

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEGAN O. WALSH; AND NATHANIEL  
M. WALSH,  
Appellants,  
vs.  
GREEN TREE SERVICING, LLC, A  
MINNESOTA LIMITED LIABILITY  
COMPANY; QUALITY LOAN SERVICE  
CORPORATION, A CALIFORNIA  
CORPORATION; AND PLATINUM  
FIRST MORTGAGE, LP, AN OHIO  
LIMITED PARTNERSHIP,  
Respondents.

No. 65055

**FILED**

**MAY 20 2015**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order dismissing a quiet title action. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

Appellants alleged in their complaint that title to the subject property should be quieted in them because the promissory note that they signed when they purchased the property was securitized, in which process any right under the note to bring a foreclosure action was destroyed. Respondent Green Tree Servicing, LLC moved to dismiss the complaint, providing copies of the deed of trust and certain foreclosure documents to the district court as evidence. The district court took judicial notice and dismissed the action in its entirety. Appellants timely appealed, arguing that dismissal was improper or that appellants should

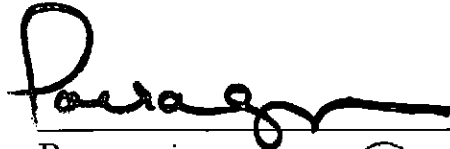
be permitted to amend their complaint to add Fannie Mae, the entity that purchased the property at the foreclosure sale, and proceed against it.

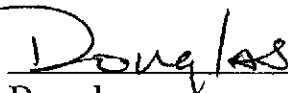
We review de novo a district court order granting a motion to dismiss. *State ex rel. Johnson v. Reliant Energy, Inc.*, 128 Nev. Adv. Op. No. 46, 289 P.3d 1186, 1189 (2012). In doing so, we “accept[ ] all factual allegations in the complaint as true, and draw[ ] all inferences in the plaintiffs’ favor.” *Id.* “We will uphold an order of dismissal when it appears beyond a doubt that the plaintiff could prove no set of facts that would entitle him or her to relief.” *Id.* “Dismissal can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). Because appellants’ legal theory, that the right to foreclose under the note was destroyed when the note was securitized, is not a recognized legal theory in Nevada, see *Edelstein v. Bank of N.Y. Mellon*, 128 Nev. Adv. Op. No. 48, 286 P.3d 249, 256-60 (2012) (discussing securitization), we conclude that the district court did not err when it dismissed appellants’ complaint.

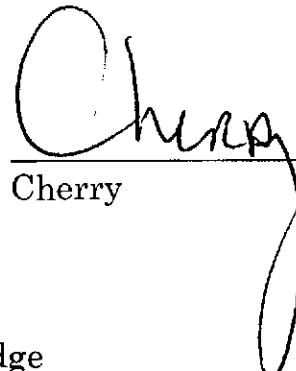
Turning to appellants’ contention that they should be allowed leave to amend their complaint, while leave to amend should be “freely given when justice so requires,” NRCP 15(a), “leave to amend should not be granted if the proposed amendment would be futile . . . [, and] plead[ing] an impermissible claim” is futile. *Halcrow, Inc. v. Eighth Judicial Dist. Court*, 129 Nev. Adv. Op. No. 42, 302 P.3d 1148, 1152 (2013). As we have explained, appellants have not set forth a cognizable

legal theory and thus it is irrelevant against whom they assert that theory. Accordingly, we conclude that the district court did not err in refusing to allow appellants to amend their complaint, and we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Lynne K. Simons, District Judge  
Debbie Leonard, Settlement Judge  
Terry J. Thomas  
Brooks Hubley LLP  
Washoe District Court Clerk

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<sup>1</sup>We have considered appellants' other arguments and conclude that they lack merit.