

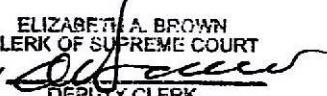
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant,
vs.
BANK OF AMERICA, N.A., A
NATIONAL ASSOCIATION; AND
DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
VENDEE MORTGAGE TRUST 2010-1,
Respondents.

No. 78112-COA

FILED

JAN 15 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

SFR Investments Pool 1, LLC (SFR), appeals from a district court final judgment in an interpleader and quiet title action. Eighth Judicial District Court, Clark County; Kerry Louise Earley, Judge.

The original owners of the subject property failed to make periodic payments to their 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. Prior to the sale, counsel for respondent Bank of America, N.A., which is the predecessor to the holder of the first deed of trust on the property—respondent Deutsche Bank National Trust Company (collectively referred to herein as Deutsche Bank)—tendered

payment to the HOA foreclosure agent for an amount equal to nine months of the HOA's assessments. The agent rejected the tender, however, and proceeded with the foreclosure sale, at which SFR purchased the property.

The agent then filed the underlying interpleader action to distribute the proceeds from the sale among all interested parties. During the course of the action, SFR and Deutsche Bank both sought to quiet title to the property and eventually filed competing motions for summary judgment. The district court ruled in Deutsche Bank's favor, finding that the tender satisfied the superpriority portion of the HOA's lien such that SFR took title to the property subject to Deutsche Bank's deed of trust. 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 pleadings 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.

Here, the district court correctly found that the tender of nine months of past due assessments satisfied the superpriority lien such that

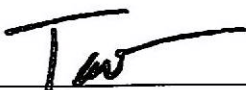
SFR took the property subject to Deutsche Bank's deed of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 134 Nev. 604, 605, 427 P.3d 113, 116 (2018). Although SFR argues that the tender was insufficient because it did not cover an alleged maintenance or nuisance abatement charge, along with related collection costs and interest, we reject that argument, as the HOA did not disclose the existence of any such charge prior to the foreclosure sale, notwithstanding that its agent provided Bank of America a statement of account in response to its request for an itemized ledger and payoff amount for the HOA's lien.¹ *See id.* at 607, 427 P.3d at 118 (holding that a tender for nine months' worth of assessments was sufficient where the HOA did not indicate that the subject property had any maintenance or nuisance abatement charges). We also reject SFR's assertion that the tender letter misstated the law pertaining to maintenance and nuisance abatement charges and was therefore impermissibly conditional, as the letter did not address such charges at all, and as discussed above, the HOA failed to disclose the existence of any such charges prior to the foreclose sale. *Id.* at 608, 427 P.3d at 118 (concluding that a materially similar tender letter was

¹SFR also challenges the sufficiency of the tender on the ground that it did not cover the superpriority portion of a second HOA lien on the property. SFR waived this challenge, however, by failing to present it below. *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.").

not impermissibly conditional). Thus, in light of the foregoing, we conclude that no genuine issue of material fact exists to prevent summary judgment in favor of Deutsche Bank, *see Wood*, 121 Nev. at 729, 121 P.3d at 1029, and we

ORDER the judgment of the district court AFFIRMED.²


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Dept. 4
Kim Gilbert Ebron
Akerman LLP/Las Vegas
Eighth District Court Clerk

²Insofar 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 provide a basis for relief or need not be reached given the disposition of this appeal.