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LOLITA QUEVEDO, Petitioner,

vs.

THE HONORABLE RIKI MAY AMANO, JUDGE OF THE CIRCUIT COURT
OF THE THIRD CIRCUIT, STATE OF HAWAI'I, Respondent,

and

THE BANK OF NEW YORK AS TRUSTEE OF AMRESKO RESIDENTIAL
SECURITIES CORPORATION MORTGAGE LOAN TRUST 1997-2
UNDER THE POOLING AND SERVICING AGREEMENT DATED
AS OF JUNE 1, 1997, Real Party In Interest.

ORIGINAL PROCEEDING
(Civ. No. 99-117)

ORDER

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

Upon consideration of Petitioner Lolita Quevedo's petition for emergency writ of mandamus and for immediate emergency relief pending review, the papers in support, and the records and files herein, it appears that: (1) Petitioner asks this court to review rulings related to a decree of foreclosure entered in The Bank of New York v. Quevedo, Civil No. 99-0117, presently pending in the Circuit Court of the Third Circuit; (2) a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress the alleged wrong or obtain the requested action; such writs are not meant to supersede the legal discretionary authority of the lower courts, nor are they meant to serve as legal remedies in lieu of normal

appellate procedures. State v. Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392 (1998) (citing Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996)); (3) on December 5, 2001, Petitioner filed an appeal from the decree of foreclosure and judgment entered in the underlying case; (4) the appeal was dismissed when Petitioner failed to file the opening brief; (5) Petitioner then filed an HRCP Rule 60(b) motion and a subsequent motion for reconsideration in the underlying case; (6) Petitioner has a remedy by way of appeal from the order denying the Rule 60(b) motion and the subsequent motion for reconsideration. See Professional Sponsoring Fund v. Rao, 5 Haw. App, 382, 694 P.2d 885 (1985); and (7) a writ of mandamus cannot be used as a legal remedy in lieu of an appeal. Therefore,

IT IS HEREBY ORDERED that the petition for emergency writ of mandamus and for immediate emergency relief is denied without prejudice to any other available remedy.

DATED: Honolulu, Hawai'i, November 4, 2002.