

IN THE SUPREME COURT OF THE STATE OF NEVADA

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION, THE
SUCCESSOR IN INTEREST FROM
THE FDIC AS RECEIVER OF
WASHINGTON MUTUAL BANK,
Appellant,
vs.
SATICOY BAY LLC SERIES 10013
ALEGRIA,
Respondent.

No. 69583

FILED

APR 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER VACATING AND REMANDING

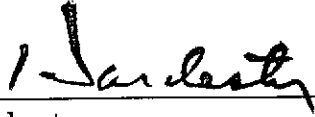
This is an appeal from a district court summary judgment in a judicial foreclosure and quiet title action. Eighth Judicial District Court, Clark County; James Crockett, Judge.

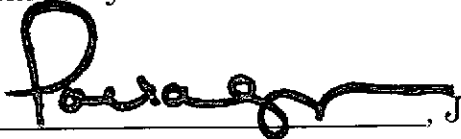
In granting summary judgment, the district court determined that the recitals in respondent's deed were conclusive proof that the HOA foreclosure sale extinguished appellant's deed of trust. That determination is inconsistent with our opinion in *Shadow Wood Homeowners Ass'n, Inc. v. New York Community Bancorp, Inc.*, 132 Nev., Adv. Op. 5, 366 P.3d 1105, 1112-16 (2016), which held that courts retain equitable authority to set aside a foreclosure sale when the sale is affected by "fraud, unfairness, or oppression." Accordingly, we conclude that summary judgment may have been improper.¹ *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (reviewing de novo a district


¹We disagree with respondent's contention that the record contains evidence establishing that the HOA complied with all of the statutory foreclosure requirements.

court's summary judgment and recognizing that summary judgment is proper only when no genuine issues of material fact remain). On remand, the district court should consider appellant's request for an NRCP 56(f) continuance in light of *Shadow Wood*. We therefore

ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. James Crockett, District Judge
Eleissa C. Lavelle, Settlement Judge
Snell & Wilmer LLP/Salt Lake City
Snell & Wilmer, LLP/Tucson
Snell & Wilmer, LLP/Las Vegas
Law Offices of Michael F. Bohn, Ltd.
Eighth District Court Clerk

²In light of our opinion in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev., Adv. Op. 5, 388 P.3d 970 (2017), appellant's due process and takings arguments lack merit. We further note that, as this court observed in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, NRS 116.31168 (2013) incorporates NRS 107.090 (2013), which required that notices be sent to a deed of trust beneficiary. 130 Nev., Adv. Op. 75, 334 P.3d 408, 418 (2014); *id.* at 422 (Gibbons, C.J., dissenting); *see also Bourne Valley Court Trust v. Wells Fargo Bank, NA*, 832 F.3d 1154, 1163-64 (9th Cir. 2016) (Wallace, J., dissenting).