

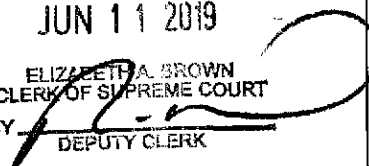
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

3426 DEATH VALLEY DRIVE TRUST,
Appellant,
vs.
JPMORGAN CHASE BANK, N.A.,
Respondent.

No. 75117-COA

FILED

JUN 11 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

3426 Death Valley Drive Trust appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Ronald J. Israel, 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. The purchaser of the subject property at the HOA foreclosure sale immediately vested title in 3426 Death Valley Drive Trust. The Trust then sought to quiet title in the district court.

The Trust claimed that the foreclosure sale extinguished the first deed of trust encumbering the subject property. Respondent JPMorgan Chase Bank, N.A. asserted that Fannie Mae owned the first deed of trust and accompanying note and that JPMorgan, listed as a beneficiary on the first deed of trust, was Fannie Mae's loan servicer. The parties filed cross-motions for summary judgment and the district court ruled in favor of

JPMorgan, finding that the Federal Foreclosure Bar applied to protect the first deed of trust in light of Fannie Mae's interest in the property. Thus, the Trust took the instant property subject to the 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.

On appeal, the Trust argues several reasons that it believes the Federal Foreclosure Bar does not apply. But pursuant to *Saticoy Bay LLC Series 9641 Christine View v. Federal National Mortgage Ass'n*, 134 Nev., Adv. Op. 36, 417 P.3d 363 (2018), we determine that the Federal Foreclosure Bar does apply here. JPMorgan produced admissible and uncontroverted evidence to show Fannie Mae owned the loan and JPMorgan serviced the loan on Fannie Mae's behalf, *cf. Berezovsky v. Moniz*, 869 F.3d 923, 932-33 & n.8 (9th Cir. 2017) (determining similar evidence was sufficient to establish Freddie Mac's contractual authorization of its loan servicer in the absence of contrary evidence), and, as servicer on the loan, JPMorgan has standing to assert the Federal Foreclosure Bar on behalf of Fannie Mae. *See Nationstar Mortg., LLC v. SFR Investments Pool 1, LLC*, 133 Nev. 247,

252, 396 P.3d 754, 758 (2017). As there is no evidence that Fannie Mae consented to the foreclosure, we can see no reason to overturn the district court's decision. *See Christine View*, 134 Nev., Adv. Op. 36, 417 P.3d at 368 (noting that a federal entity must affirmatively relinquish its protection of owned property) (citing *Berezovsky*, 869 F.3d at 929).

To the extent that the Trust claims that Fannie Mae's interest in the property was hidden or Nevada recording laws were not followed, the record does not support those claims. The recorded deed of trust itself states that it is a "NEVADA-Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT." The publicly recorded language on the deed of trust identifying Fannie Mae's interest also undermines the Trust's argument that it did not have notice of the interest such that the equitable bona fide purchaser argument would prevail over the Federal Foreclosure Bar. *See generally Shadow Wood Home Owners Ass'n, Inc. v. N.Y. Cmty. Bancorp.*, 132 Nev. 49, 366 P.3d 1105 (2016) (discussing how notice prior to sale of another competing interest would affect resolution of title disputes).

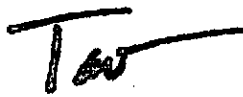
Therefore, we determine there is no genuine issue of material fact that would prevent summary judgment in favor of JPMorgan when asserting the Federal Foreclosure Bar protects the first deed of trust owned by Fannie Mae.¹ *See Christine View*, 134 Nev., Adv. Op. 36, 417 P.3d at 368 (holding that the Federal Foreclosure Bar preempted the Nevada statutes


¹To the extent the Trust raises additional arguments not addressed above, we have reviewed those arguments and the record and find them unpersuasive in light of our resolution here.

that allowed an HOA foreclosure to extinguish a first deed of trust).
Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Ronald J. Israel, District Judge
Law Offices of Michael F. Bohn, Ltd.
Geisendorf & Vilkin, PLLC
Ballard Spahr LLP/Las Vegas
Fennemore Craig PC/Reno
Eighth District Court Clerk