

IN THE SUPREME COURT OF THE STATE OF NEVADA

NINA J. CREAZZO,  
Appellant,  
vs.  
AMERICAN HOME MORTGAGE  
SERVICING, INC.; POWER DEFAULT  
SERVICES, INC.; T.D. SERVICE  
COMPANY OF ARIZONA; AND  
DEUTSCHE BANK NATIONAL TRUST  
COMPANY,  
Respondents.

No. 60132

**FILED**

JUN 15 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Ingoson*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing appellant's complaint based on claim preclusion in a real property action. Eighth Judicial District Court, Clark County; Joanna Kishner, Judge.


This court reviews de novo an order granting an NRCP 12(b)(5) motion to dismiss, accepting all factual allegations in the complaint as true, and drawing all inferences in the plaintiff's favor. Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). Dismissal is appropriate when it appears beyond a doubt that appellant could prove no set of facts, which, if true, would entitle her to relief. Id. at 228, 181 P.3d at 672.

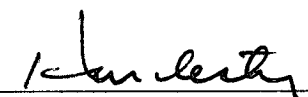
Having considered the record and appellant's proper person appeal statement, we conclude that the district court did not err in dismissing appellant's complaint under claim preclusion principles. Claim preclusion applies where "(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in

the first case.” Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008). The parties to appellant’s previously dismissed complaint in the A11-635736-C action are identical to the parties named in appellant’s complaint in this action, appellant alleges the same causes of action in her complaint in this action as alleged in her A11-635736-C complaint, and both complaints are based on the same set of facts. The judgment dismissing appellant’s A11-635736-C complaint, for failure to file any opposition, is valid and precludes further claims on the same issue. NRCP 41(b) (stating that an involuntary dismissal operates as an adjudication on the merits, other than dismissals for lack of jurisdiction, improper venue, or failure to join a party); Five Star, 124 Nev. at 1057, 194 P.3d at 715. Accordingly, the district court did not err in dismissing appellant’s complaint, and we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Joanna Kishner, District Judge  
Nina J. Creazzo  
Brooks Bauer LLP  
Tiffany & Bosco, P. A.  
Eighth District Court Clerk