

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HSBC BANK, N.A., FOR THE ACE  
SECURITIES CORP. HOME EQUITY  
LOAN TRUST SERIES 2006-NC3,  
ASSET BACKED PASS-THROUGH  
CERTIFICATES, A NATIONAL  
ASSOCIATION,  
Appellant,  
vs.  
SATICOY BAY LLC SERIES 2637  
SEAHORSE, A DOMESTIC LIMITED  
LIABILITY COMPANY,  
Respondent.

No. 73776

FILED

SEP 10 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER OF AFFIRMANCE*

HSBC Bank, N.A., appeals from a district court summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

HSBC held a first deed of trust on a property which respondent Saticoy Bay LLC Series 2637 Seahorse (Saticoy Bay) purchased at a homeowners' association (HOA) foreclosure sale conducted pursuant to NRS Chapter 116. HSBC filed a complaint against Saticoy Bay and others with claims for quiet title, wrongful foreclosure, and declaratory relief. The parties ultimately filed competing motions for summary judgment. The district court granted Saticoy Bay's motion and denied HSBC any relief. This appeal followed.

This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists


and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.


On appeal, HSBC argues that language in the HOA CC&Rs and the inclusion of fees and costs in the foreclosure notices in combination with a low purchase price renders the HOA foreclosure sale commercially unreasonable and, therefore, the sale should be set aside. These arguments are unpersuasive. The Nevada Supreme Court has determined that CC&R clauses do not alter the applicability of NRS Chapter 116 to eliminate a first deed of trust. *See SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. 742, 757-58, 334 P.3d 408, 418-19 (2014) (recognizing that NRS 116.1104 overrules mortgage protection clauses contained in CC&Rs); NRS 116.1104 (stating that NRS Chapter 116 provisions cannot be varied by agreement and rights cannot be waived except as provided by the statute). And HSBC did not introduce evidence that it was somehow misled or prejudiced by the notices' inclusion of fees and costs. As such, HSBC has failed to bring forth any evidence to establish that the foreclosure sale should be set aside as commercially unreasonable in light of fraud, oppression, or unfairness. *See Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. 49, 60, 366 P.3d 1105, 1112 (2016).

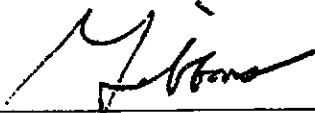
Further, to the extent that HSBC challenges Saticoy Bay's status as a bona fide purchaser, it has already been determined that a purchaser's knowledge that there is a first deed of trust on a property does not demonstrate notice that a future dispute as to title exists such that the purchaser's interest is not protected. *See id.* at 65-66, 366 P.3d at 1115-16.

Therefore, our review of the record and all other arguments shows no genuine issue of material fact exists and summary judgment was proper. See *Wood*, 121 Nev. at 729, 121 P.3d at 1029. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Jerry A. Wiese, District Judge  
Janet Trost, Settlement Judge  
Wright, Finlay & Zak, LLP/Las Vegas  
Law Offices of Michael F. Bohn, Esq., Ltd.  
Eighth District Court Clerk