

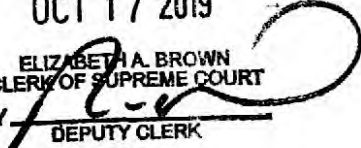
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATIONSTAR MORTGAGE, LLC,  
Appellant,  
vs.  
LAS VEGAS DEVELOPMENT GROUP,  
LLC,  
Respondent.

No. 76036-COA

**FILED**

OCT 17 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Nationstar Mortgage, LLC appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

The original owner of the subject property failed to make periodic payments to her 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. Respondent Las Vegas Development Group, LLC (LVDG) purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title. The holder of the first deed of trust on the property—appellant Nationstar Mortgage, LLC (Nationstar)—filed an answer and counterclaim seeking the same.

LVDG later moved for summary judgment, which Nationstar opposed. At the hearing on the matter, Nationstar asserted for the first time that the Federal Home Loan Mortgage Corporation (Freddie Mac) owned the underlying loan secured by Nationstar's deed of trust such that 12 U.S.C. § 4617(j)(3) (the Federal Foreclosure Bar) prevented the

foreclosure sale from extinguishing Nationstar's interest. Nationstar requested leave to file supplemental briefing on the issue, which the district court granted, also allowing LVDG to respond. With its supplemental brief, Nationstar presented evidence—including a declaration from a Freddie Mac employee, excerpts from the Freddie Mac Single-Family Seller/Service Guide, and printouts from Freddie Mac's database of purchased loans—indicating that Freddie Mac owns the loan secured by Nationstar's deed of trust and that Nationstar services the loan. *See Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev., Adv. Op. 30, 445 P.3d 846, 850-51 (2019) (concluding that similar evidence—without evidence to the contrary—was sufficient to establish Freddie Mac's ownership of a loan). LVDG presented multiple arguments in opposition, including that all of the recorded assignments of the deed of trust in the chain of title—as well as Nationstar's own representations in its pleadings—indicate that Nationstar, not Freddie Mac, owns the loan. The district court ultimately granted summary judgment in favor of LVDG, concluding that the HOA foreclosed its superpriority lien and thereby extinguished Nationstar's deed of trust. Despite having full briefing from both parties on the Federal Foreclosure Bar issue, the district court did not address this issue in its findings of fact and conclusions of law. 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.


Here, in light of the supplemental briefing and exhibits that the district court granted Nationstar leave to file, summary judgment was improper, as a genuine issue of material fact remains as to whether Freddie Mac owns the underlying loan, such that the Federal Foreclosure Bar preserved its and Nationstar's interests following the sale. *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 FHFA consent); *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); *see also Daisy Tr.*, 135 Nev., Adv. Op. 30, 445 P.3d at 850-51 (affirming the district court's conclusion that Freddie Mac owned a loan on evidence similar to what Nationstar presented below).

Moreover, in light of recent precedent from our supreme court, we reject LVDG's argument on appeal that Freddie Mac was required to record its interest. *See Daisy Tr.*, 135 Nev., Adv. Op. 30, 445 P.3d at 849 (holding that a deed of trust need not be assigned to Freddie Mac 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 Freddie Mac). Finally, we decline to consider in the first instance LVDG's arguments that Nationstar failed to properly amend its pleadings or disclose evidence relating to Freddie Mac's purported interest.

Based on the foregoing, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Susan Johnson, District Judge  
Akerman LLP/Las Vegas  
Roger P. Croteau & Associates, Ltd.  
Eighth District Court Clerk

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<sup>1</sup>Insofar 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.