IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BIG ROCK ASSETS MANAGEMENT, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
BANK OF AMERICA, N.A., A NATIONAL BANKING ASSOCIATION,
Respondent.

No. 88939-COA

FILED

SEP 09 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

Big Rock Assets Management, LLC (Big Rock) appeals from a district court order granting a motion to dismiss in an action to quiet title. Eighth Judicial District Court, Clark County; Jacqueline M. Bluth, Judge.

Big Rock sued respondent Bank of America, N.A. (BOA), for quiet title, wrongful foreclosure, and sought declaratory and injunctive relief. Big Rock alleged that it was the owner of the relevant property and that a deed of trust encumbered the property. Big Rock 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 Big Rock, BOA's interest in the subject property, as the beneficiary of the deed of trust, 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 2009.

BOA later filed a motion to dismiss, asserting the facts as alleged were insufficient to state a claim for which relief could be granted. BOA contended, among other things, that none of the events discussed in the operative complaint triggered NRS 106.240's ten-year period, and thus NRS 106.240 did not extinguish the deed of trust. BOA further asserted that Big Rock's wrongful foreclosure claim lacked merit. Big Rock opposed the motion, arguing that it had provided sufficient allegations to state a claim as to each of its causes of action. BOA subsequently filed a reply in support of the motion.

The district court ultimately issued a written order granting the motion to dismiss. The court ruled the plain language of NRS 106.240 precluded events, such as the ones alleged by Big Rock, from triggering the ten-year period under NRS 106.240.[1] The court also determined that Big

[1]As Big Rock referred to the deed of trust in the operative complaint and the terms of the deed of trust were central to its allegations, and no party questioned the authenticity of the deed of trust which was attached to the motion to dismiss, it was appropriate for the district court to review the deed of trust when granting the motion to dismiss. *See Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) (explaining that when a district court evaluates a motion to dismiss, it can "consider unattached evidence on which the complaint necessarily relies if: (1) the complaint refers to the document; (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of the document" (quotation marks omitted)).

Rock was not entitled to relief as to any of its remaining claims. This appeal followed.

On appeal, Big Rock challenges the district court's order granting the motion to dismiss. We rigorously review a district court order granting an NRCP 12(b)(5) motion to dismiss, accepting all of the plaintiff's factual allegations as true and drawing every reasonable inference in the plaintiff's favor to determine whether the allegations are sufficient to state a claim for relief. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). A complaint should be dismissed for failure to state a claim "only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief." *Id.* at 228, 181 P.3d at 672.

Because Nevada is a notice-pleading jurisdiction, *see* NRCP 8(a), a complaint need only set forth a short and plain statement with sufficient facts to demonstrate the necessary elements of a claim for relief so that the opposing party "has adequate notice of the nature of the claim and relief sought," *W. States Constr., Inc. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992); *see also Droge v. AAAA Two Star Towing, Inc.*, 136 Nev. 291, 308-09, 468 P.3d 862, 878-79 (Ct. App. 2020) (discussing Nevada's liberal notice pleading standard). "[W]e liberally construe pleadings to place matters into issue which are fairly noticed to the adverse party." *Hall v. SSF, Inc.*, 112 Nev. 1384, 1391, 930 P.2d 94, 98 (1996) (quotation marks omitted).

Big Rock argues the district court erred by dismissing its NRS 106.240 claim because it contends that the terms of the deed of trust permitted acceleration of the loan, 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 N.Y. 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 Big Rock 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). Thus, 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, Big Rock fails to demonstrate that it is entitled to relief based on this argument.[2] Accordingly, we

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

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Jacqueline M. Bluth, District Judge
Stephen E. Haberfeld, Settlement Judge
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk

---

[2]Big Rock does not challenge the district court's decision to dismiss any of the other claims raised in its complaint. As a result, Big Rock 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) (providing that issues an appellant does not raise on appeal are forfeited).

[3]Insofar as the parties raise arguments that are not specifically addressed in this order, we conclude that they either do not present a basis for relief or need not be addressed.