

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CRF 450 R, LLC,
Appellant,
vs.
BANK OF AMERICA, N.A.,
SUCCESSOR BY MERGER TO BAC
HOME LOANS SERVICING, LP, F/K/A
COUNTRYWIDE HOME LOANS
SERVICING, LP,
Respondent.

No. 76021-COA

FILED

DEC 11 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

CRF 450 R, 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 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. Prior to the sale, respondent Bank of America, N.A. (BOA)—the holder of the first deed of trust on the property—tendered payment to the HOA foreclosure agent for an amount equal to nine months of past due assessments, which the agent accepted. The HOA then proceeded with its foreclosure sale. The purchaser at the foreclosure sale later filed the underlying action against BOA seeking to quiet title to the

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property, and BOA counterclaimed seeking the same. CRF 450 R, LLC (CRF), acquired the property and was substituted in place of the original plaintiff. BOA later moved for summary judgment, which the district court granted, finding that BOA's tender extinguished the superpriority lien and that the property remained subject to the 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, CRF argues only that summary judgment was inappropriate because BOA failed to produce any evidence that the HOA actually applied the tender to the superpriority amount of its lien. But Nevada law is clear that the tender of nine months of past due assessments extinguishes an HOA's superpriority lien such that the buyer at a subsequent foreclosure sale takes the property subject to a first deed of trust, even if the HOA rejects the tender (and thereby fails to apply it to the superpriority amount of its lien). *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev. 604, 605, 427 P.3d 113, 116 (2018). Thus, we conclude that CRF's argument is without merit and that no genuine issue of material

fact exists to prevent summary judgment in favor of BOA. See *Wood*, 121 Nev. at 729, 121 P.3d at 1029.

Based on the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

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