

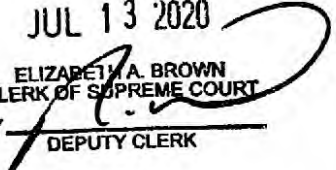
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MRT ASSETS, LLC, A NEVADA  
LIMITED LIABILITY COMPANY,  
Appellant,  
vs.  
GREEN TREE SERVICING, LLC, A  
FOREIGN LIMITED LIABILITY  
COMPANY REGISTERED WITH THE  
NEVADA SECRETARY OF STATE,  
N/K/A DITECH FINANCIAL, LLC,  
Respondent.

No. 77928-COA

**FILED**

JUL 13 2020

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

MRT Assets, LLC (MRT), appeals from a district court order granting a motion for summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

The original owner of the subject property failed to make periodic payments to his 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 respondent Green Tree Servicing, LLC, n/k/a Ditech Financial, LLC (Ditech)—holder of the first deed of trust on the property—tendered payment to the HOA foreclosure agent for nine months of past due assessments. Although the agent accepted the tender, it nevertheless proceeded with the foreclosure sale, at which the predecessor to MRT purchased the property. MRT then initiated the underlying action seeking to quiet title to the property, and Ditech counterclaimed seeking the same. Ditech moved for summary judgment, which the district court granted,

finding that the tender satisfied the superpriority portion of the HOA's lien such that MRT took title to the property subject to Ditech's deed of trust. This appeal followed.

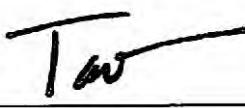
This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving 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, the district court correctly found that the tender of nine months of past due assessments satisfied the superpriority lien such that MRT took the property subject to Ditech's deed of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev. 604, 605, 427 P.3d 113, 116 (2018). MRT's only argument on this point is that Ditech failed to show that the HOA actually applied the tender to the superpriority portion of its lien. But the supreme court has recognized that, when the holder of the first deed of trust properly tenders the superpriority amount of the lien, the tender satisfies that portion of the lien even if the HOA rejects it, *see id.* at 611, 427 P.3d at 120-21, thereby implying that it does not matter how the HOA applies the funds if it accepts the tender. Moreover, in the context of determining whether a homeowner's partial payment of the HOA's lien operated to satisfy the superpriority portion, the supreme court has recognized that the payor may—at the time of payment—direct how the payee must allocate and apply the payment to the payor's account. *See 9352*

*Cranesbill Tr. v. Wells Fargo Bank, N.A.*, 136 Nev., Adv. Op. 8, 459 P.3d 227, 231 (2020). And assuming the same principles apply here, Ditech's predecessor expressly stated that its tender was intended to satisfy the superpriority portion of the HOA's lien. Accordingly, we conclude that no genuine issue of material fact exists to prevent summary judgment in favor of Ditech, *see Wood*, 121 Nev. at 729, 121 P.3d at 1029, and we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Bulla

cc: Hon. Mark R. Denton, District Judge  
Hong & Hong  
Akerman LLP/Las Vegas  
Eighth District Court Clerk

---

<sup>1</sup>Insofar 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.