

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALENCIA MANAGEMENT LLC
SERIES 8, A NEVADA LIMITED
LIABILITY COMPANY,

Appellant,

vs.

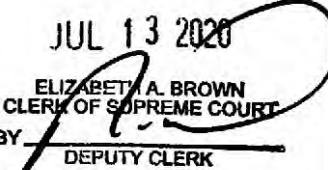
BANK OF AMERICA, N.A.; AND DHI
MORTGAGE COMPANY, LTD.,

Respondents.

No. 78507-COA

FILED

JUL 13 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Valencia Management LLC Series 8 (Valencia) appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Tierra Danielle Jones, 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. Valencia purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title against the beneficiary of the first deed of trust on the property, respondent Bank of America, N.A. (BOA), and the original owner of the loan secured by that instrument, respondent DHI Mortgage Company, Ltd. (referred to collectively as BOA). BOA eventually moved for summary judgment, which the district court granted, finding that the Federal National Mortgage Association (Fannie Mae) 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. *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. The declarations and business records produced by BOA, including the authorizations in the Fannie Mae Servicing Guide generally applicable to Fannie Mae's loan servicers, were sufficient to prove Fannie Mae's ownership of the note and the agency relationship between Fannie Mae and BOA in the absence of contrary evidence. *See Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev. 230, 234-36, 445 P.3d 846, 849-51 (2019) (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). We reject Valencia's argument that Fannie Mae 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 id.* at 233-34, 445 P.3d at 849 (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, because Fannie Mae need not record its


interest, any assertion that Valencia was a bona fide purchaser is inapposite. *See id.* at 234, 445 P.3d at 849.

Accordingly, the district court properly concluded that the Federal Foreclosure Bar prevented extinguishment of BOA's deed of trust and that Valencia 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 interest 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

cc: Hon. Tierra Danielle Jones, District Judge
Clark Newberry Law Firm
Akerman LLP/Las Vegas
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.