

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVE AYRES TRUSTEE OF THE 3135
MOJAVE 128 TRUST,
Appellant,
vs.
WELLS FARGO BANK, N.A.,
Respondent.

No. 64487

FILED

NOV 25 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. K. Lindeman*
DEPUTY CLERK

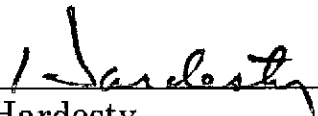
ORDER VACATING, REVERSING, AND REMANDING

This is an appeal from a district court order, certified as final under NRCP 54(b), denying a motion for a preliminary injunction and granting a motion to dismiss in a quiet title action. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

The district court denied appellant's preliminary injunction motion and granted respondent's motion to dismiss, finding that appellant had failed to state a viable claim for relief because "a foreclosure sale of a homeowner's association assessment lien under N.R.S. 116.3116 et seq., including N.R.S. 116.3116(2)[], does not extinguish a first position Deed of Trust." This court's recent disposition in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), decides that a common-interest community association's NRS 116.3116(2) superpriority lien has true priority over a first security interest, and the association may nonjudicially foreclose on that lien. The district court's decisions thus were based on an erroneous interpretation of the controlling law and did not reach the other issues colorably asserted. Accordingly, we

VACATE the portion of the order denying preliminary injunctive relief, REVERSE the portion of the order granting the motion to

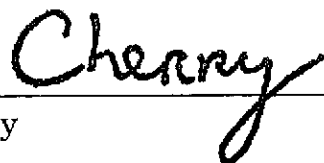
dismiss, AND REMAND this matter to the district court for further proceedings consistent with this order.

, J.
Hardesty

, J.
Douglas

CHERRY, J., concurring:

For the reasons stated in the *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. ___, 334 P.3d 408 (2014), dissent, I disagree that respondent lost its lien priority by virtue of the homeowners association's nonjudicial foreclosure sale. I recognize, however, that *SFR Investments* is now the controlling law and, thusly, concur in the disposition of this appeal.

, J.
Cherry

cc: Hon. Ronald J. Israel, District Judge
The Dean Legal Group, Ltd.
Wright, Finlay & Zak, LLP/Las Vegas
Eighth District Court Clerk