IN THE COURT OF APPEALS OF THE STATE OF NEVADA

GOLDEN CREEK HOLDINGS, INC.,
Appellant,
vs.
CARRINGTON MORTGAGE SERVICES, LLC,
Respondent.

No. 89492-COA

ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

Golden Creek Holdings, Inc., appeals from a final district court order in an action to quiet title. Eighth Judicial District Court, Clark County; Anna C. Albertson, Judge.

Golden Creek was the owner of a residential property and initiated an action to quiet title. In the operative complaint, Golden Creek raised several claims involving respondent Carrington Mortgage Services, LLC, the beneficiary of a deed of trust encumbering the property. As relevant to this matter, Golden Creek alleged that the deed of trust had been extinguished as a matter of law under NRS 106.240, which it alleged was triggered by a notice of intent to accelerate the underlying debt in a letter sent to the original borrowers in 2010. Golden Creek further alleged that Carrington willfully violated NRS 107.200-.300 by failing to timely respond to Golden Creek's request for information regarding the debt secured by the deed of trust.

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Carrington later filed a motion to dismiss, asserting the facts as alleged were insufficient to state a claim for which relief could be granted. Golden Creek opposed the motion. The district court ultimately issued a written order granting the motion to dismiss. This appeal followed.

On appeal, Golden Creek argues the district court erred by 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.

First, Golden Creek asserts 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 borrowers 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.

Having considered the parties' arguments and the record before this court, we conclude the district court did not err by dismissing Golden Creek's NRS 106.240 claim. Golden Creek's arguments are contrary to several decisions issued by the Nevada Supreme Court. *See LV Debt Collect,*

LLC v. Bank of N.Y. Mellon, 139 Nev. 232, 236-37, 534 P.3d 693, 698 (2023) (explaining that recording a notice of default to institute nonjudicial foreclosure proceedings does not trigger NRS 106.240's 10-year time frame in part because of the statutory cure period); *Arns Fund, LLC v. JPMorgan Chase Bank, N.A.*, No. 88661, 2025 WL 3251312, *1 (Nev. Nov. 20, 2025) (Order Affirming in Part, Reversing in Part and Remanding) (stating that "merely defaulting on a loan or sending a letter informing the homeowner of their default [was] insufficient to trigger NRS 106.240" and rejecting an argument that the terms of the deed of trust rendered the debt wholly due when the borrower had the opportunity to cure the default).

As a result, we conclude that, under the language of the deed of trust that provided the borrowers an opportunity to cure a default, neither the default nor the letter allegedly sent to the original borrowers could have accelerated the due date on the loan, and thus the ten-year period under NRS 106.240 was not triggered. Therefore, Golden Creek fails to demonstrate that it is entitled to relief based on this argument.

Second, Golden Creek argues the district court erred by dismissing its claim that Carrington violated NRS 107.200-.300 because its allegations were sufficient to state a claim for which relief could be granted. Golden Creek alleged that Carrington failed to timely respond to the request for information regarding the debt secured by the deed of trust. Carrington counters that the allegations contained in the complaint were insufficient.

Taken together, NRS 107.200 and NRS 107.210 provide that "the beneficiary of a deed of trust . . . shall, within 21 days after receiving a request from a person authorized to make such a request . . . cause to be mailed, postage prepaid, or sent by facsimile machine to that person a statement regarding the debt secured by the deed of trust" and "the amount necessary to discharge the debt secured by the deed of trust." Moreover, the beneficiary of the deed of trust must provide when a debt is in default, among other things not relevant to this appeal, "the amount in default, the principal amount of the obligation or debt secured by the deed of trust, [and] the interest accrued and unpaid on the obligation or debt secured by the deed of trust." NRS 107.210(4). NRS 107.300(1) imposes liability when a lender "willfully fails" to provide certain payoff information as provided in NRS 107.200 and NRS 107.210. When a plaintiff successfully establishes that the beneficiary violated NRS 107.200 or NRS 107.210, the beneficiary is liable to the plaintiff "in an amount of $300 and any actual damages suffered by the person who requested the statement." NRS 107.300(1).

Here, Golden Creek's complaint set forth that it, as the owner of the subject property, made a written request for the statutorily mandated information and statements and that Carrington received the written request on January 25, 2023. Golden Creek further alleged that Carrington did not provide the statutorily enumerated information and statements within the mandated 21-day period from receipt of that request. *See* NRS 107.200; NRS 107.210. Golden Creek therefore alleged that Carrington refused or failed to comply with NRS 107.200-.300 and that its failure was willful and done without just cause.

Given the language set forth in Golden Creek's complaint, we conclude that Carrington was sufficiently apprised regarding the contours of Golden Creek's NRS 107.200-.300 claim such that the dismissal of this claim for failure to allege sufficient facts was in error. *See 8933 Square Knot Tr. v. Bank of N.Y. Mellon*, No. 87301, 2024 WL 4523905, *2 (Nev. Oct. 17, 2024) (Order Affirming in Part, Reversing in Part, and Remanding) (determining that the operative complaint sufficiently apprised the defendant regarding the contours of appellant's NRS 107.300 claim, such that its claim satisfied NRCP 12(b)(5)'s motion-to-dismiss standard); *Harris v. State*, 138 Nev. 403, 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."). Thus, we reverse the dismissal of Golden Creek's NRS 107.200-.300 claim and remand for further proceedings consistent with this order. We note, however, that NRS 107.300 does not entitle Golden Creek to relief from any foreclosure sale that Carrington may have conducted. *See* NRS 107.300(1) (entitling a successful plaintiff to "$300 and any actual damages suffered").[1] Accordingly, we

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[1]To the extent Carrington contends that this court cannot reverse and remand Golden Creek's NRS 107.200-.300 claim, by itself, to the district court because Golden Creek is only entitled to recover $300, which falls far below the district court's $15,000 jurisdictional threshold, *see* Nev. Const. art. 6, § 6(1); *see also* NRS 4.370(1), Carrington overlooks that Golden Creek

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.[2]

_____, C.J.
Bulla

_____, J.
Gibbons

_____, J.
Westbrook

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is also entitled to recover "any actual damages suffered," and Golden Creek alleged it incurred in excess of $15,000 in damages in connection with the claim. *See Edwards v. Direct Access, LLC*, 121 Nev. 929, 933, 124 P.3d 1158, 1160 (2005) (recognizing that "in order to dismiss a case based on lack of subject matter jurisdiction, it must appear to a legal certainty that the [damages are] worth less than the jurisdictional amount" (alteration in original) (internal quotation marks omitted)).

[2]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.

In addition, Carrington requests the imposition of NRAP 38 sanctions. However, we decline to impose such sanctions as Golden Creek raises a meritorious argument in this appeal. *See Woods v. Label Inv. Corp.*, 107 Nev. 419, 427, 812 P.2d 1293, 1299 (1991) (rejecting a request for attorney fees on appeal when the appellant did not raise frivolous arguments), *disapproved of on other grounds by Hanneman v. Downer*, 110 Nev. 167, 871 P.2d 279 (1994)); *see also Anaya-Alvarado v. Anaya-Alvarado*, No. 84869-COA, 2023 WL 2033364, *1 n.8 (Nev. Ct. App. Feb. 15, 2023) (Order of Affirmance) (declining to award attorney fees under NRAP 38 because the "appeal in its entirety is not frivolous, nor does it appear to have been undertaken solely for purposes of delay").

cc: Hon. Anna C. Albertson, Judge
Hong & Hong
Troutman Pepper Hamilton Sanders LLP/Las Vegas
Eighth District Court Clerk