IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL AARON SYLVER AND ILANA SYLVER, HUSBAND AND WIFE,
Appellants,
vs.
MIDFIRST BANK, AS SUCCESSOR IN INTEREST TO VALLEY MORTGAGE CORPORATION, ITS ASSIGNEES AND/OR SUCCESSORS IN INTEREST; MIDLAND MORTGAGE, AN OKLAHOMA CORPORATION; AND SPECIALIZED, INC., A CALIFORNIA CORPORATION, A FULL SERVICE FORECLOSURE FIRM,
Respondents.

No. 46157

FILED

JAN 19 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting summary judgment in a wrongful foreclosure action. Eighth Judicial District Court, Clark County; David Wall, Judge.

This court reviews an order granting summary judgment de novo.[1] Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law.[2] The pleadings and other proof must be construed in a light most favorable to the non-moving party.[3] But once the movant has properly

[1]See Wood v. Safeway, Inc., 121 Nev. 724, 121 P.3d 1026 (2005).

[2]Id.

[3]Id.

07-01396

supported the summary judgment motion, the non-moving party bears the burden to show more than merely some metaphysical doubt as to the operative facts.[4] Rather, the non-moving party must set forth specific facts, supported by affidavits or other proper evidence, demonstrating a genuine issue of material fact for trial.[5] Also, a tardy opposition entitles the district court to disregard it and to consider the motion unopposed and meritorious.[6]

Here, appellants' opposition was due no later than June 6, 2005; it was filed over two weeks late, only two judicial days before the hearing on the motion. Moreover, the opposition was not supported by any affidavits, and the documentation attached to it was incomplete and not authenticated. In addition, accepting the documentation at face value, all that appellants could have established is that they paid the amounts due for 2001; but the notice of breach and election to sell was based on defaults occurring in 1999 and 2000. The opposition does not address these defaults. Finally, appellants' allegation that the 1985 deed of trust was invalid was unsupported by any affidavit or other evidence, and the complete copy of this deed of trust, contained in the record, includes what appear to be appellants' signatures. In the face of this documentation, appellants' bare, unsupported allegation that they were unaware of the 1985 deed of trust does not demonstrate a genuine issue of material fact.

---

[4]Id.

[5]See King v. Cartlidge, 121 Nev. 926, 124 P.3d 1161 (2005).

[6]Id.

Having reviewed the briefs and the record, we conclude that the district court did not err in granting summary judgment. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[7]

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Douglas

cc: Hon. David Wall, District Judge
Eugene Osko, Settlement Judge
Joshua M. Landish
Thomas J. Holthus
Gayle A. Kern
Eighth District Court Clerk

[7]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.