

NO. 30057

IN THE SUPREME COURT OF THE STATE OF HAWAII

JEAN R. KIKUKOTO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

AMERICAN HOME MORTGAGE SERVICING, INC.,
Respondent/Plaintiff-Appellee,

vs.

KIN-CHUNG ROCKY YEUNG,
Petitioner/Defendant-Appellant,

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CIV. NO. 09-1-0816)

ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI,
VACATING ORDER DISMISSING APPEAL, AND
REMANDING APPEAL TO THE INTERMEDIATE COURT OF APPEALS

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

Petitioner/defendant-appellant Kin-Chung Rocky Yeung, by application filed on March 9, 2010, timely applies for a writ of certiorari to review the Intermediate Court of Appeals' (ICA) January 13, 2010 order dismissing petitioner's appeal for lack of appellate jurisdiction. The appeal was dismissed because the ICA determined that a final judgment had not been entered in Civil No. 09-1-0816 -- pursuant to HRCP 58 and Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 120, 869 P.2d 1334, 1339 (1994) -- by the time the record on appeal was filed in the ICA on November 10, 2009. However, a final judgment was entered on November 9, 2009, and the entry was recorded on the docket of Civil No. 09-1-0816. The judgment was erroneously omitted from the record transmitted to the ICA, but nonetheless, the judgment

was entered by the time the record on appeal was filed in the ICA, and the ICA has jurisdiction over petitioner's appeal.

Therefore,

IT IS HEREBY ORDERED that the application for a writ of certiorari is accepted.

IT IS FURTHER ORDERED that: (1) the January 13, 2010 order of the ICA dismissing No. 30057 for lack of appellate jurisdiction is vacated; and (2) No. 30057 is remanded to the ICA.

DATED: Honolulu, Hawai'i, April 9, 2010.



Fumio C. Takayama



Kama E. Duggan

Mona E. Redmond