IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANNY, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC, D/B/A MR. COOPER, A DELAWARE LIMITED LIABILITY COMPANY,
Respondents.

No. 87659-COA

FILED

MAR 28 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Danny, LLC (Danny) appeals from a final judgment and a post-judgment order denying a motion to alter or amend in a quiet title action. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

Danny sued respondent Nationstar Mortgage, LLC (Nationstar) to quiet title and to halt Nationstar's pending foreclosure of its deed of trust. In addition to the quiet title claim, Danny's complaint included a wrongful foreclosure claim and a request for declaratory relief. Danny's complaint alleged that it was the owner of the relevant property and that a deed of trust encumbered the property. As relevant to this appeal, Danny further alleged that the 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[s] wholly due." NRS 106.240. According to Danny, the deed of trust had no force or effect because all amounts due and owing were accelerated or became wholly due on or about April 1, 2012, when the former owners defaulted by failing to make

the required payments. Thus, Danny argued that NRS 106.240 extinguished the deed of trust because more than ten years had passed since the loan became wholly due such that the deed of trust was no longer enforceable. Danny subsequently requested a preliminary injunction to halt the pending sale of the relevant property, and the district court granted that request.

Nationstar thereafter filed a motion to dismiss the complaint. Nationstar contended that NRS 106.240's ten-year period had not yet been triggered, and thus, the deed of trust had not been discharged. Danny opposed the motion and asserted that its allegations were sufficient to state valid claims against Nationstar.

The district court ultimately entered an order granting Nationstar's motion. The court converted the motion to dismiss into a summary judgment motion, as it considered matters outside the pleadings that were presented by the parties. The court rejected Danny's NRS 106.240 argument because the statute states that only a deed of trust or recorded extension thereof may establish when the debt becomes "wholly due," and NRS 106.240 cannot be triggered by a notice of default. The court noted that, according to the terms of the deed of trust at issue, the debt becomes wholly due on April 1, 2035. After rejecting Danny's additional arguments and requests for relief, the court determined that summary judgment in favor of Nationstar with respect to the wrongful foreclosure and quiet title claim should be granted.[1] The court further noted that the

[1]Although the district court's order uses language indicating it dismissed Danny's claims, the court clearly stated it was treating Nationstar's motion as one for summary judgment and applied the controlling summary judgment standard. Thus, to the extent Danny suggests the court failed to apply the proper summary judgment standard in granting the motion, that assertion lacks merit.

preliminary injunction would be rescinded and thus, the remedy denied. Therefore, the only claim that remained pending was the declaratory relief claim. Nationstar subsequently filed a motion for clarification, requesting that the district court dismiss Danny's declaratory relief claim as it sought to extinguish the deed of trust and the court entered an order granting the motion for clarification and dismissed Danny's declaratory relief claim. Danny then filed a motion to alter or amend the district court's order granting summary judgment, which the district court denied, concluding there was no basis to alter or amend the order granting Nationstar's motion. This appeal followed.

On appeal, Danny argues that, under NRS 106.240, the loan became "wholly due" on or about April 1, 2012, when the former owners defaulted on the deed of trust, and that ten years had passed from the date the loan became wholly due, without the beneficiary having enforced the deed of trust. Specifically, Danny points to the acceleration clause contained in the deed of trust which refers to the underlying loan being accelerated prior to the lender invoking the power of sale by way of recording a notice of default and election to sell. As a result, Danny asserts that the debt secured by the deed of trust became wholly due more than 10 years ago and that NRS 106.240 therefore extinguished the deed of trust. Conversely, Nationstar argues, among other things, that the district court properly determined Danny's NRS 106.240 arguments failed as a matter of law because the complaint identified no event that could have made the loan "wholly due" under the statute.[2]

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[2]Danny does not challenge the district court's decision to dismiss any of the other claims raised in its complaint. As a result, Danny has waived any argument related to the same. *See Powell v. Liberty Mut. Fire Ins. Co.*,

When a motion to dismiss is decided on matters outside the pleadings, as was done here, the motion is treated as one for summary judgment under NRCP 56. This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine dispute of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence "must be viewed in a light most favorable to the nonmoving party." *Id.* General allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31.

