

IN THE SUPREME COURT OF THE STATE OF NEVADA

OLIVER SAGEBRUSH DRIVE TRUST,
Appellant,
vs.
BAC HOME LOANS SERVICING, LP;
AND RECONTRUST COMPANY, A
SUBSIDIARY OF BANK OF AMERICA,
Respondents.

No. 63481

FILED

NOV 24 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order granting a motion to dismiss in a quiet title action. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

The district court granted respondents' motion to dismiss, finding that appellant had failed to state a viable claim for relief because NRS 116.3116(2)'s superpriority provision "creates a limited super priority lien for 9 months of HOA assessments leading up to the foreclosure of the first mortgage; but it does not eliminate the first security interest." This court's recent disposition in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), decides that a common-interest community association's NRS 116.3116(2) superpriority lien has true priority over a first security interest, and the association may nonjudicially foreclose on that lien. The district court's decision thus was based on an erroneous interpretation of the controlling law and did not reach the other issues colorably asserted. Accordingly, we

REVERSE the order granting the motion to dismiss AND REMAND this matter to the district court for further proceedings consistent with this order.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

CHERRY, J., concurring:

For the reasons stated in the *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), dissent, I disagree that respondent BAC Home Loans lost its lien priority by virtue of the homeowners association's nonjudicial foreclosure sale. I recognize, however, that *SFR Investments* is now the controlling law and, thusly, concur in the disposition of this appeal.

Cherry, J.
Cherry

cc: Hon. Kathleen E. Delaney, District Judge
Law Offices of Michael F. Bohn, Ltd.
Akerman LLP/Las Vegas
Eighth District Court Clerk