

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NATIONSTAR MORTGAGE LLC,
Appellant,
vs.
SATICOY BAY LLC SERIES 4641
VIAREGGIO CT.,
Respondent.

No. 77874-COA

FILED

APR 10 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER VACATING AND REMANDING

Nationstar Mortgage LLC (Nationstar), appeals from a district court order granting a motion for summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.


The original owner of the subject property failed to make periodic payments to her 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. Respondent Saticoy Bay LLC Series 4641 Viareggio Ct. (Saticoy Bay) purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title against Nationstar, the beneficiary of the first deed of trust on the property. Saticoy Bay moved for summary judgment, and Nationstar opposed, arguing that the Federal Home Loan Mortgage Corporation (Freddie Mac) owned the underlying loan at the time of the foreclosure sale such that 12 U.S.C. § 4617(j)(3) (the Federal Foreclosure Bar) prevented the sale from extinguishing Nationstar's deed of trust. The district court ruled in favor of Saticoy Bay, concluding that Freddie Mac's supposed interest was not


recorded and that Nationstar therefore failed to prove its existence. This appeal followed.

This court reviews a district court's order granting summary judgment de novo. *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, we note that the district court did not have the benefit of the Nevada Supreme Court's recent decision in *Daisy Trust v. Wells Fargo Bank, N.A.*, which held that a deed of trust need not be assigned to a regulated entity like 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 the note holder. 135 Nev. 230, 233-34, 445 P.3d 846, 849 (2019). Accordingly, the district court erred in concluding that Freddie Mac's interest needed to be recorded in order for the Federal Foreclosure Bar to apply. *See id.* Although Nationstar requests in its reply brief that this court remand for entry of judgment in its favor pursuant to *Daisy Trust*, it did not file a countermotion for summary judgment below; it merely opposed Saticoy Bay's motion. *Cf. SFR Invs. Pool I, LLC v. U.S. Bank, N.A.*, 135 Nev., Adv. Op. 45, 449 P.3d 461, 466 (2019) (reversing an order granting one party summary judgment and directing entry of judgment on the opposing party's countermotion for summary judgment). Consequently, we

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Adriana Escobar, District Judge
Law Offices of Michael F. Bohn, Ltd.
Akerman LLP/Las Vegas
Fennemore Craig P.C./Reno
Eighth District Court Clerk

¹Insofar 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.