NRS 106.240, Nevada's ancient-mortgage statute, provides that a lien created by a mortgage or deed of trust that has not been otherwise satisfied will be presumed discharged ten years after the debt becomes wholly due. A debt becomes "wholly due" according to either (1) the terms in the mortgage or deed of trust, or (2) any recorded, written extension of those terms. *LV Debt Collect, LLC v. Bank of New York Mellon*, 139 Nev., Adv. Op. 25, 534 P.3d 693, 697 (2023); *Posner v. U.S. Bank Nat'l Ass'n*, 140 Nev., Adv. Op. 22, 545 P.3d 1150, 1153 (2024). For a deed of trust to be presumed satisfied for the purposes of NRS 106.240, "ten years [must] have passed after the last possible date the deed of trust is in effect, as shown by the maturity date on the face of the deed of trust or any recorded extension thereof." *LV Debt Collect*, 139 Nev., Adv. Op. 25, 534 P.3d at 699.

In addition, the supreme court has explained that the recording of a notice of default does not cause a debt to become wholly due because

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127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues an appellant does not raise on appeal are waived).

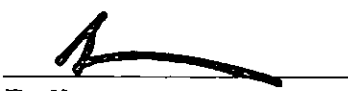
"(1) a Notice of Default is not identified in NRS 106.240 as a document that can render a secured loan 'wholly due' for purposes of triggering the statute's 10-year time frame, (2) Nevada law requires a cure period following a Notice of Default before acceleration of the entire outstanding debt, and (3) acceleration can only occur if its exercise is clear and unequivocal." *Id.* The supreme court also explained that, even if a notice provided to the borrower indicating a default in certain circumstances could render a loan wholly due, a notice that declared sums were due and payable but also provided the borrower with the opportunity to cure the default constituted the sort of conflicting language that did not amount to a clear and unequivocal announcement of the lender's intention to declare a debt wholly due. *Id.*

Here, because the terms of the deed of trust did not render the debt wholly due upon the original homeowners' default, and allowed the opportunity for the homeowners to cure, NRS 106.240's ten-year period was not triggered by either the default or any purported lender's letter concerning the default. To the extent Danny relies on the acceleration clause contained in the deed of trust and asserts that this made the debt wholly due, we are not persuaded by this argument because the borrowers retained the option under the deed of trust to reinstate the loan to good standing. *See Norman, LLC v. Newrez LLC*, No. 87545, 2024 WL 5086198, at *1 (Nev. Dec. 11, 2024) (Order of Affirmance) (stating that merely defaulting on a loan is insufficient to trigger NRS 106.240); *Big Rock Assets Mgmt., LLC v. NewRez LLC*, No. 86675, 2024 WL 4865435, at *2 (Nev. Nov. 21, 2024) (Order of Affirmance) (explaining that "the filing of a notice of default may not automatically accelerate a loan, because NRS 107.080(2)-(3) requires a notice of default to give a borrower thirty-five days to cure, which is antithetical to an acceleration"); *RH Kids, LLC v. Specialized Loan*

Servicing, LLC, No. 87701-COA, 2025 WL 365736, at *3 (Nev. Ct. App. Jan. 31, 2025) (Order of Affirmance) (rejecting appellant's argument that the debt secured by the deed of trust became wholly due more than ten years ago because the terms of the deed of trust permitted acceleration of the loan and a notice was sent indicating acceleration of the loan). Thus, we conclude that, under the language of the deed of trust, a default could not have accelerated the due date on the loan, and the ten-year period under NRS 106.240 could not have been triggered. Therefore, Danny fails to demonstrate that it was entitled to relief based on NRS 106.240.

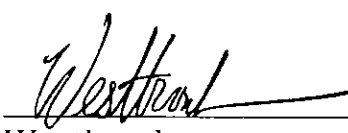
In light of the foregoing analysis, we

ORDER the judgment of the district court AFFIRMED.[3]



_____, C.J.
Bulla

_____, J.
Gibbons



_____, J.
Westbrook

[3]Because Danny presents no arguments regarding the denial of its motion to alter or amend, it has waived any challenges to the same. *See Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3. And insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either need not be reached or do not present a basis for relief.

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