

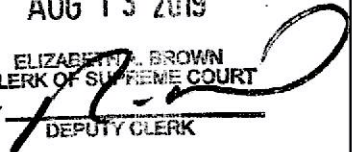
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

PRESIDIO MANAGEMENT LLC
SERIES 1, A NEVADA LIMITED
LIABILITY COMPANY,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY,
Respondent.

No. 75745-COA

FILED

AUG 13 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Presidio Management LLC Series 1 appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

The original owner of the subject property failed to make periodic payments to her homeowners' association (HOA). The HOA's agent sent the homeowner a notice of delinquent assessment lien and, later, recorded a notice of default and election to sell to collect on the past due assessments and other fees pursuant to NRS Chapter 116. Through its counsel, Nationstar's predecessor in interest tendered payment to the HOA foreclosure agent for an amount equal to nine months of back due assessments, which the agent accepted and applied. Because the tender did not satisfy the subpriority portion of the HOA's lien, the HOA proceeded with the foreclosure sale.

Presidio purchased the property at the HOA foreclosure sale and then filed the instant action for quiet title, asserting that the foreclosure sale extinguished Nationstar's predecessor's (Bank of America,

N.A.) deed of trust encumbering the subject property. Nationstar filed a motion for summary judgment, and the district court ruled in its favor, finding that Bank of America's tender extinguished the HOA's superpriority lien and the subject property was therefore still subject to Nationstar'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.


Presidio does not challenge the district court's finding that Bank of America's tender satisfied the superpriority portion of the lien. Rather, Presidio contends the district court erred by granting Nationstar's motion for summary judgment without first considering the equities, and in particular the principles of equitable subrogation—and its attendant recording requirements—and bona fide purchasers. “[A]fter a valid tender of the superpriority portion of an HOA lien, a foreclosure sale on the entire lien is void as to the superpriority portion, because it cannot extinguish the first deed of trust on the property.” *Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev., Adv. Op. 72, *13, 427 P.3d 113, 121 (2018). Accordingly, the HOA sale could not have conveyed full title to the property to Presidio. Presidio's claimed status as a bona fide purchaser “is irrelevant when a defect in the foreclosure proceeding renders the sale void.” *Id.* And


Nationstar was not required to record anything to preserve its interest. *See id.* at 9-10, 427 P.3d at 119-20.

For the foregoing reasons, we conclude that no genuine issues of material fact exist to prevent summary judgment in favor of Nationstar. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Clark Newberry Law Firm
Akerman LLP/Las Vegas
Eighth District Court Clerk