

NO. 23300

IN THE SUPREME COURT OF THE STATE OF HAWAII

FIRST HAWAIIAN CREDITCORP, INC., Plaintiff-Appellant

vs.

VICTOR AGMATA, JR.; HERITA YULO-AGMATA now known as HERITA
ALCARAZ YULO, Individually and as Trustee of the Herito Yulo
Agmata Trust Agreement dated July 20, 1992; VICTOR AGMATA III,
MARIAN YULO AGMATA; CYNTHIA AGMATA; DEPARTMENT OF TAXATION, STATE
OF HAWAII, and BEATRIZ AGMATA, Defendants-Appellees

and

MARCELINE MARSH GREEN, JOHN DOES 1-50; JANE DOES 1-50; DOE
PARTNERSHIPS 1-50; DOE CORPORATIONS 1-50; DOE ENTITIES 150 and
DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 95-4107)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Ramil, JJ.,
and Circuit Judge Milks in place of Acoba, J., recused.)

Upon review of the record, it appears that: (1) on
September 1, 1998, we dismissed Appellant's appeal (No. 21625)
from orders entered on March 12, 1998 and May 22, 1998 concerning
entry of a deficiency judgment (the deficiency judgment orders)
because the May 7, 1996 final judgment on the complaint was
invalid and the appeal of the deficiency judgment orders was
premature absent entry of a valid final judgment on the
complaint; (2) on September 22, 1998, following the dismissal of
No. 21625, Appellant submitted a new final judgment on the
complaint to the circuit court, which judgment was entered on
November 5, 1998 as a valid final judgment on the complaint; (3)
entry of the November 5, 1998 judgment triggered the time for

appealing the deficiency judgment orders, but no appeal was filed within thirty days after the judgment was entered; (4) the time for appealing the deficiency judgment orders could not be enlarged by entry of the March 2, 2000 second final judgment on the complaint; see HRCP 6(b); HRAP 4(a)(5) (1985); Wong v. Wong, 79 Hawai'i 26, 897 P.2d 953 (1995); (5) the March 23, 2000 notice of appeal is an untimely appeal from the November 5, 1998 judgment and an untimely appeal of the deficiency judgment orders; HRAP 4(a)(1) (1985); and thus, (6) we lack jurisdiction over this appeal; see Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (the failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

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

DATED: Honolulu, Hawai'i, August 9, 2000.