

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25885

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ASSOCIATES FINANCIAL SERVICES COMPANY OF HAWAII, INC.,  
Plaintiff-Appellee

vs.

SALLY DELA CRUZ UCOL, Defendant-Appellant

and

BERNADINE DELA CRUZ DULAN; INTERNATIONAL SAVINGS and LOAN  
ASSOCIATION, now known as CITY BANK, Defendants-Appellees

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

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 01-1-0333)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears we do not have jurisdiction over Defendant-Appellant Sally Dela Cruz Ucol's (Appellant Ucol) appeal from the Honorable Karen N. Blondin's March 18, 2003 judgment. We have "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). Therefore, although the foreclosure decree in

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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.

We note that, on May 27, 2003, Governor Linda Lingle signed into law 2003 Hawai'i Session Laws Act 89 (2003 H.B. No. 1076). Under Act 89, a judgment in part-two of a foreclosure case is final and appealable if the circuit court (1) enters the judgment on an order confirming the sale of the foreclosed property and (2) certifies the judgment as final pursuant to Rule 54(b) of the Hawai'i Rules of Civil Procedure. 2003 H.B. No. 1076 § 2. Nevertheless, Act 89 was not yet in effect when the circuit court entered the March 18, 2003 judgment, and, thus, Act 89 does not apply to this case.

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HRS § 641-1(a) (1993) authorizes appeals only from final judgments, orders, or decrees. According to Hawai'i law during the relevant time period, absent the entry of a deficiency judgment, Appellant Ucol'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, September 17, 2003.