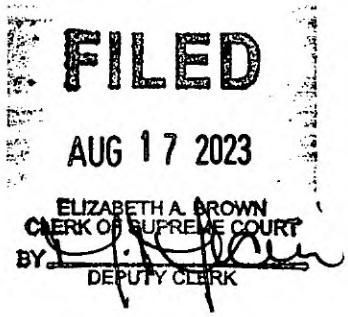
IN THE SUPREME COURT OF THE STATE OF NEVADA

WORLDWIDE HOLDING, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
CHEMICAL BANK, A MICHIGAN STATE-CHARTERED BANK
Respondent.

No. 83619



ORDER OF AFFIRMANCE

This is an appeal from a final judgment in a foreclosure dispute. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge. Appellant Worldwide Holding, LLC challenges the district court's order granting interlocutory summary judgment against its claims arising from the premise that respondent Chemical Bank's foreclosure was improper. We affirm.[1]

As relevant here, Worldwide alleged in its complaint that the notice of default and election to sell was deficient because it did not accurately state the amounts Worldwide owed, violating NRS 107.080(3). It raised claims for wrongful foreclosure and to void the foreclosure sale on this basis.[2] Chemical Bank moved for summary judgment, arguing that the foreclosure was appropriate because Worldwide was in default and that it was entitled to a deficiency judgment for the balance remaining after

[1]Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

[2]Worldwide's other claims are not pertinent to the issues on appeal.

applying the foreclosure proceeds to the aggregate debt. The district court agreed with Chemical Bank and granted summary judgment.

Worldwide argues again on appeal that the notice of default and election to sell was deficient because it inaccurately stated the amounts due on its loans. In particular, Worldwide notes a discrepancy in the amounts stated on the notice of default and election to sell and the notice of trustee's sale. It argues that the subsequent foreclosure was therefore improper. A claim for wrongful foreclosure requires a borrower to show that when "the foreclosure occurred, no breach of condition or failure of performance existed on the [borrower's] part which would have authorized the foreclosure or exercise of the power of sale." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99 Nev. 284, 304, 662 P.2d 610, 623 (1983). We review a district court order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

The notice of default and election to sell stated unpaid obligations due of $391,307 on the Original Note, $155,726 on Note B, $65,167 on the Siddiqui Note, and $54,410 on the HCCSN Note, for a total indebtedness of $666,610 as of July 27, 2015. The notice of trustee's sale stated the original principal amounts for each note; was filed on March 30, 2016; and estimated the aggregate amount of indebtedness then due as $882,364, without setting forth the amount for the individual notes.[3] The loan documents for each note show that these deficiencies constituted defaults and entitled Chemical Bank to foreclose as a remedy. Each loan

[3]While Chemical Bank asserts that the discrepancy was the result of a clerical error in the notice of default and election to sell regarding the amount due on the HCCSN note, we need not address the matter given that it is not dispositive as to this issue.

further included cross-default and cross-collateralization provisions, such that each secured the other. Worldwide does not contest that it was in default. A claim for wrongful foreclosure was therefore not available, and a dispute concerning the amount of the unpaid defaulted obligation did not constitute a material fact in that regard.[4] *See Collins*, 99 Nev. at 304, 662 P.2d at 623 ("[T]he material issue of fact in a wrongful foreclosure claim is whether the trustor was in default when the power of sale was exercised."). Because Worldwide has not shown that a genuine issue of material fact exists, we conclude the district court did not err in granting summary judgment in this regard.

Worldwide next argues that the discrepancies in the amounts owed in the notices establish that Chemical Bank did not substantially comply with NRS 107.080(3). Worldwide concedes that it had actual notice of the default, but it argues that a more accurate notice of the amount due would have facilitated its curing the default. A notice of default and election to sell must "[d]escribe the deficiency in performance or payment . . . ." NRS 107.080(3) (2015).[5] A foreclosure pursuant to NRS 107.080 is void if the seller does not substantially comply with the statutory requirements. NRS 107.080(5)(a). Substantial compliance will be met where there is actual notice and no prejudice to the purported recipient. *See Schleining v. Cap One, Inc.*, 130 Nev. 323, 330, 326 P.3d 4, 8 (2014) (interpreting a notice

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[4]The district court addressed the amount owed after briefing and an evidentiary hearing concerning deficiency. We note that Worldwide does not challenge the determination of the deficiency judgment on appeal.

[5]We apply the version of the statute in effect when the claim arose. *Horizons at Seven Hills v. Ikon Holdings*, 132 Nev. 362, 364 n.2, 373 P.3d 66, 67 n.2 (2016). Subsequent amendments have not materially altered the provision at issue here.

requirement related to NRS 107.080). We "review[ ] substantial-compliance determinations for an abuse of discretion." *Id.*

Noting that Worldwide concedes actual notice, we observe that the record belies the argument that different notice would have contributed to the prospect of curing the default. Rather, deposition testimony from Worldwide's person most knowledgeable shows that Worldwide sought to make smaller, ongoing payments and that the lender rejected its offer and demanded payment in whole, as due under the notes. Further, any misstatement of the indebtedness here would have suggested that Worldwide's obligations were smaller and more curable, yet the record does not show that Worldwide offered to pay any of the notes in whole. Worldwide has not shown that Chemical Bank did not substantially comply with NRS 107.080's notice requirement. While the district court did not conduct a substantial-compliance analysis, we conclude that it reached the correct outcome in ruling that the notice complied with applicable law. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) ("This court will affirm a district court's order if the district court reached the correct result, even if for the wrong reason.").

Worldwide next argues that the district court should have provided it with an opportunity to contest the foreclosure, relying on an authority defining the doctrine of collateral estoppel. Given that no claim has been argued to implicate collateral estoppel, Worldwide has not supported this claim with cogent argument and relevant authority, and we decline to consider it. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the court need not consider claims not supported by cogent argument and relevant authority).

Worldwide next argues that garnishment of its manager constituted a material fact weighing against summary judgment. Worldwide concedes that this was not raised below. Accordingly, we need not consider it. *See Edelstein v. Bank of N.Y. Mellon*, 128 Nev. 505, 522 n.12, 268 P.3d 249, 260 n.12 (2012) (declining to address an issue first raised on appeal).

Lastly, Worldwide argues that public policy weighed against summary judgment. Worldwide largely restates its earlier contentions and does not provide any authority suggesting that the public policy underpinning the notice requirement in NRS 107.080 creates an independent basis for relief, particularly where the statutory provisions specifically enumerated do not warrant relief. Worldwide has not shown that it is entitled to relief in this regard.

Having concluded that relief is not warranted, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Stiglich

_____, J.
Lee

_____, J.
Bell

cc: Hon. Mark R. Denton, District Judge
Eleissa C. Lavelle, Settlement Judge
Christopherson Law Offices
Flanagan Law Firm, Ltd.
Holland & Hart LLP/Las Vegas
Marquis Aurbach Chtd.
Law Offices of Michael F. Bohn, Ltd.
Eighth District Court Clerk