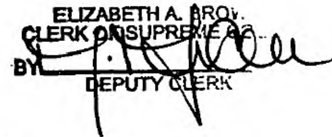
IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIE GOLDBERG, AS SUCCESSOR TRUSTEE OF THE GOLDBERG FAMILY TRUST; AND JULIE GOLDBERG, Appellants, vs. SPECIALIZED LOAN SERVICING, LLC., Respondent.	No. 86534



FILED

DEC 11 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order granting summary judgment in a declaratory relief action. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we affirm.

Appellants (collectively, Goldberg) own real property that is subject to a loan, which is evidenced by a promissory note and secured by a deed of trust. Respondent Specialized Loan Servicing (SLS) is the deed of trust beneficiary. SLS held a nonjudicial foreclosure sale on the property but that sale was unwound due to a potential noticing defect. Nonetheless, a document was erroneously recorded by SLS's agent that purported to release SLS's deed of trust (the Full Reconveyance). Contemporaneously, SLS also mistakenly sent Goldberg the original promissory note.

SLS then filed the underlying action, seeking a declaration that the Full Reconveyance was void and that the promissory note was still enforceable even though SLS no longer possessed the original note. The district court granted summary judgment for SLS. Its order declared that SLS was entitled to enforce the promissory note under NRS 104.3309, that

24-47460

the Full Reconveyance should be expunged from the public records, and that the deed of trust remained a valid encumbrance on the property.

On appeal, Goldberg first argues that SLS cannot satisfy NRS 104.3309 because the deed of trust was reconveyed (albeit erroneously). But Goldberg provides no authority to support the proposition that a note must be secured by a deed of trust for the note to be enforceable. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (observing that it is an appellant's responsibility to present cogent arguments supported by salient authority). Indeed, NRS Chapter 104 Article 3, which is part of Nevada's Uniform Commercial Code, makes no mention of deeds of trust or other liens. And Goldberg's reliance on *Jones v. U.S. Bank National Ass'n*, 136 Nev. 129, 460 P.3d 958 (2020), and *Edelstein v. Bank of New York Mellon,* 128 Nev. 505, 286 P.3d 249 (2012), is misplaced. Those cases dealt with a deed of trust beneficiary's authority to foreclose in the context of Nevada's Foreclosure Mediation Program. Neither case stands for the proposition that a note must be secured by a deed of trust for the note to be enforceable.

Goldberg alternatively argues that SLS did not provide prima facie evidence satisfying the elements of NRS 104.3309. In particular, Goldberg argues that the affidavits attached to SLS's motion were insufficient to make a prima facie showing. *Cf. Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) ("If the moving party will bear the burden of persuasion, that party must present evidence that would entitle it to a judgment as a matter of law in the absence of contrary evidence."). But having reviewed these affidavits—and absent any elaboration from Goldberg as to why they are insufficient—we conclude that they sufficiently established SLS's right to summary judgment on the NRS

104.3309 claim. Relatedly, although Goldberg contends that genuine issues of material fact exist that preclude summary judgment on this claim, Goldberg did not identify what any of those issues were below. To the extent that Goldberg improperly attempts to identify issues for the first time on appeal, *see Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."), we are not persuaded that those issues are material, *see Wood*, 121 Nev. at 731, 121 P.3d at 1031 ("The substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant.").

Goldberg next argues that "[a] trier of fact could easily have found that the actions of [SLS] were so grossly negligent that the reconveyance should not be set aside." But again, Goldberg provides no authority to suggest that SLS's potential gross negligence would be a basis for declining to set aside the Full Reconveyance. *See Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

Goldberg finally argues that the loan secured by the deed of trust may have become "wholly due" at some point, such that the deed of trust was extinguished as a matter of law under NRS 106.240. But Goldberg, as the owner of the property, would have such information in their possession. And in any event, Goldberg has neither identified nor argued any basis for concluding that the loan became "wholly due" in advance of its maturity date under our decision in *LV Debt Collect, LLC v. Bank of New York Mellon*, 139 Nev., Adv. Op. 25, 534 P.3d 693 (2023).

In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED.

_______________, J.
Stiglich

_______________, J.
Pickering

_______________, J.
Parraguirre

cc: Hon. Jacob A. Reynolds, District Judge
Israel Kunin, Settlement Judge
Michael J. Harker
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk