

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANCH BANKING AND TRUST  
COMPANY, INC., A NORTH  
CAROLINA CORPORATION,  
Appellant,  
vs.  
BRYAN LEFEBVRE, AN INDIVIDUAL;  
AND ANITA LEFEBVRE, AN  
INDIVIDUAL,  
Respondents.

No. 63992

**FILED**

**MAY 21 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order granting summary judgment in a deficiency action. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

On appeal, Branch Banking and Trust Company, Inc. (BB&T) argues that the district court erred in granting the LeFebvres' motion for summary judgment because NRS 40.459(1)(c) does not apply to BML Investments, LLC's loan. We agree.

We recently decided a nearly identical case in *Munoz v. Branch Banking and Trust Co. Inc.*, 131 Nev. Adv. Op. No. 23, \_\_\_ P.3d \_\_\_ (2015). In *Munoz*, we concluded that NRS 40.459(1)(c) is preempted by federal law whenever the loan in question was assigned by the Federal Deposit Insurance Corporation (FDIC). *Id.* at \_\_\_.

Because the FDIC assigned BML's loan to BB&T, NRS 40.459(1)(c) is preempted by federal law and does not apply. *Id.* at \_\_\_. Thus, the amount BB&T paid the FDIC for the assignment of BML's loan is irrelevant. The district court therefore erred in granting the LeFebvres' motion for summary judgment, because BB&T's right to a deficiency is to

be determined based on the original loan agreement that BB&T acquired from the FDIC.<sup>1</sup> Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

Hardesty, C.J.  
Hardesty

Parraguirre, J.  
Parraguirre

Douglas, J.  
Douglas

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

Pickering, J.  
Pickering

cc: Hon. Scott N. Freeman, District Judge  
Madelyn Shipman, Settlement Judge  
Sylvester & Polednak, Ltd.  
Lemons, Grundy & Eisenberg  
Fahrendorf, Vilorio, Oliphant & Oster, LLP  
Washoe District Court Clerk

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<sup>1</sup>We have considered the parties' remaining arguments and conclude they are without merit.