

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARIO SANCHEZ AND MARTHA
SANCHEZ,
Appellants,
vs.
ONEWEST BANK, FSB; REGIONAL
TRUSTEE SERVICES CORPORATION;
FEDERAL NATIONAL MORTGAGE
ASSOCIATION; AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.,
Respondents.

No. 57918

FILED

DEC 14 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a complaint in a wrongful foreclosure action. Eighth Judicial District Court, Clark County; Susan Scann, Judge.

Appellants obtained a home loan, evidenced by a promissory note and secured by a deed of trust, but they subsequently defaulted on the note and a notice of default was recorded. Appellants filed a complaint in the district court alleging wrongful foreclosure, civil conspiracy, quiet title, and seeking declaratory and injunctive relief and damages. Appellants also recorded a notice of lis pendens against the property.

The district court's order granting respondents' motion to dismiss, under NRCP 12(b)(5), "is subject to a rigorous standard of review on appeal." See Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008) (quoting Seput v. Lacayo, 122 Nev. 499, 501, 134 P.3d 733, 734 (2006)). Accordingly, this court will treat all factual allegations in appellants' complaint as true and draw all inferences in their favor. Id. at 228, 181 P.3d at 672. Appellants' complaint was

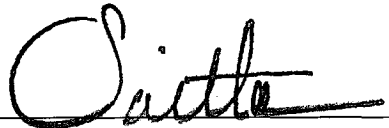
properly dismissed only if it appears beyond a doubt that they could prove no set of facts that would entitle them to relief. Id. at 228, 181 P.3d at 672. “We review the district court’s legal conclusions de novo.” Id.

Appellants contend that respondents lacked standing to pursue foreclosure, arguing that the assignments and endorsements transferring the interest in the promissory note and deed of trust are invalid, in part because of the use of Mortgage Electronic Registration Systems, Inc. (MERS), as the beneficiary of the deed of trust and nominee for the holder of the note and its successors. This court recently addressed these issues in Edelstein v. Bank of New York Mellon, 128 Nev. ___, 286 P.3d 249 (2012). In Edelstein, this court rejected the argument that severing the instruments permanently barred foreclosure and concluded that an entity had standing to pursue foreclosure when it was both the beneficiary of the deed of trust and the holder of the note. 128 Nev. at ___, ___, 286 P.3d at 259-60, 262.

Here, the note and deed of trust had been reunified at the time the notice of default was recorded on June 30, 2010. As such, the district court properly determined that IndyMac Federal Bank, FSB had standing to initiate foreclosure. Thus, the assignment of the deed of trust, along with the note, from IndyMac to OneWest Bank was proper and validly conveyed the entirety of IndyMac’s interest in the loan. As there was no defect in the foreclosure sale, we thus conclude that the district court properly dismissed the claims for wrongful foreclosure and quiet title. Consequently, because the foreclosure was proper, there is no legal basis on which declaratory or injunctive relief could be granted. Likewise, we conclude that the district court properly determined that there was no set

of facts that could support a cause of action for civil conspiracy.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Saitta


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Susan Scann, District Judge
Mario Sanchez
Martha Sanchez
Wright, Finlay & Zak, LLP/Las Vegas
Wright, Finlay & Zak, LLP/Newport Beach
Robinson Tait, P.S.
Eighth District Court Clerk

¹We have considered appellants' remaining arguments and conclude they do not warrant reversal.