

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

U.S. BANK NATIONAL ASSOCIATION
AS TRUSTEE FOR STRUCTURED
ASSET SECURITIES CORPORATION
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-BC4,
Appellant,
vs.
SFR INVESTMENTS POOL 1, LLC,
Respondent.

No. 69351

FILED

MAY 05 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER VACATING AND REMANDING

Appellant U.S. Bank National Association appeals from a district court order granting summary judgment in an action involving title to real property. Eighth Judicial District Court, Clark County; Rob Bare, Judge.


U.S. Bank held a first deed of trust on the subject property, which respondent SFR Investments Pool 1, LLC, purchased at a homeowners' association (HOA) foreclosure sale conducted pursuant to NRS Chapter 116 after the homeowner failed to pay HOA assessments. See NRS 116.3116-.31168; *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev. ___, ___, 388 P.3d 970, 971 (2017) (recognizing that the statutory scheme grants HOAs superpriority liens for unpaid assessments and allows HOAs to nonjudicially foreclosure on those liens). After SFR purchased the property, U.S. Bank filed a complaint, as is pertinent here, to quiet title to the property, which SFR opposed. The district court ultimately granted summary judgment in SFR's favor, finding that the sale was conducted properly and that the HOA's foreclosure on its superpriority lien extinguished U.S. Bank's deed

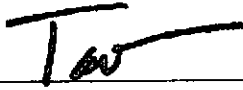
of trust on the property. Additionally, the district court denied U.S. Bank's NRCP 56(f) motion which sought additional time for discovery in order to procure evidence demonstrating, amongst other things, fraud, unfairness, or oppression in the foreclosure sale process and its motion to amend its complaint. This appeal followed.


In *Shadow Wood Homeowners Ass'n, Inc. v. New York Community Bancorp, Inc.*, 132 Nev. ___, ___, 366 P.3d 1105, 1114 (2016), the Nevada Supreme Court recognized that a quiet title action is equitable in nature and, as such, a court "must consider the entirety of the circumstances that bear upon the equities." In particular, the supreme court discussed the following factors as potentially bearing on the equities of an HOA's foreclosure sale: (1) a grossly inadequate foreclosure sale price; (2) a showing of fraud, unfairness, or oppression leading to the foreclosure sale; (3) the extent to which a complaining party's inaction led to the HOA's foreclosure sale; and (4) the presence of a bona fide purchaser. *Id.* at 1112-16.

Here, the district court granted summary judgment in favor of SFR before the supreme court issued its decision in *Shadow Wood*, and thus, the district court was unable to properly consider the disputed factual questions material to the competing equities in this case. Therefore, we conclude that summary judgment in SFR's favor was not proper. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (providing that summary judgment is appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law). On remand, the district court should reconsider U.S. Bank's request for an NRCP 56(f) continuance in light of *Shadow Wood*. Accordingly, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.¹


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Rob Bare, District Judge
Janet Trost, Settlement Judge
Wright, Finlay & Zak, LLP/Las Vegas
Kim Gilbert Ebron
Eighth District Court Clerk

¹U.S. Bank also argues that (1) NRS Chapter 116's statutory scheme is unconstitutional and that (2) the district court abused its discretion in denying U.S. Bank's motion to amend its complaint. In light of the supreme court's opinion in *Saticoy Bay*, 133 Nev. ___, 388 P.3d 970, U.S. Bank's constitutional challenges to NRS Chapter 116 lack merit. We decline to address the second argument, however, because U.S. Bank is entitled to the appellate relief it seeks on other grounds. See *First Nat. Bank of Nev. v. Ron Rudin Realty Co.*, 97 Nev. 20, 24, 623 P.2d 558, 560 (1981) ("In that our determination of the first issue is dispositive of this case, we do not reach the second issue.").