

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

KENNETH RENFROE,
Appellant,
vs.
NATIONSTAR MORTGAGE, LLC,
Respondent.

No. 78886-COA

FILED

OCT 16 2020

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

ORDER OF AFFIRMANCE

Kenneth Renfroe appeals from a final judgment following a bench trial in a quiet title action. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

The original owner of the subject property failed to make periodic payments to his homeowners' association (HOA). The HOA recorded a notice of delinquent assessment lien and later a notice of default and election to sell to collect on the past due assessments and other fees pursuant to NRS Chapter 116. Renfroe purchased the property at the resulting foreclosure sale and filed the underlying action seeking to quiet title against respondent Nationstar Mortgage, LLC (Nationstar), the beneficiary of the first deed of trust on the property. Nationstar counterclaimed seeking the same, and the matter proceeded to a bench trial. Following trial, the district court ruled in favor of Nationstar, finding that the Federal Home Loan Mortgage Corporation (Freddie Mac) owned the underlying loan such that 12 U.S.C. § 4617(j)(3) (the Federal Foreclosure Bar) prevented the foreclosure sale from extinguishing Nationstar's deed of trust. This appeal followed.

This court reviews a district court's legal conclusions following a bench trial de novo, but we will not disturb the district court's factual findings "unless they are clearly erroneous or not supported by substantial evidence." *Wells Fargo Bank, N.A. v. Radecki*, 134 Nev. 619, 621, 426 P.3d 593, 596 (2018).

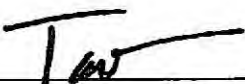
A review of the record from the underlying proceeding reveals that the district court properly ruled in Nationstar's favor following trial. *Id.* We reject Renfroe's arguments that Freddie Mac was required to be the beneficiary of the deed of trust or otherwise record its interest in order to avail itself of the Federal Foreclosure Bar. *See Daisy Tr. v. Wells Fargo Bank, N.A.*, 135 Nev. 230, 233-34, 445 P.3d 846, 849 (2019) (holding that a deed of trust need not be assigned to a regulated entity in order for it to own the secured loan—meaning that Nevada's recording statutes are not implicated—where the deed of trust beneficiary is an agent of the note holder). And because Freddie Mac's interest need not be recorded, Renfroe's purported status as a bona fide purchaser is inapposite. *See id.* at 234, 445 P.3d at 849. Finally, we conclude that the testimony and business records adduced by Nationstar at trial constituted substantial evidence to support the district court's findings concerning Freddie Mac's ownership of the note and its agency relationship with Nationstar. *See id.* at 234-36, 445 P.3d at 849-51 (affirming on similar evidence and concluding that neither the loan servicing agreement nor the original promissory note must be produced for the Federal Foreclosure Bar to apply); *Radecki*, 134 Nev. at 621, 426 P.3d at 596.

Accordingly, the district court properly concluded that the Federal Foreclosure Bar prevented extinguishment of Nationstar's deed of trust and that Renfroe took the property subject to it. *See Saticoy Bay LLC*

Series 9641 Christine View v. Fed. Nat'l Mortg. Ass'n, 134 Nev. 270, 273-74, 417 P.3d 363, 367-68 (2018) (holding that the Federal Foreclosure Bar preempts NRS 116.3116 such that it prevents extinguishment of the property interests of regulated entities under FHFA conservatorship without affirmative FHFA consent). Thus, given the foregoing, we

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Jerry A. Wiese, District Judge
Noggle Law PLLC
Akerman LLP/Las Vegas
Fennemore Craig P.C./Reno
Eighth District Court Clerk

¹Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.