

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH BERBERICH, AN  
INDIVIDUAL,  
Appellant,  
vs.  
CITIMORTGAGE, INC., A NATIONAL  
ASSOCIATION,  
Respondent.

No. 64286

**FILED**

NOV 20 2014


TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
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DEPUTY CLERK

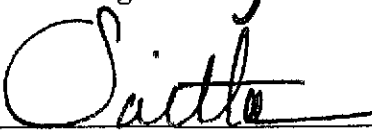
*ORDER OF REVERSAL AND REMAND*

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; Stefany Miley, Judge.

The district court granted respondent's motion to dismiss, finding that appellant had failed to state a viable claim for relief because "the home owner's association super-priority lien only creates a priority to payment from foreclosure proceeds" and, alternatively, because "NRS § 116.3116 refers to a judicial foreclosure action and is not applicable when the home owner's association forecloses under the non-judicial foreclosure statutes." 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

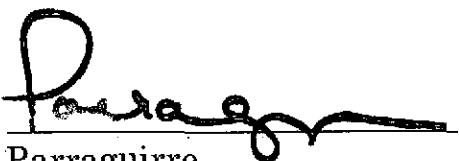
REVERSE the order granting the motion to dismiss AND REMAND this matter to the district court for further proceedings consistent with this order.

  
\_\_\_\_\_, 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. Stefany Miley, District Judge  
Maier Gutierrez Ayon, PLLC  
Akerman LLP/Las Vegas  
Eighth District Court Clerk