

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 82449-COA

FILED

JAN 27 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

Saticoy Bay LLC Series 4641 Viareggio Ct. appeals from a district court summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Saticoy Bay purchased the subject property at a foreclosure sale conducted pursuant to NRS Chapter 116 and filed the underlying action seeking to quiet title against Nationstar Mortgage LLC, 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, agreeing with its argument that Freddie Mac's supposed interest was not recorded and that Nationstar therefore failed to prove its existence.

Nationstar appealed, and this court vacated the judgment, concluding that “Nevada’s recording statutes are not implicated” in situations like those at issue in this case “where the deed of trust beneficiary is an agent of the note holder.” *Nationstar Mortg. LLC v. Saticoy Bay LLC Series 4641 Viareggio Ct.*, No. 77874-COA, 2020 WL 1847514, at *1 (Nev. Ct. App. Apr. 10, 2020) (Order Vacating and Remanding) (citing *Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev. 230, 233-34, 445 P.3d 846, 849 (2019)). However, because Nationstar had not filed a countermotion for summary judgment before the district court and instead merely opposed Saticoy Bay’s motion, we declined to direct the district court to enter judgment in Nationstar’s favor and remanded the case for further proceedings. *Id.* Nationstar then moved for summary judgment on remand, which the district court granted over Saticoy Bay’s opposition. Saticoy Bay now appeals.

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 dispute 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.

On appeal, Saticoy Bay again argues that Freddie Mac’s interest needed to be recorded in order for Nationstar to establish its

enforceability under the Federal Foreclosure Bar. As argued by Nationstar, we already decided this issue in our previous order such that it is now law of the case. See *Dictor v. Creative Mgmt. Servs., LLC*, 126 Nev. 41, 44, 223 P.3d 332, 334 (2010) (“The law-of-the-case doctrine provides that when an appellate court decides a principle or rule of law, that decision governs the same issues in subsequent proceedings in that case.”); *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975) (“The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings.”). And Saticoy Bay failed to file a reply brief to challenge Nationstar’s argument on this point. See *Colton v. Murphy*, 71 Nev. 71, 72, 279 P.2d 1036, 1036 (1955) (concluding that when respondents’ argument was not addressed in appellants’ opening brief, and appellants declined to address the argument in a reply brief, “such lack of challenge cannot be regarded as unwitting and in our view constitutes a clear concession by appellants that there is merit in respondents’ position”). Thus, we decline to further address this issue.

Saticoy Bay also argues that Nationstar was required under the statute of frauds to produce a signed writing evidencing Freddie Mac’s acquisition of the loan. But Saticoy Bay was not a party to that transaction and therefore lacks standing to invoke the statute of frauds. See *Easton Bus. Opportunities, Inc. v. Town Exec. Suites-E. Marketplace, LLC*, 126 Nev. 119, 127 n.4, 230 P.3d 827, 832 n.4 (2010) (noting that “statute of frauds provisions . . . cannot ordinarily be asserted by third persons” (internal quotation marks omitted)); *Harmon v. Tanner Motor Tours of Nev., Ltd.*, 79 Nev. 4, 16, 377 P.2d 622, 628 (1963) (“The defense of the statute of frauds is

personal, and available only to the contracting parties or their successors in interest.”); see also *Nationstar Mortg. LLC v. Saticoy Bay LLC, Series 9229 Millikan Ave.*, 996 F.3d 950, 957 (9th Cir. 2021) (citing *Easton and Harmon* in rejecting this same argument). Accordingly, Saticoy Bay fails to show that reversal is warranted, and we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Adriana Escobar, District Judge
Law Offices of Michael F. Bohn, Ltd.
Troutman Pepper/Atlanta
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.