

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ECHO BEACH AVENUE TRUST,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC,
Respondent.

No. 76321-COA

FILED

JAN 08 2020

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

ORDER OF AFFIRMANCE

Echo Beach Avenue Trust (Echo Beach) 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; Kerry Louise Earley, 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. Echo Beach purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title against Nationstar Mortgage, LLC (Nationstar), the beneficiary of the first deed of trust on the property. The parties later filed competing motions for summary judgment, and the district court ruled in favor of Nationstar, finding that the Federal Home Loan Mortgage Corporation (Freddie Mac) 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 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.


A review of the record from the underlying proceeding reveals that no genuine issue of material fact exists and that Nationstar is entitled to judgment as a matter of law. *Id.* at 729, 121 P.3d at 1029. Indeed, despite Echo Beach's assertions to the contrary, 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 Echo Beach's argument that Freddie Mac was required to record its interest 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).

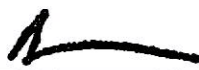
Finally, we conclude that the testimony and business records produced by Nationstar, including the authorizations in the Freddie Mac Single-Family Seller/Servicer Guide generally applicable to Freddie Mac's

loan servicers, were sufficient to prove Freddie Mac's ownership of the note and the agency relationship between Freddie Mac and Nationstar 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 Echo Beach 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). Thus, given 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 them and conclude that they either do not provide a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. Kerry Louise Earley, District Judge
Law Offices of Michael F. Bohn, Ltd.
Akerman LLP/Las Vegas
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Eighth District Court Clerk