

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PREMIER ONE HOLDINGS, INC.,
Appellant,
vs.
BANK OF AMERICA, N.A.,
Respondent.

No. 73827-COA

FILED

FEB 14 2019

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

ORDER OF AFFIRMANCE

Premier One Holdings, Inc., appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

The original owner of the subject property failed to make periodic payments to its homeowners' association (HOA). The HOA recorded a notice of delinquent assessment lien, and, later, a notice of default and election to sell to collect on the past due assessments and other fees pursuant to NRS Chapter 116. Respondent Bank of America, N.A. tendered payment to the HOA foreclosure agent for an amount equal to nine months of past due assessments, but the HOA agent rejected the payment. The HOA then proceeded with its foreclosure sale.

Premier One purchased the subject property at the HOA foreclosure sale, and then filed an action for quiet title, asserting that the foreclosure sale extinguished Bank of America's deed of trust encumbering the subject property. The parties then filed cross motions for summary judgment. The district court ruled in favor of Bank of America, finding that

Bank of America's tender extinguished the HOA's superpriority lien. Thus, Premier One took the property subject to Bank of America's first deed of trust. 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.

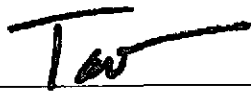
We determine that the district court rightfully found that Bank of America's tender of nine months of past due assessments extinguished the superpriority lien, leaving the buyer at foreclosure to take the property subject to the deeds of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev. ___, ___, 427 P.3d 113, 116 (2018). Further, the conditions that Premier One challenges in the letter accompanying the tender payment are "conditions on which the tendering party has a right to insist." *Id.* at ___, 427 P.3d at 118 (stating that a plain reading of NRS 116.3116 indicates that tender of the superpriority amount, *i.e.*, nine months of back due assessments, was sufficient to satisfy the superpriority lien and the first deed of trust holder had a legal right to insist on preservation of the first deed of trust). Premier One also argues that the tender was insufficient because Bank of America's agent misidentified the form of the tender

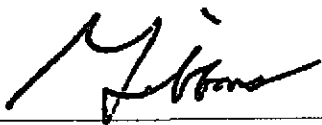
payment. This argument does not have any impact on the extinguishment of the superpriority lien, and appellants fail to cite any authority that requires the payment of a superpriority lien by an identified form. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting this court need not consider claims that are not cogently argued or supported by relevant authority). Similarly, Premier One's argument that the tender was rightfully rejected by the HOA's agent lacks any support in the record, and the inferences urged by Premier One do not create a genuine issue of material fact to defeat summary judgment. See *Nev. Ass'n Servs., Inc. v. Eighth Judicial Dist. Court*, 130 Nev. 949, 957, 338 P.3d 1250, 1255 (2014) (noting that arguments of counsel are not evidence and do not establish the facts of the case); *Wood*, 121 Nev. at 731, 121 P.3d. at 1030-31.

Further, Premier One's argument that the district court should have considered whether Premier One was a bona fide purchaser, so that the equities warranted eliminating the deeds of trust, does not apply because the tender of the superpriority lien amount rendered any foreclosure on the superpriority amount void. See *Bank of Am.*, 134 Nev. at ___, 427 P.3d at 121 (noting that a party's bona fide purchaser status is irrelevant when a defect in the foreclosure renders the sale void); cf. *Shadow Wood Homeowners Ass'n v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. 49, 366 P.3d 1105 (2016) (discussing the balance of equities for a bona fide purchaser in a quiet title action following an HOA foreclosure sale).

In light of the foregoing, we conclude that no genuine issues of material fact exists to prevent summary judgment in favor of Bank of America. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Accordingly, we ORDER the judgment of the district court AFFIRMED.


_____, A.C.J.
Douglas


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Kenneth C. Cory, District Judge
Morris Law Center
Akerman LLP/Las Vegas
Eighth District Court Clerk