IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LN MANAGEMENT LLC, SERIES 7801 WHITE GRASS,
Appellant,
vs.
LINDA DAWN VEGA,
Respondent.

No. 80878-COA

ORDER OF REVERSAL AND REMAND

LN Management LLC, Series 7801 White Grass (LNM), appeals from a final judgment following a bench trial in a quiet title action. Eighth Judicial District Court, Clark County; Mary Kay Holthus, Judge.

After respondent Linda Dawn Vega failed to pay periodic assessments to her homeowners' association (HOA), it foreclosed on its delinquent-assessment lien pursuant to NRS Chapter 116 and sold Vega's home to LNM's predecessor. LNM later acquired the property and filed the underlying action seeking to quiet title. The matter proceeded to a bench trial, following which the district court entered a written order setting the HOA's foreclosure sale aside in equity and quieting title in Vega. The district court found that an employee of the HOA's collection agent had assured Vega—whom the district court found was ready, willing, and able to pay the delinquency—that she would be provided with a payoff amount for the HOA's lien and that the scheduled foreclosure sale would be postponed, and that the HOA's decision to proceed with its foreclosure sale in spite of those assurances amounted to fraud, unfairness, or oppression that, in tandem with the grossly inadequate sale price paid by LNM's

predecessor, warranted setting the sale aside in equity. This appeal followed.

This court reviews a district court's legal conclusions following a bench trial de novo, but we will not disturb the district court's factual findings "unless they are clearly erroneous or not supported by substantial evidence." *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev. 619, 621, 426 P.3d 593, 596 (2018). Moreover, we review a district court's decision to set a foreclosure sale aside in equity for an abuse of discretion. *Res. Grp., LLC v. Nev. Ass'n Servs., Inc.*, 135 Nev. 48, 55, 437 P.3d 154, 160 (2019).

LNM sets forth multiple arguments in favor of reversal. First, it contends that the district court should not have allowed Vega—who initially proceeded in proper person before later retaining counsel—to testify at trial because she failed to disclose any documents or name any witnesses in discovery. LNM points to the fact that it filed a pretrial motion seeking this relief and that the district court never ruled on the motion. However, although LNM asserted a general objection at trial to Vega admitting any evidence that was not disclosed in discovery, it failed to object to Vega testifying when she was called to do so. *See Thomas v. Hardwick*, 126 Nev. 142, 155, 231 P.3d 1111, 1120 (2010) (noting that when a district court declines to rule on a pretrial evidentiary objection, "the contemporaneous objection rule require[s] [the party] to object at trial" (citing NRS 47.040(1)). LNM has therefore waived this issue.[1]

[1]To the extent LNM argues that the district court's findings that Vega was able to pay the delinquency and that an employee of the HOA's collection agent assured her that the sale would be postponed are unsupported by substantial evidence because they were based solely on Vega's testimony, LNM fails to cite any authority in support of the notion

LNM also argues that Vega failed to timely file her trial brief and that the district court should not have considered it. *See* EDCR 7.27 ("Unless otherwise ordered by the court, an attorney may elect to submit to the court in any civil case, a trial memoranda of points and authorities at any time prior to the close of trial."). But LNM fails to explain how it was prejudiced by the district court's consideration of the tardy brief, especially in light of the fact that the district court heard Vega's legal arguments at trial and that the arguments in her trial brief were essentially restatements of those same arguments. Accordingly, no relief is warranted on this point. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) ("When an error is harmless, reversal is not warranted.").

LNM next contends that Vega was precluded from asserting any interest in the subject property under the doctrine of judicial estoppel because she failed to disclose her claim to the property in her previous bankruptcy filings. Although LNM vaguely alluded below to Vega's failure in this respect and implied that it undermines her claim to the property, it

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that a district court is not entitled to rely solely on a party's testimony in making factual determinations. Likewise, to the extent LNM contends that Vega failed to file a counterclaim and therefore could not obtain affirmative relief in the form of an order setting aside the HOA's foreclosure sale, LNM fails to cite any authority in support of the notion that a district court may not grant equitable relief to the defendant in a quiet title action unless the defendant files a counterclaim. We therefore decline to consider these points. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that the appellate courts need not consider claims unsupported by cogent argument or relevant authority). And we reject LNM's argument that the district court improperly relied on an unadmitted business card that the collection-agent employee allegedly gave to Vega as support for the fact that the employee met with Vega, as the district court heard testimony regarding the card from both Vega and the employee sufficient to support its findings.

failed to cite any authority or articulate any legal argument on this point before the district court, and it has therefore waived the issue. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

Finally, LNM argues that the district court erred in concluding that the HOA's foreclosure sale was void and that LNM's purported status as a bona fide purchaser (BFP) was therefore irrelevant. On this point, we agree. The district court improperly relied on our supreme court's holding in *Bank of America, N.A. v. SFR Investments Pool 1, LLC*, 134 Nev. 604, 612, 427 P.3d 113, 121 (2018), that "[a] party's status as a BFP is irrelevant when a defect in the foreclosure proceeding renders the sale void." That holding pertains to situations where a sale is void as a matter of law, such as where the default leading to foreclosure had been satisfied and the foreclosing party therefore had no right to foreclose. *See id.* Here, it is undisputed that Vega was in default and that the HOA therefore had a legal right to foreclose; rather, the district court determined that the sale should be set aside in light of equitable considerations. In conducting such an analysis, our supreme court has made clear that "courts must consider the entirety of the circumstances that bear upon the equities," including a party's putative status as a BFP. *Shadow Wood Homeowners Ass'n v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. 49, 63-64, 366 P.3d 1105, 1114-15 (2016). Accordingly, the district court erred in failing to consider LNM's putative status as a BFP, and we must reverse the judgment and remand for the district court to conduct this analysis in the first instance. *See 9352 Cranesbill Tr. v. Wells Fargo Bank, N.A.*, 136 Nev. 76, 82, 459 P.3d 227, 232 (2020) (noting that the appellate courts "will not address issues that the

district court did not directly resolve"); *U.S. Bank, Nat'l Ass'n ND v. Res. Grp., LLC*, 135 Nev. 199, 207, 444 P.3d 442, 449 (2019) (noting that whether a foreclosure-sale purchaser had inquiry notice of alleged deficiencies in the sale sufficient to defeat BFP status is a "question[ ] of fact for the district court to resolve").

Based on the foregoing, we

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

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

cc: Hon. Mary Kay Holthus, District Judge
Kerry P. Faughnan
Hong & Hong
Eighth District Court Clerk