

*** NOT FOR PUBLICATION ***

NO. 25628

IN THE SUPREME COURT OF THE STATE OF HAWAII

HOMESIDE LENDING, INC., Plaintiff-Appellee

vs.

GWEN KAY TOMIHARA; ASSOCIATION OF APARTMENT OWNERS OF HONUAKAHA,
by its Board of Directors, Defendants-Appellees

and

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

WAYNE SLAGLE and SHEILA SLAGLE, Purchasers-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 01-1-1556)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson and Nakayama, JJ.,
Intermediate Court of Appeals Associate Judge Watanabe,
Concurring and Dissenting, with whom Acoba, J., joins)

Upon review of the record, it appears we do not have jurisdiction over Purchasers-Appellants Wayne Slagle and Sheila Slagle's (the Slagle Appellants) appeal from the Honorable Karen N. Blondin's January 31, 2003 order denying the Slagle Appellants' motion for attorneys' fees and costs.

This 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. . . . A litigant who wishes to challenge a decree of foreclosure and order of sale may - and, indeed, must - do so within the thirty day period following entry of the decree or will lose the right to appeal that portion of the foreclosure proceeding.

Beneficial Hawai'i, Inc. v. Casey, 98 Hawai'i 159, 165, 45 P.3d

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359, 365 (2002) (citations and internal quotation marks omitted). The other orders in the second part of a foreclosure case "are appealable upon the entry of the last of the series of orders which collectively embrace the entire controversy." Hoge v. Kane, 4 Haw. App. 246, 663 P.2d 645, 647 (1983) (citation omitted). Therefore, when a foreclosure case "result[s] in a deficiency, the last and final order which starts the clock running [for any aggrieved party who wants to file a notice of appeal pursuant to Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure] 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). 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 an appealable final deficiency judgment, the January 31, 2003 order denying the Slagle Appellants' motion for attorneys' fees and costs is an interlocutory order from which no appeal lies. Therefore,

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

DATED: Honolulu, Hawai'i, September 23, 2003.