

NO. 23458

IN THE SUPREME COURT OF THE STATE OF HAWAII

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BENEFICIAL HAWAII INC., a Delaware corporation,  
Plaintiff/Counterclaim Defendant-Appellee

vs.

DONALD MUNEO KIDA, Defendant/Counterclaimant-Appellant

and

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

and

DONALD MUNEO KIDA, Third-Party Plaintiff,

vs.

MICHELE KOBAYASHI fka MICHELE UMENO aka MICHELE  
FUKUDA-UMENO, individually and dba R.M. FINANCIAL  
ASSOCIATES; R&M ASSOCIATES, INC., a Hawaii  
corporation; FINANCIAL M.D. ASSOCIATES, INC.,  
a Hawaii corporation, directly and dba THE MORTGAGE  
WAREHOUSE; MILBURN IWAI dba PACIFIC MORTGAGE FUNDING  
GROUP; PACIFIC MORTGAGE FUNDING GROUP LTD., a Hawaii  
corporation; ELAINE F. NAITO; UK HOLDING CORPORATION  
dba EQUITY FUNDING GROUP; JOHN DOES 1-10; JANE DOES 1-10;  
DOE CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE  
MORTGAGE CORPORATIONS 1-5; DOE FINANCIAL CORPORATIONS 1-5;  
DOE PRINCIPAL MORTGAGE BROKERS 1-5; and DOE GOVERNMENTAL  
ENTITIES 1-10, Third-Party Defendants

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 96-4929)

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

Upon review of the statements supporting and contesting  
jurisdiction and the record, it appears that: (1) the appeal of

the May 10, 2000 judgment confirming the foreclosure sale and awarding attorney's fees and costs is an appeal from the second part of the foreclosure case filed in Civil No. 96-4929; (2) the second part of the foreclosure case has not been finally completed inasmuch as a deficiency judgment has yet to be entered; see Hoge v. Kane I, 4 Haw. App. 246, 247, 663 P.2d 645, 647 (1983); (3) the purported certification of the May 10, 2000 judgment under HRCP 54(b) is of no legal effect inasmuch as confirmation of the foreclosure sale and the award of attorney's fees and costs are not claims for relief in the foreclosure action, but are simply matters incident to enforcement of the judgment of foreclosure; see MDG Supply v. Diversified Invs., Inc., 51 Haw. 375, 380, 463 P.2d 525, 529 (1969); Sturkie v. Han, 2 Haw. App. 140, 146-47, 627 P.2d 246, 301-02 (1981); and, thus, (4) this appeal is premature and we lack jurisdiction.

Therefore,

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

DATED: Honolulu, Hawai'i, September 22, 2000.