

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

FERRELL STREET TRUST,
Appellant,
vs.
JPMORGAN CHASE BANK, N.A.,
Respondent.

No. 76351-COA

FILED

OCT 17 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Ferrell Street Trust appeals from a final judgment following a bench trial in a quiet title action. Eighth Judicial District Court, Clark County; Susan Johnson, 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. Appellant Ferrell Street Trust (Ferrell) acquired the property from the purchaser at the resulting foreclosure sale and filed the underlying action seeking to quiet title. The beneficiary of the first deed of trust on the property—respondent JPMorgan Chase Bank, N.A. (JPMorgan)—filed an answer and counterclaim seeking the same. Following a bench trial, the district court concluded that the Federal National Mortgage Association (Fannie Mae) owned the deed of trust and the underlying loan such that 12 U.S.C. § 4617(j)(3) (the Federal Foreclosure Bar) prevented the foreclosure sale from extinguishing the deed of trust. This appeal followed.

This court reviews a district court's legal conclusions following a bench trial de novo, but we will not disturb the district court's factual findings "unless they are clearly erroneous or not supported by substantial evidence." *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev. 619, 621, 426 P.3d 593, 596 (2018).

Here, the district court's factual findings were supported by substantial evidence, and its legal conclusions were correct. *Id.* Contrary to Ferrell's contention, the Federal Housing Finance Agency (FHFA) was not required to participate as a party in this action for the Federal Foreclosure Bar to apply. *See Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC*, 133 Nev. 247, 248, 396 P.3d 754, 755 (2017) (holding that loan servicers have standing to assert the Federal Foreclosure Bar on a regulated entity's behalf). Moreover, we reject Ferrell's argument that Fannie Mae was required to record its interest and have the deed of trust assigned to it in order to avail itself of the Federal Foreclosure Bar. *See Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev., Adv. Op. 30, 445 P.3d 846, 849 (2019) (holding that a deed of trust need not be assigned to a regulated entity in order for it to own the secured loan—meaning that Nevada's recording statutes are not implicated—where the deed of trust beneficiary is an agent of the note holder).

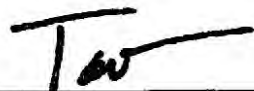
Finally, we conclude that the testimony and business records introduced at trial, including the authorizations in the Fannie Mae Servicing Guide generally applicable to Fannie Mae's loan servicers, were sufficient to prove Fannie Mae's ownership of the note and the agency relationship between Fannie Mae and JPMorgan in the absence of contrary evidence. *See id.* at 849-51 (affirming on similar evidence and concluding that neither the loan servicing agreement nor the original promissory note

must be produced for the Federal Foreclosure Bar to apply). Accordingly, the district court properly concluded that the Federal Foreclosure Bar prevented extinguishment of the deed of trust and that Ferrell took the property subject to it. *See Saticoy Bay LLC Series 9641 Christine View v. Fed. Nat'l Mortg. Ass'n*, 134 Nev. 270, 273-74, 417 P.3d 363, 367-68 (2018) (holding that the Federal Foreclosure Bar preempts NRS 116.3116 such that it prevents extinguishment of the property interests of regulated entities under FHFA conservatorship without affirmative FHFA consent).

Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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.

cc: Hon. Susan Johnson, District Judge
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Eighth District Court Clerk