

IN THE SUPREME COURT OF THE STATE OF NEVADA

ZAISAN ENTERPRISES LLC,
Appellant,
vs.
GREEN TREE SERVICING, LLC,
Respondent.

No. 73207

FILED

FEB 15 2018

ELIZABETH A. BROWN
CLERK OF THE SUPREME COURT
BY *Elizabeth A. Brown*
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Joseph T. Bonaventure and Jessie Elizabeth Walsh, Judges.

The district court granted summary judgment in favor of respondent, concluding that the notice provisions of NRS Chapter 116's lien foreclosure scheme violate due process. This court has since held that the superpriority lien statutes do not implicate due process. *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev., Adv. Op. 5, 388 P.3d 970, 972-74 (2017). As the district court's basis for granting summary judgment was erroneous, reversal is warranted.

Appellant argues that summary judgment is warranted in its favor based on the recitals in the trustee's deed upon sale and appellant's purported bona-fide-purchaser status. We have determined that the conclusive effect of recitals included in a trustee's deed of sale, as provided in NRS 116.31166, does not eliminate equitable relief if the sale is affected by fraud, unfairness, or oppression. *Shadow Wood Homeowners Ass'n v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev., Adv. Op. 5, 366 P.3d 1105, 1109-12 (2016). Respondent alleged that the sale price was grossly inadequate and that procedural irregularities indicated fraud, unfairness, or oppression.

See Nationstar Mortg. v. Saticoy Bay LLC Series 2227 Shadow Canyon, 133 Nev., Adv. Op. 91, 405 P.3d 641, 648 (2017) (observing that “where the inadequacy of price is palpable and great, very slight additional evidence of unfairness or irregularity is sufficient” (quotation marks omitted)). Regarding appellant’s claim of bona-fide-purchaser status, such status is just one of the entirety of the circumstances affecting the equities that a court must consider in granting equitable quiet title relief. *Shadow Wood Homeowners Ass’n*, 132 Nev., Adv. Op. 5, 366 P.3d at 1114. In disposing of the suit on facial constitutional grounds before discovery could be conducted, the district court did not consider these factual issues, and we decline to do so in the first instance. Therefore, we

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

Pickering, J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

cc: Chief Judge, The Eighth Judicial District Court
Hon. Joseph T. Bonaventure, Senior Judge
Hon. Jessie Elizabeth Walsh, District Judge
Eighth Judicial District Court Dept. 10
Wolfe Thompson
Kolesar & Leatham, Chtd.
Eighth District Court Clerk