

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TRP FUND IV, LLC, A DOMESTIC
NON-PROFIT CORPORATION,
Appellant,
vs.
FEDERAL NATIONAL MORTGAGE
ASSOCIATION, A NATIONAL
BANKING ENTITY,
Respondent.

No. 75886-COA

FILED

DEC 27 2019

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

ORDER OF AFFIRMANCE

TRP Fund IV, LLC (TRP), appeals from a district court order granting a motion for summary judgment, certified as final under NRCP 54(b), in a quiet title action. Eighth Judicial District Court, Clark County; Ronald J. Israel, 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, the predecessor to the Federal National Mortgage Association (Fannie Mae)—the beneficiary of the first deed of trust on the property—tendered payment to the HOA foreclosure agent in an amount equal to nine months of past due assessments, which the agent rejected. The HOA proceeded with its foreclosure sale, at which TRP purchased the property. TRP then filed the underlying action against Fannie Mae seeking to quiet title, and Fannie Mae counterclaimed seeking the same. The parties ultimately filed competing motions for summary judgment, and the district court ruled in Fannie Mae's favor, concluding that both 12 U.S.C. § 4617(j)(3) (the Federal

Foreclosure Bar) and the tender preserved the 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 that the district court erred because Fannie Mae did not present sufficient evidence that the tender was delivered.¹ However, TRP did not dispute delivery below, and thus we decline to consider its argument on this issue. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."). TRP also argues that the tender was impermissibly conditional because the letter sent with it contained a misstatement of law. We conclude that the letter accurately stated the law, and we discern no error in the district court's determination that the tender extinguished the HOA's superpriority lien such that TRP took the property subject to Fannie Mae's deed of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev.

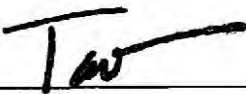
¹In light of our disposition, we need not address TRP's arguments regarding the Federal Foreclosure Bar. Further, we reject TRP's argument that there might have been maintenance and nuisance-abatement charges included in the HOA's superpriority lien, as this assertion is mere speculation and no evidence in the record supports it.

604, 605, 427 P.3d 113, 116 (2018). Thus, in light of the foregoing, we conclude that no genuine issue of material fact existed to prevent summary judgment in favor of Fannie Mae. 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. Ronald J. Israel, District Judge
Hong & Hong
Akerman LLP/Las Vegas
Fennemore Craig P.C./Reno
Arnold & Porter Kaye Scholer LLP/Washington DC
Eighth District Court Clerk