

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE BOYER IRREVOCABLE TRUST,
DATED 12-31-1992,
Appellant,
vs.
MCLEOD BUSINESS CENTRE
OWNER'S ASSOCIATION, A NEVADA
ASSOCIATION,
Respondent.

No. 70177

FILED

JUL 13 2018

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

ORDER OF AFFIRMANCE

The Boyer Irrevocable Trust Dated 12-31-1992 appeals from a district court's summary judgment in a real property action. Eighth Judicial District Court, Clark County; James Crockett, Judge.

Appellant The Boyer Irrevocable Trust Dated 12-31-1992 (Boyer) attempted to foreclose upon a property under its deed of trust which was secured by the subject property. After foreclosing, Boyer attempted to evict the current tenants who sued to quiet title over the property. During the ensuing litigation, Boyer was awarded title pursuant to its foreclosure of a separate property that was the actual subject of its deed of trust but erroneously identified in the prior recording instruments. The court order from that case corrected the recording instruments and deemed that Boyer was the owner of the subject property nunc pro tunc to the date Boyer foreclosed upon the other property.

Respondent McLeod Business Centre Owner's Association (McLeod) then sought to collect past due association assessments and related fees for the property that Boyer was determined to own, as the prior owners had not paid the association assessments. McLeod noticed its association lien foreclosure sale, and Boyer filed this instant suit to

determine whether Boyer was responsible for the past due assessments. During the pendency of the instant litigation, Boyer paid the full amount of the HOA lien to prevent the foreclosure sale. Then, following competing motions for summary judgment, the district court denied Boyer relief and granted summary judgment in favor of McLeod. This appeal followed.


This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleading and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.


On appeal, Boyer argues that the association wrongfully assessed it fees dating to prior to Boyer taking possession of the property. Boyer argues that this was done in contradiction to the CC&Rs and in violation of NRS Chapter 116 because Boyer should not be responsible for any assessments prior to the court order that quieted title on the appropriate property. This argument, however, ignores the court order in the quiet title action that recognized that Boyer's foreclosure vested title with Boyer on the corrected property at the time of the foreclosure, not the later order quieting title. As such, Boyer was the rightful owner from the date of foreclosure and subject to the assessments from that time. The court order from the quiet title matter merely corrected the recorded documents. As such, the various arguments Boyer bases on this delayed ownership premise, including the purported violations of due process and lack of

notice, have no supporting authority and will not be considered. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that claims not cogently argued or supported by relevant authority need not be considered). Because McLeod complied with all necessary processes to notify tenants and/or property owners of assessments, the HOA foreclosure sale complied with NRS Chapter 116 and Boyer presents no evidence otherwise, there is no genuine issue of material fact on which to overturn this summary judgment.

Moreover, to the extent Boyer sought to prevent the association from foreclosing on its lien, the issue is moot as Boyer paid the entire lien amount. *See Univ. & Cmty. Coll. Sys. v. Nevadans for Sound Gov't*, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (recognizing that "cases presenting live controversies at the time of their inception may become moot by the occurrence of subsequent events"). We have considered all of appellant's arguments on appeal and conclude that no genuine issue of material fact exists and that McLeod is entitled to judgment as a matter of law. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Therefore, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. James Crockett, District Judge
Janet Trost, Settlement Judge
David J. Winterton & Associates, Ltd.
McLeod Business Centre Owner's Association
Eighth District Court Clerk