


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TERENCE K. DICKINSON,
Appellant,
vs.
HSBC BANK USA, N.A.;
RENAISSANCE HOME EQUITY
LOANS TRUST 2006-3; AND OCWEN
LOAN SERVICING, LLC,
Respondents.¹

No. 76009-COA

FILED

AUG 15 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Terence K. Dickinson appeals from district court orders dismissing his complaint and request for post-judgment relief in a quiet title action. Eighth Judicial District Court, Clark County; Adriana Escobar, Judge.

Dickinson sued respondents HSBC Bank USA, N.A.; Renaissance Home Equity Loans Trust 2006-3; and Ocwen Loan Servicing, LLC, alleging that they foreclosed on his home without providing proper notice even though he paid off his home loan. Based on that allegation, Dickinson asserted claims against respondents for quiet title and breach of the covenant of quiet enjoyment. Respondents moved to dismiss, arguing that Dickinson took out several loans on his home, and that although he paid off most of them, he never satisfied the loan that was secured by the deed of trust on which they foreclosed. Moreover, respondents argued that

¹We direct the clerk of the court to amend the caption for this case to conform to the caption on this order.

19-34365

Dickinson failed to timely challenge the foreclosure sale and that, because Dickinson did not allege the existence of a landlord-tenant relationship, his claim for breach of the covenant of quiet enjoyment failed. Over Dickinson's objection, the district court dismissed his complaint, reasoning that his claims were time barred under NRS 107.080(6), which requires challenges to the trustee's compliance with certain requirements governing notices of default and sale to be brought within 90 days after the foreclosure sale at issue. Dickinson then filed a document styled as a motion for reconsideration in which he sought relief under NRCP 59 or 60(b), but the district court denied his request. This appeal followed.²

On appeal, Dickinson primarily repeats his allegations from below that he satisfied the loan at issue in the present case and that respondents foreclosed without providing him proper notice. But despite

²Respondents characterize Dickinson's post-judgment motion as a motion for reconsideration and argue that his appeal only challenges the denial of that motion. But respondents mischaracterize Dickinson's motion, which sought relief under NRCP 59 and 60(b). And while Dickinson's notice of appeal only designates the order denying his post-judgment motion, his intent to appeal from the district court's dismissal order can be reasonably inferred from the notice of appeal and other appellate documents. See *Forman v. Eagle Thrifty Drugs & Markets, Inc.*, 89 Nev. 533, 536, 516 P.2d 1234, 1236 (1973), *overruled on other grounds by Garvin v. Ninth Judicial Dist. Court*, 118 Nev. 749, 751, 59 P.3d 1180, 1181 (2002). Moreover, under the circumstances presented here, Dickinson's motion constituted a timely tolling motion, and to the extent portions of the order are not independently appealable, the challenged order can be reviewed in the context of the appeal from the final judgment. See *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 583, 589, 245 P.3d 1190, 1193, 1197 (2010) (equating a motion for reconsideration to an NRCP 59(e) motion); see also *Holiday Inn Downtown v. Barnett*, 103 Nev. 60, 63, 732 P.2d 1376, 1379 (1987) (recognizing that an order denying NRCP 60(b) relief can be appealed).

those allegations, the district court determined that it was required to dismiss Dickinson's case in its entirety under NRS 107.080(6) because he did not file his complaint within 90 days after the underlying foreclosure sale.

While Dickinson disputes the applicability of NRS 107.080(6) on appeal to a limited extent, he did not do so in opposing respondents' motion to dismiss or seeking reconsideration of the order dismissing his case. And given Dickinson's failure to challenge the applicability of NRS 107.080(6) below, he did not preserve that issue for our review. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal.").

Under these circumstances, we necessarily affirm the district court's orders dismissing Dickinson's complaint and denying his post-judgment motion for relief.

It is so ORDERED.³


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

³Given our disposition of this appeal, we need not consider Dickinson's remaining arguments.

cc: Hon. Adriana Escobar, District Judge
Terence K. Dickinson
Wright, Finlay & Zak, LLP/Las Vegas
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk