

IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRST 100, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND 1ST ONE
HUNDRED HOLDINGS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Appellants,

vs.

MARNIE RAGAN, AN INDIVIDUAL,
Respondent.

No. 68342

FILED

AUG 26 2016

FRACIE K. TIMDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order dismissing appellants' complaint against respondent for lack of personal jurisdiction. Respondent has filed a motion to dismiss on the ground that appellants' assets, including their rights to the instant appeal, have been acquired by a third party and that therefore, appellants have lost standing to pursue this appeal. Appellants oppose the motion, and respondent has filed a reply. Having considered the motion, opposition, and reply, we grant the motion to dismiss.

It is undisputed that on May 25, 2016, after appellants filed the notice of appeal, a third party, Omni Financial, LLC acquired all of appellants' assets, including pending litigation and any and all choses in action in a non-judicial foreclosure sale. We have confirmed that judgment creditors may acquire the rights to prosecute litigation in the place and stead of the judgment debtor. *See Butwinick v. Hepner*, 128 Nev. 718, 721-22, 291 P.3d 119, 121 (2012), *citing RMA Ventures California v. SunAmerica Life Ins.*, 576 F.3d 1070 (10th Cir. 2009) (interpreting Utah law to permit a defendant to execute against the plaintiff's claims for breach of contract and fraud, which were disposed of

on summary judgment in the district court and pending appeal, in satisfaction of an attorney fees award that was not appealed); *Applied Medical Technologies, Inc. v. Eames*, 44 P.3d 699 (Utah 2002) (granting a defendant judgment creditor's motion to dismiss an appeal, after the defendant purchased at a constable's sale claims asserted against him by the plaintiff judgment debtor). Appellants have lost standing to pursue this appeal, and we

ORDER this appeal DISMISSED.

Cherry J.
Cherry

Douglas J.
Douglas

Gibbons J.
Gibbons

cc: Hon. Gloria Sturman, District Judge
Lansford W. Levitt, Settlement Judge
Maier Gutierrez Ayon, PLLC
Laxalt & Nomura, Ltd./Las Vegas
Eighth District Court Clerk