

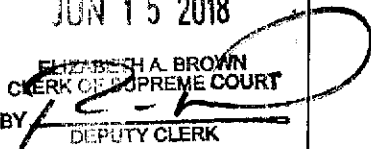
IN THE SUPREME COURT OF THE STATE OF NEVADA

BAC HOME LOANS SERVICING, LP,
Appellant,
vs.
NV REAL PROPERTY LLC,
Respondent.

No. 69142

FILED

JUN 15 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING


This is an appeal from a district court order granting summary judgment in an action to quiet title. Eighth Judicial District Court, Clark County; Valerie Adair, Judge. Reviewing the summary judgment de novo, *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we vacate the judgment and remand for further proceedings.


Appellant BAC Home Loans argues that the district court erred in granting summary judgment without allowing a continuance to conduct discovery related to equitable grounds to set aside the foreclosure sale.¹ We agree. Of relevance, *Shadow Wood Homeowners Ass'n v. New York Community Bancorp, Inc.*, 132 Nev., Adv. Op 5, 366 P.3d 1105, 1109 (2016), explained that the conclusive effect of the recitals included in a trustee's deed of sale, as provided in NRS 116.31166, does not eliminate equitable relief when the party challenging the sale can show that the sale was affected by fraud, unfairness, or oppression. *See Nationstar Mortg. v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev., Adv. Op. 91, 406

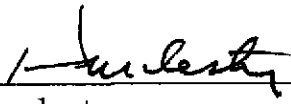
¹BAC also argues that NRS Chapter 116's foreclosure scheme violates its due process rights. This court's decision in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev., Adv. Op. 5, 388 P.3d 970 (2017), defeats that challenge.

P.3d 641, 647-49 (2017). BAC's NRCP 56(f) declaration sought discovery into issues implicating fraud, unfairness, or oppression. Because *Nationstar* and *Shadow Wood* were decided after the district court granted summary judgment, we conclude that a remand is proper in order for the district court to consider BAC's NRCP 56(f) request, as well as to evaluate whether BAC tendered the superpriority portion of the HOA's lien.² Accordingly, we conclude that summary judgment on this record was improper, and we therefore

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


_____, J.
Pickering


_____, J.
Gibbons


_____, J.
Hardesty

cc: Hon. Valerie Adair, District Judge
Akerman LLP/Las Vegas
The Law Office of Mike Beede, PLLC
Eighth District Court Clerk

²In this respect, there appears to be unresolved issues regarding the significance of the HOA's account breakdown only going back to January 2011.