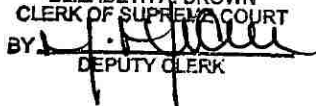


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DENNIS BAHAM, AN INDIVIDUAL,  
Appellant,  
vs.  
FIRST AMERICAN TRUSTEE  
SERVICING SOLUTIONS, LLC, A  
FOREIGN LIMITED LIABILITY  
COMPANY; SHELLPOINT MORTGAGE  
SERVICING, LLC, A DELAWARE  
LIMITED LIABILITY COMPANY; AND  
NEW REZ HOME MORTGAGES, LLC,  
Respondents.

No. 86461-COA

**FILED**  
JUN 21 2024  
ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Dennis Baham appeals from a district court order denying a motion for a preliminary injunction. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge.

Baham's home was foreclosed on in February 2020 after several unsuccessful foreclosure mediation proceedings. Following the foreclosure, Baham was unsuccessful in challenging the foreclosure proceedings in several lawsuits both in Nevada state court and federal court. In the underlying case, Baham filed a complaint in February 2023 against First American Trustee Servicing Solutions, LLC, and New Rez Home Mortgages, LLC, d/b/a Shellpoint Mortgage Servicing, LLC (respondents), alleging wrongful foreclosure on his residence and various violations of NRS Chapter 107 (deeds of trust). He also sought injunctive relief to stay the sale of his

residence and to quiet title. He did not serve respondents with the complaint, and they did not file an answer.

Shortly thereafter, Baham filed an amended ex parte motion for a temporary restraining order and preliminary injunction, seeking to enjoin respondents from selling the property at issue because he claimed they wrongfully foreclosed on it. Respondents opposed the motion, arguing that Baham's claims were barred by claim preclusion because he had already raised the claim that respondents and their predecessor wrongfully foreclosed on his house in previous actions, and Baham will not suffer irreparable harm by the sale of the house because the foreclosure had already taken place. Baham filed a reply.

The district court, without holding a hearing, entered an order denying Baham's motion, finding an injunction would no longer preserve the status quo "given the facts of this case." The court minutes further clarify that the court, in denying Baham's motion, reasoned that because he "has already been evicted, [an] injunction would no longer preserve the status quo." This appeal followed.

On appeal, Baham first contends that the district court made a legal error by denying him injunctive relief based on the finding that he had already been evicted from the property and that an injunction would not preserve the status quo. Baham claims that he still lived in the property and an injunction would therefore preserve the status quo. He further claims that the district court failed to consider his pleadings based on its erroneous factual finding that he had already been evicted.

“A preliminary injunction is proper where the moving party can demonstrate that it has a reasonable likelihood of success on the merits and that, absent a preliminary injunction, it will suffer irreparable harm for which compensatory damages would not suffice.” *Excellence Cmty. Mgmt. v. Gilmore*, 131 Nev. 347, 350-51, 351 P.3d 720, 722 (2015). Because the district court has discretion in determining whether to grant a preliminary injunction, this court will only reverse the district court’s decision when “the district court abused its discretion or based its decision on an erroneous legal standard or on clearly erroneous findings of fact.” *Id.* at 351, 351 P.3d at 722.

Here, Baham has not demonstrated that he was entitled to a preliminary injunction. First, he has not demonstrated a reasonable likelihood of success on the merits because his claim that the foreclosure was wrongful is barred by the doctrine of claim preclusion. Claim preclusion bars a subsequent lawsuit if three elements are met: 1) the same parties or their privies are involved in both cases, 2) a valid final judgment has been entered, and 3) “the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case.” *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008).

In this case, Baham’s request for injunctive relief stems from his assertion that respondents wrongfully foreclosed on the subject property. However, Baham has previously unsuccessfully challenged the validity of the foreclosure in various lawsuits with respondent Shellpoint’s predecessor, Bayview Loan Servicing, LLC. *See Baham v. Bayview Loan*

*Servicing, LLC*, No. 78491-COA, 2020 WL 6018972 (Nev. Ct. App. Oct. 9, 2020) (Order of Affirmance) (affirming the district court’s denial of Baham’s request to decline to issue a foreclosure mediation program certificate); *Baham v. Bayview Loan Servicing, LLC*, No. 82621-COA, 2022 WL 1183460 (Nev. Ct. App. Apr. 20, 2022) (Amended Order of Affirmance) (affirming the district court’s order dismissing with prejudice two complaints filed by Baham seeking injunctive relief to prevent Bayview from foreclosing on his home in part because they were barred under the doctrine of claim preclusion and because the request for injunctive relief was moot in light of the fact that the foreclosure sale had been completed). Because the validity of the foreclosure was previously litigated, and because Shellpoint is Bayview’s successor, see *Holland v. Anthony L. Barney, Ltd.*, 139 Nev., Adv. Op. 49, 540 P.3d 1074, 1084 (Ct. App. 2023) (“Privity exists when a person has acquired an interest in the subject matter affected by the judgment through . . . one of the parties, as by inheritance, succession, or purchase.”) (internal quotation marks omitted), Baham cannot now relitigate that issue. As such, claim preclusion bars his challenge in this matter.

Further, Baham’s contention that the district court erroneously concluded that he had already been evicted does not warrant relief. Below, the district court denied Baham’s motion for injunctive relief on the basis that it would not preserve the status quo given the facts of the case. In the court minutes, the court stated that Baham had already been evicted from the property, which Baham disputes. It appears that the court’s characterization that Baham had been evicted rather than foreclosed on

was potentially incorrect.<sup>1</sup> However, where respondents had previously foreclosed on the property, we conclude that this error was harmless because it did not affect Baham's substantial rights and he did not establish that but for that error, "a different result might reasonably have been reached." *Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010); cf. NRCPC 61 ("At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights."). Under these circumstances, we conclude that the district court did not abuse its discretion in denying Baham's motion for injunctive relief. See *Excellence Cmty. Mgmt.*, 131 Nev. at 351, 351 P.3d at 722.

Baham next asserts that the district court violated his due process rights when it decided his motion without a hearing or including specific findings of fact and conclusions of law in the order denying the motion. But the district court is not required to hold a hearing when deciding a motion for injunctive relief. See EDCR 2.23(c)-(d) (providing that a court may rule on a motion without hearing oral argument, and if it chooses to do so, it must remove the motion from the calendar and enter a minute order reflecting the same). While Baham is correct that the court erred by failing to state its findings of fact and conclusions of law, see NRCPC 52(a)(2) (providing that the district court must state findings and conclusions that support its refusal of an interlocutory injunction), he offers no explanation as to how the result would have been different had such

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<sup>1</sup>It is not clear from the record whether Baham is currently living in the residence.

findings or conclusions been entered given that his claims are barred by preclusion principles. Thus, we conclude the district court's error in this regard was harmless. *See Wyeth*, 126 Nev. at 465, 244 P.3d at 778; *cf.* NRCP 61. And Baham's due process rights were not violated by these events, as he was able to submit his motion to the district court, he received notice of the opposition and filed a reply. *See Wilson v. Pahrump Fair Water, LLC*, 137 Nev. 10, 17, 481 P.3d 853, 859 (2021) (providing that procedural due process is satisfied when parties receive notice and an opportunity to be heard). As a result, relief is not warranted on this basis.

Thus, for the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Bulla

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Jacob A. Reynolds, District Judge  
Dennis Baham  
Akerman LLP/Las Vegas  
First American Trustee Servicing Solutions, LLC  
Eighth District Court Clerk