IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARNS FUND, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC, D/B/A MR. COOPER, A LIMITED LIABILITY COMPANY,
Respondent.

No. 88938-COA

ORDER OF AFFIRMANCE

ARNS Fund, LLC (ARNS) appeals from a district court order granting a motion for summary judgment in an action to quiet title. Eighth Judicial District Court, Clark County; Michael A. Cherry, Senior Judge.

ARNS sued respondent Nationstar Mortgage, LLC d/b/a Mr. Cooper (Nationstar) for quiet title, wrongful foreclosure, a violation of NRS 107.028, a violation of NRS 107.200 et seq., and sought declaratory and injunctive relief. ARNS alleged that it was the owner of the relevant property and that a deed of trust encumbered the property. ARNS further alleged, among other things, 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 ARNS, Nationstar's interest in the subject property was extinguished under NRS 106.240, which was triggered by an alleged

notice of intent to accelerate the underlying debt in a letter sent to the original borrower in 2010.

Nationstar answered and later filed a motion for summary judgment. Nationstar contended, among other things, that there was no genuine dispute of fact as to whether NRS 106.240 extinguished the deed of trust, as the loan had not become wholly due in 2010. Nationstar also argued the debt had not become wholly due by the original borrower's default or by a letter sent concerning the default. In addition, Nationstar filed documents and affidavits in support of the motion, which included information related to the deed of trust and the note, and the recorded assignments of the deed of trust.

ARNS opposed the motion, arguing there remained genuine disputes of material fact. In particular, ARNS asserted Nationstar's interest in the subject property was extinguished under NRS 106.240. Nationstar subsequently filed a reply in support of its motion.

The district court issued a written order in which it concluded that there was no genuine dispute of material fact and Nationstar was entitled to summary judgment as a matter of law. The court ruled the plain language of NRS 106.240 precluded events, such as the ones alleged in ARNS's complaint, from triggering the ten-year period under NRS 106.240. The court also determined that ARNS was not entitled to relief as to any of its remaining claims. The district court accordingly granted Nationstar's motion for summary judgment. This appeal followed.

ARNS argues the district court erred by granting summary judgment in favor of Nationstar. 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.

On appeal, ARNS argues the district court erred by granting summary judgment in Nationstar's favor because the terms of the deed of trust permitted acceleration of the loan. ARNS further argues the lender sent the original borrower a notice indicating the acceleration of the loan secured by the deed of trust more than ten years ago and, because the loan was accelerated, the deed of trust that secured that debt became extinguished pursuant to NRS 106.240.

NRS 106.240, Nevada's ancient-lien 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. 232, 236, 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. at 238, 534 P.3d at 699. 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

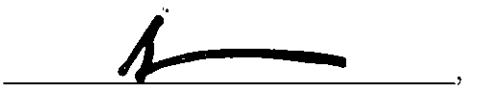
due, a notice that declared sums were due and payable but also provided the borrower with the opportunity to cure the default constituted the sort of conflicting language that did not amount to a clear and unequivocal announcement of the lender's intention to declare a debt wholly due. *Id.* at 238-39, 534 P.3d at 699.

Here, because the terms of the deed of trust did not render the debt wholly due upon the original borrower's default and allowed the opportunity for the borrower to cure the default, 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 ARNS relies on the acceleration clause contained in the deed of trust and asserts that this clause made the debt wholly due, we are not persuaded by this argument because the borrower 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). Accordingly, we conclude that, under the language of the deed of trust, neither the default

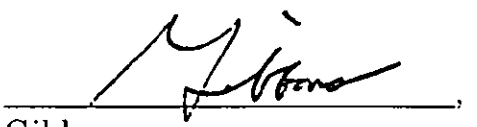
nor the letter could have accelerated the due date on the loan, and thus the ten-year period under NRS 106.240 was not triggered. Therefore, ARNS fails to demonstrate that it is entitled to relief based on this argument.

Thus, based on the foregoing analysis, we conclude that ARNS's contention that the district court erred by granting summary judgment in favor of Nationstar is without merit.[1] Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Bulla



_____, J.
Gibbons

_____, J.
Westbrook

cc: Chief Judge, Eighth Judicial District Court
Hon. Michael A. Cherry, Senior Justice
Jay Young, Settlement Judge
Hong & Hong
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk

---

[1]ARNS does not challenge the district court's decision to grant summary judgment in favor of Nationstar as to the additional claims raised in its complaint. As a result, ARNS has forfeited any argument related to the same. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived.").