

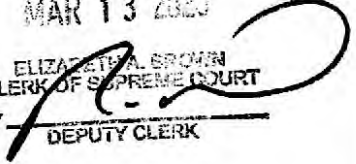
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, 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, A NATIONAL
ASSOCIATION,
Respondent.

No. 76499-COA

FILED

MAR 13 2020

ELIZABETH A. SPORN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

SFR Investments Pool 1, LLC (SFR), appeals from a district court order granting a motion for summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Stefany Miley, 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. Appellant SFR purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title against respondent Bank of America, N.A. (BOA), 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 BOA, finding that the Federal Home Loan Mortgage Corporation (Freddie Mac) owned the underlying loan such that 12 U.S.C. § 4617(j)(3) (the Federal Foreclosure Bar) prevented the foreclosure sale from extinguishing BOA's 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 BOA is entitled to judgment as a matter of law. *Id.* at 729, 121 P.3d at 1029. We reject SFR's arguments that Freddie Mac was required to be the beneficiary of the deed of trust or otherwise record its interest in order to avail itself of the Federal Foreclosure Bar. *See Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev. 230, 233-34, 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). Moreover, we conclude that the testimony and business records produced by BOA were sufficient to prove its ownership of the note and the agency relationship between Freddie Mac and BOA in the absence of contrary evidence.¹ *See id.*


¹We reject SFR's arguments that this evidence lacked foundation and constituted inadmissible hearsay. *See Daisy Tr.*, 135 Nev. at 235-36, 445 P.3d at 850-51 (concluding the district court did not abuse its discretion in relying on a similar combination of an employee declaration and accompanying printouts from a database where, as here, the declaration

at 234-36, 445 P.3d 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 BOA's deed of trust and that SFR 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.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

attested that the printouts satisfied the requirements of NRS 51.135, and the foreclosure-sale purchaser failed to demonstrate that those business records were not trustworthy).

²Insofar 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. Stefany Miley, District Judge
Kim Gilbert Ebron
Akerman LLP/Las Vegas
Fennemore Craig P.C./Reno
Eighth District Court Clerk