IN THE SUPREME COURT OF THE STATE OF NEVADA

DANNY, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE CWALT, INC., ALTERNATIVE LOAN TRUST 2006-33CB, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-33CB,
Respondent.

No. 86826

FILED

OCT 17 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

This is an appeal from a district court order, certified as final under NRCP 54(b), granting a motion to dismiss in an action to quiet title. Eighth Judicial District Court, Clark County; Crystal Eller, 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 in part, reverse in part, and remand.

Appellant Danny, LLC sued respondent Bank of New York Mellon (BNYM), seeking to quiet title and halt BNYM's pending foreclosure of its deed of trust. Danny primarily argued that BNYM'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 Danny, the loan secured

by BNYM's deed of trust became "wholly due" in March 2009 when the former homeowner first missed a payment on their loan. Thus, Danny argued, NRS 106.240 extinguished BNYM's deed of trust by March 2019, such that the deed of trust was no longer enforceable. BNYM moved to dismiss Danny's complaint, which the district court granted, rejecting Danny's NRS 106.240 argument.

On appeal, Danny reiterates its argument that the former homeowner's March 2009 default triggered NRS 106.240's 10-year time frame. But Danny 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 Danny's 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 Danny contends that the district court had to accept its "allegation" that the loan became wholly due in March 2009, 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)).

With respect to Danny's NRS 107.300 claim, however, we conclude that reversal is warranted. It is unclear why the district court dismissed this claim, and BNYM suggests on appeal that Danny's amended

complaint failed to adequately plead that claim. But having reviewed Danny's amended complaint and considered the arguments set forth in Danny's reply brief, we conclude that Danny's amended complaint and Danny's argument in support of a preliminary injunction sufficiently apprised BNYM regarding the contours of Danny's NRS 107.300 claim. *Cf. Harris v. State*, 138 Nev. 390, 407, 510 P.3d 802, 807 (2022) ("Under our notice-pleading standard, we liberally construe the pleadings for sufficient facts that put the defending party on adequate notice of the nature of the claim and relief sought." (internal quotation marks and alteration omitted)); NRCP 8(e) ("Pleadings must be construed so as to do justice."). We note, however, that NRS 107.300 does not entitle Danny to any relief from what appears to be the now-completed foreclosure sale. *See* NRS 107.300(1) (entitling a successful plaintiff to "$300 and any actual damages suffered"). Consistent with the foregoing, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.

Stiglich, J.
Stiglich

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

cc: Hon. Crystal Eller, District Judge
James A. Kohl, Settlement Judge
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk