

IN THE SUPREME COURT OF THE STATE OF NEVADA

SHINING SAND AVE TRUST,
Appellant,
vs.
FLAGSTAR BANK, A FEDERAL
SAVINGS BANK,
Respondent.

No. 63824

FILED

NOV 03 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY A. Malone
DEPUTY CLERK


ORDER OF REVERSAL AND REMAND

This is an appeal from an order, certified as final under NRCPC 54(b), granting a motion to dismiss in a quiet title action. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

The district court granted Flagstar Bank's motion to dismiss, finding that Shining Sand Ave Trust had failed to state a viable claim for relief because NRS 116.3116(2)'s superpriority provision does not extinguish a first deed of trust. 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

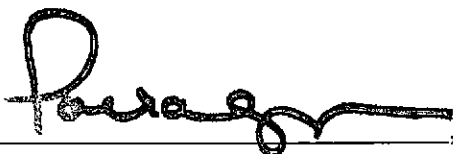
REVERSE the order granting the motion to dismiss AND REMAND for proceedings consistent with this order.¹


_____, J.
Pickering


_____, J.
Saitta

PARRAGUIRRE, 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 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.


_____, J.
Parraguirre

cc: Hon. Kerry Louise Earley, District Judge
Greene Infuso, LLP
Snell & Wilmer, LLP/Las Vegas
O'Mara Law Firm, P.C.
Eighth District Court Clerk

¹The injunction imposed by our February 24, 2014, order is vacated.