

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 5710 E.
TROPICANA 2077,

Appellant,

vs.

SRMOF II 2012-1 TRUST, U.S. BANK
TRUST NATIONAL ASSOCIATION,
NOT IN ITS INDIVIDUAL CAPACITY
BUT SOLELY AS TRUSTEE,

Respondent.

No. 68740

FILED

MAR 17 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER VACATING AND REMANDING

This is an appeal from a district court summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

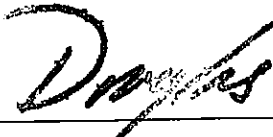
The district court granted summary judgment for respondent, concluding that the HOA's foreclosure of its lien did not extinguish the deed of trust because NRS Chapter 116's statutory scheme authorizing the foreclosure violated the due process clauses of the United States and Nevada Constitutions. This court rejected a similar argument in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev., Adv. Op. 5, 388 P.3d 970 (2017), because there is no state action, which requires reversal of the district court's summary judgment order.¹

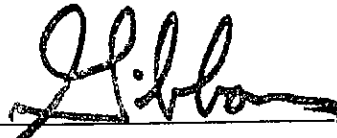
¹In this case, there is no evidence in the record to suggest that respondent did not actually receive the notice of default and notice of sale, and appellant maintains, citing the deed's recitals and proofs of mailing that, in fact, respondent did receive actual notice. This, too, requires

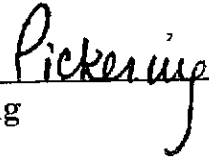
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Thus, the district court's judgment was based on an erroneous interpretation of the controlling law and summary judgment in favor of respondent was improper. The district court did not address respondent's additional arguments in support of invalidating the sale, and we decline to do so in the first instance. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Pickering

cc: Hon. Kathleen E. Delaney, District Judge
Law Offices of Michael F. Bohn, Ltd.
Smith Larsen & Wixom
Eighth District Court Clerk

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reversal of summary judgment in respondent's favor. See *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv. Op. 75, 334 P.3d 408, 418 (2014) (indicating that NRS 116.31168 (2013) incorporates NRS 107.090 (2013), which requires the notices to be sent to a deed of trust beneficiary); *Bourne Valley Court Trust v. Wells Fargo Bank, NA*, 832 F.3d 1154, 1163-64 (9th Cir. 2016) (Wallace, J., dissenting) (to similar effect).

²Appellant's motion for oral argument is denied. NRAP 34(f)(1).