

*** NOT FOR PUBLICATION ***

NO. 25774

IN THE SUPREME COURT OF THE STATE OF HAWAII

AMERICAN GENERAL FINANCE OF HAWAII, INC., Plaintiff-Appellee

vs.

WILLIAM DOMEN, Defendant-Appellant

and

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

WILLIAM DOMEN, Counterclaimant-Appellant

vs.

AMERICAN GENERAL FINANCE OF HAWAII, INC., Counterclaim
Defendant-Appellee

and

AMERICAN GENERAL FINANCE, INC., and AMERICAN GENERAL CORPORATION,
Additional Counterclaim Defendants-Appellees

and

DOE ENTITIES 1-50, and DOE GOVERNMENTAL UNITS 1-50,
Additional Counterclaim Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 01-1-1028)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.,
and Intermediate Court of Appeals Associate Judge Foley,
in place of Duffy, J., recused)

Upon review of the record, it appears we do not have jurisdiction over Defendant/Counterclaim Plaintiff/Appellant William Domen's (Appellant Domen) appeal from the Honorable Karen M. Radius's March 20, 2003 judgment. We have "previously noted that foreclosure cases are bifurcated into two separately

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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). Therefore, although the foreclosure decree in part-one of a foreclosure case is immediately appealable upon entry, the "matters subsequent to the foreclosure decree, 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). "In foreclosure cases which result in a deficiency, the last and final order . . . 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."). The circuit court has not entered a deficiency judgment in a specific amount.

HRS § 641-1(a) (1993) authorizes appeals only from final judgments, orders, or decrees. Absent the entry of a deficiency judgment, Appellant Domen's appeal is premature and we lack appellate jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, August 29, 2003.