

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DMVH LLC,
Appellant,
vs.
JP MORGAN CHASE BANK, N.A.; AND
BANK OF AMERICA, N.A.,
Respondents.

No. 70507

FILED

MAY 31 2017

ELIZABETH BROWN
DEPUTY CLERK
BY *E. Mulca*
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

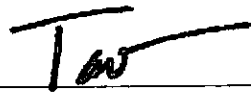
Appellant DMVH, LLC appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Kathleen E. Delaney, Judge.

The district court granted summary judgment in favor of respondents, concluding that the HOA's foreclosure of its lien did not extinguish respondent JP Morgan Chase Bank's deed of trust because NRS Chapter 116's statutory scheme authorizing the foreclosure violated the due process clause of the United States Constitution. The Nevada Supreme Court rejected a similar argument in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev. ___, ___, 388 P.3d 970, 973-74 (2017), because there is no state action. Thus, the district court's ruling was based on an erroneous interpretation of controlling law and the grant of summary judgment to respondents on that basis was improper. The district court did not address respondents' additional arguments in support of invalidating the sale, and to the extent those

arguments were not rejected in *Saticoy Bay*, we decline to address them in the first instance.¹ Accordingly, we

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


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kathleen E. Delaney, District Judge
Janet Trost, Settlement Judge
Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson/Las Vegas
Akerman LLP/Las Vegas
Smith Larsen & Wixom
Eighth District Court Clerk

¹To that end, respondents also assert that the foreclosure was an unconstitutional taking of private property, but that argument was also rejected in *Saticoy Bay*. See 133 Nev. at ___, 388 P.3d at 975.