

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRP FUND VIII, LLC,
Appellant,
vs.
BANK OF AMERICA, N.A., A
NATIONAL BANKING ASSOCIATION,
Respondent.

No. 82853

FILED

DEC 15 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion for summary judgment in an action to quiet title. Eighth Judicial District Court, Clark County; Nadia Krall, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we affirm.¹

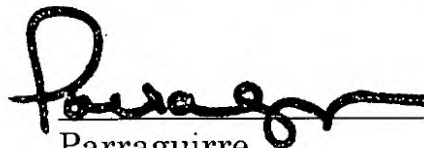
Appellant contends that it owns the subject property free and clear of respondent's deed of trust because appellant is a bona fide purchaser (BFP). Namely, appellant contends that because it acquired title to the subject property while there was a previous district court judgment (the 2015 case) ruling that the HOA's foreclosure sale extinguished respondent's deed of trust, respondent's deed of trust remains extinguished even though that previous judgment was reversed on appeal. *See Bank of Am., N.A. v. White Lantern, LLC*, No. 73948, 2019 WL 912641, at *1 (Nev. Feb. 20, 2019) (Order of Reversal and Remand).

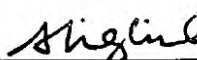
For two alternative reasons, we agree with the district court in the underlying matter that appellant's property remains encumbered by respondent's deed of trust. First, as we have held in the context of a superpriority-lien tender situation, "[a] party's status as a BFP is irrelevant when a defect in the foreclosure proceeding renders the sale void" because


¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

“after a valid tender of the superpriority portion of an HOA lien, a foreclosure sale on the entire lien is void as to the superpriority portion, because it cannot extinguish the first deed of trust on the property.” *Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev. 604, 612, 427 P.3d 113, 121 (2018). Second, appellant is not a BFP. Appellant acquired the subject property while a lis pendens was recorded against that property, such that appellant had notice of the pending appeal in the 2015 case. See NRS 14.010(3) (“From the time of recording [of the lis pendens], the pendency of the action is constructive notice to a purchaser or encumbrancer of the property affected thereby.”); *Weddell v. H2O, Inc.*, 128 Nev. 94, 106, 271 P.3d 743, 751 (2012) (citing NRS 14.010(3) for the proposition that “[t]he doctrine of lis pendens provides constructive notice to the world that a dispute involving real property is ongoing”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


Parraguirre, C.J.


Stiglich, J.


Gibbons, Sr.J.

cc: Hon. Nadia Krall, District Judge
Dana Jonathon Nitz, Settlement Judge
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk

²The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.