

IN THE SUPREME COURT OF THE STATE OF NEVADA

RH KIDS, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY,
Respondent.

No. 86634

FILED

OCT 17 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion to dismiss in an action to quiet title. Eighth Judicial District Court, Clark County; Susan Johnson, Judge. Reviewing the dismissal order de novo and accepting all the complaint's factual allegations as true, *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008), we affirm.

Appellant RH Kids, LLC sued respondent Nationstar Mortgage, LLC, seeking to quiet title and halt Nationstar's pending foreclosure of its deed of trust. RH Kids' amended complaint primarily alleged that Nationstar's deed of trust had been extinguished as a matter of law under NRS 106.240. That statute provides that a lien on real property is conclusively presumed to be discharged "10 years after the debt secured by the mortgage or deed of trust according to the terms thereof or any recorded written extension thereof become wholly due." NRS 106.240. According to RH Kids, the loan secured by Nationstar's deed of trust became "wholly due" on September 1, 2010, when the former homeowner first missed a payment on their loan. Thus, RH Kids argued, NRS 106.240 extinguished Nationstar's deed of trust by September 1, 2020, such that the deed of trust was no longer enforceable. RH Kids' amended complaint additionally

alleged a violation of NRS 107.300, which imposes liability when a lender “willfully fails” to provide certain payoff information as provided in NRS 107.200.

Nationstar moved to dismiss, which the district court granted on the ground that RH Kids failed to file an opposition and that Nationstar’s arguments appeared meritorious. RH Kids moved to alter or amend, which the district court denied, summarily concluding again that Nationstar’s arguments were meritorious.

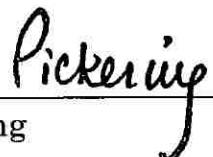
On appeal, RH Kids reiterates its argument that the former homeowner’s September 1, 2010, default triggered NRS 106.240’s 10-year time frame. But RH Kids cites no authority for its argument. And the argument is contrary to our decision in *LV Debt Collect, LLC v. Bank of New York Mellon*, 139 Nev., Adv. Op. 25, 534 P.3d 693 (2023). Namely, in *LV Debt Collect*, we held that recording a notice of default to institute nonjudicial foreclosure proceedings does not trigger NRS 106.240’s 10-year time frame. *Id.* at 695. If recording a notice of default is insufficient to trigger NRS 106.240, it stands to reason that merely defaulting on a loan, in and of itself, is also insufficient to trigger NRS 106.240. We therefore need not entertain RH Kids’ suggestion that *LV Debt Collect* left open the possibility that a loan can become “wholly due” before its maturity date just because a default has occurred. And to the extent that RH Kids contends that the district court had to accept its “allegation” that the loan became wholly due on September 1, 2010, we are not persuaded. *See Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004) (“[T]he court is not required to accept legal conclusions cast in the form of factual allegations” (internal quotation marks omitted)). Accordingly, we affirm the district court’s judgment with respect to RH Kids’ NRS 106.240

claim and decline to consider Nationstar's arguments regarding 12 U.S.C. § 4617 because they are moot. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) ("This court's duty is not to render advisory opinions but, rather, to resolve actual controversies by an enforceable judgment.").

With respect to RH Kids' NRS 107.300 claim, we agree that RH Kids' amended complaint failed to satisfy Nevada's notice-pleading standard. *Cf. Hay v. Hay*, 100 Nev. 196, 198, 678 P.2d 672, 674 (1984) ("A complaint must set forth sufficient facts to establish all necessary elements of a claim for relief, so that the adverse party has adequate notice of the nature of the claim and relief sought." (internal citation omitted)). Namely, RH Kids' amended complaint summarily alleged that Nationstar "violated NRS 107.200 *et seq.* by failing to provide Plaintiff with the requested information/statements related to the amounts required to satisfy the deed of trust." But Nationstar persuasively argues in its answering brief that a NRS 107.300 claim consists of four elements, none of which were articulated in RH Kids' amended complaint. Given RH Kids' failure to address this argument in its reply brief, we cannot conclude that the district court erred in dismissing RH Kids' NRS 107.300 claim. *Cf. Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (recognizing that failure to respond to an argument can be treated as a confession that the argument is meritorious). Consistent with the foregoing, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Stiglich


_____, J.
Pickering


_____, J.
Parraguirre

cc: Hon. Susan Johnson, District Judge
James A. Kohl, Settlement Judge
Hong & Hong
Troutman Pepper Hamilton Sanders LLP/Las Vegas
Fennemore Craig P.C./Reno
Eighth District Court Clerk