

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARRY H. SHULL, AN INDIVIDUAL;
STEVEN R. ROSENBERG, AN
INDIVIDUAL; HHS HOMES, INC., A
CALIFORNIA CORPORATION; SSR
HOMES, INC., A CALIFORNIA
CORPORATION; AND BRAWLEY CA
122, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Appellants,

vs.

VESTIN REALTY MORTGAGE I, INC.,
A MARYLAND CORPORATION;
VESTIN REALTY MORTGAGE II, INC.,
A MARYLAND CORPORATION; AND
VESTIN FUND III, LLC, A NEVADA
LIMITED LIABILITY COMPANY,

Respondents.

No. 59068

FILED

FEB 10 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion for summary judgment. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

Respondents provided a loan to a third party to purchase land in California, and appellants guaranteed the third party's indebtedness on the loan. The third party defaulted on the loan, and respondents sold the land at a non-judicial foreclosure sale. The property sold for less than the amount the third party owed on the loan; thus, respondents sought to

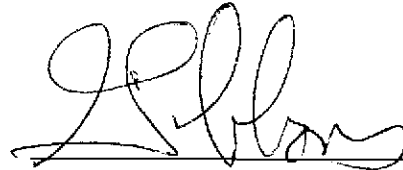
recover the deficiency from appellants. Respondents filed a summary judgment motion, alleging that appellants waived all applicable defenses in the guaranty agreement; thus, respondents were entitled to judgment as a matter of law. The district court agreed with respondents and granted the motion. We conclude that the district court correctly determined that appellants waived all applicable defenses under the guaranty agreement.


“This court reviews an order granting summary judgment de novo.” *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). Summary judgment is appropriate when “no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law.” *Id.* (internal quotations omitted).


Appellants concede that they waived all applicable defenses in the guaranty agreement, but contend that under NRS 40.453, the waivers were ineffective. Appellants asserted two defenses to enforcing the guaranty agreement: extinguishment of the underlying debt and impairment of their subrogation rights.

We have previously determined that the Legislature enacted NRS 40.453 to safeguard protections created under the anti-deficiency statutes. *Lowe Enters. Residential Partners, L.P. v. Eighth Judicial Dist. Court*, 118 Nev. 92, 103-04, 40 P.3d 405, 412 (2002). The anti-deficiency statutes are inapplicable to land transactions outside of Nevada; thus, NRS 40.453 does not afford appellants any protection. Further, even if the anti-deficiency statutes were applicable, we conclude that the statutes do not contain the defenses that appellants asserted; therefore, appellant’s waivers were effective. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Gibbons, C. J.


Douglas, J.


Saitta, J.

cc: Hon. Michelle Leavitt, District Judge
Lansford W. Levitt, Settlement Judge
Coleman Law Associates
Jeffrey L. Burr, Ltd.
Greenberg Traurig, LLP/Las Vegas
Eighth District Court Clerk