

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TRP FUND V, LLC, A DOMESTIC,
NON-PROFIT CORPORATION,
Appellant,

vs.

THE BANK OF NEW YORK MELLON,
F/K/A THE BANK OF NEW YORK, AS
TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWALT,
INC. ALTERNATIVE LOAN TRUST
2005-54CB, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2005-54CB, A NATIONAL BANKING
ENTITY; AND BAYVIEW LOAN
SERVICING, LLC, A DELAWARE
LIMITED LIABILITY COMPANY,
Respondents.

No. 75498-COA

FILED

SEP 12 2019

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

ORDER OF AFFIRMANCE

TRP Fund V, LLC, appeals from a district court order granting summary judgment, certified as final under NRCP 54(b), in a quiet title action. Eighth Judicial District Court, Clark County; Timothy C. Williams, Judge.

The original owners of the subject property failed to make periodic payments to their homeowners' association (HOA). The HOA recorded a notice of lien for, among other things, unpaid assessments, 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. Prior to the sale, Bayview Loan Servicing, LLC, the servicer for Bank of New York Mellon (collectively, BNYM), tendered payment to the HOA foreclosure agent for an amount greater than nine months of past due assessments, but the HOA

proceeded with its foreclosure sale. TRP Fund V, LLC (TRP), later acquired the subject property from the entity that purchased it at the HOA foreclosure sale. TRP and BNYM then filed counterclaims seeking to quiet title to the property. The parties subsequently filed competing motions for summary judgment, and the district court ruled in favor of BNYM, finding that its tender extinguished the superpriority lien and that the property remained subject to BNYM's first deed of trust. This appeal followed.

This court reviews a district court's order granting summary judgment de novo. *See 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, TRP argues only that BNYM's tender was impermissibly conditional because it required the HOA foreclosure agent to accept the check after the expiration date stated in the agent's payoff demand. However, TRP does not present any cogent argument or relevant authority to support the notion that the agent was authorized to demand payment by a specific date months prior to the foreclosure sale. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that this court need not consider claims that are not cogently argued or supported by relevant authority). Because the record reflects that BNYM tendered a check to the HOA foreclosure agent well in excess of the superpriority amount of the lien months before the foreclosure

sale, the district court properly concluded that the tender extinguished the HOA's superpriority lien such that the buyer at the sale took the property subject to BNYM's deed of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev., Adv. Op. 72, 427 P.3d 113, 116 (2018). Thus, in light of the foregoing, we conclude that no genuine issue of material fact exists to prevent summary judgment in favor of BNYM. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029.

Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Timothy C. Williams, District Judge
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk

¹Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.