

IN THE SUPREME COURT OF THE STATE OF NEVADA

KK REAL ESTATE INVESTMENT
FUND, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND ALESSI &
KOENIG, LLC, A NEVADA LIMITED
LIABILITY COMPANY,
Appellants,
vs.
WELLS FARGO BANK, N.A.,
SUCCESSOR BY MERGER TO
WACHOVIA BANK, N.A., A NATIONAL
BANKING ASSOCIATION,
Respondent.

No. 64547

FILED

NOV 25 2014

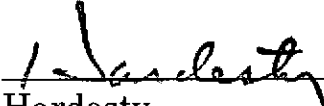
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court judgment on the pleadings in a quiet title action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

The district court granted respondent's motion for judgment on the pleadings, finding that appellant KK Real Estate had failed to state a viable claim for relief because NRS 116.3116(2)'s superpriority provision "merely sets forth an order of payment and allows the HOA to recover 9 months of assessments from the proceeds of the beneficiary's non-judicial foreclosure." 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

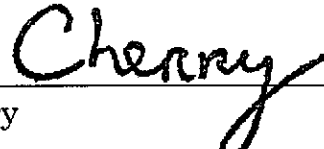
REVERSE the order granting judgment on the pleadings AND REMAND this matter to the district court for further proceedings consistent with this order.


_____, J.
Hardesty


_____, 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 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.
Cherry

cc: Hon. Michelle Leavitt, District Judge
Alessi & Koenig, LLC
Akerman LLP/Las Vegas
Eighth District Court Clerk