IN THE COURT OF APPEALS OF THE STATE OF NEVADA

TWT INVESTMENTS, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
NATIONSTAR MORTGAGE LLC, A DELAWARE LIMITED LIABILITY COMPANY,
Respondent.

No. 80882-COA

FILED

APR 16 2021

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

ORDER OF AFFIRMANCE

TWT Investments, LLC (TWT), appeals from a district court summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Rob Bare, 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. TWT's predecessor purchased the property at the resulting foreclosure sale and conveyed it to TWT, which 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 ultimately moved for summary judgment, which the district court granted, concluding in relevant part that the Federal National Mortgage Association (Fannie Mae) 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 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.

TWT presents two arguments on appeal. First, it contends that Fannie Mae did not own the underlying loan at the time of the foreclosure sale—or that there was at least conflicting evidence on this point—because the assignment of the deed of trust to one of Nationstar's predecessors purported to convey not only the deed of trust, but also the promissory note. But our supreme court recognized in *Daisy Trust v. Wells Fargo Bank, N.A.*, 135 Nev. 230, 234 n.3, 445 P.3d 846, 849 n.3 (2019), that Freddie Mac (or in this case Fannie Mae) obtains its interest in a loan by virtue of the promissory note being negotiated to it. Section A2-1-04 of the Fannie Mae Servicing Guide, of which we take judicial notice, NRS 47.130; NRS 47.170, stands for the same proposition. Consequently, because the promissory note had already been negotiated to Fannie Mae at the time of the relevant assignment of the deed of trust, Nationstar's predecessor lacked authority to transfer the note, and the language in the assignment purporting to do so had no effect.[1] *See* 6A C.J.S. *Assignments* § 111 (2021) ("An assignee

[1]TWT argues that the language in the deed amounted to a false representation concerning title under NRS 205.395, a category C felony. Even assuming TWT is correct, it fails to provide any explanation as to how

stands in the shoes of the assignor and ordinarily obtains only the rights possessed by the assignor at the time of the assignment, and no more.").

TWT next argues that Nationstar failed to prove that Fannie Mae had an interest in the property that was subject to the Federal Foreclosure Bar. Specifically, TWT contends that Fannie Mae was required to record its interest when it acquired the underlying loan in 2007 because it was not yet under the conservatorship of the Federal Housing Finance Agency (FHFA). From there, TWT reasons that the Federal Foreclosure Bar was not yet in effect and could not have preempted Nevada's recording statutes. But TWT misreads our supreme court's holding in *Daisy Trust*, which was not that the Federal Foreclosure Bar preempts Nevada's recording statutes, but rather that the recording statutes simply do not apply to the situation at issue here where a regulated entity owns the loan and its agent is the beneficiary of the recorded deed of trust. 135 Nev. at 234, 445 P.3d at 849 (specifically noting that, in light of its disposition, the court "need not address Freddie Mac's argument that the Federal Foreclosure Bar preempts Nevada's recording statutes"). Accordingly, we reject TWT's argument on this point.

Because the testimony and business records produced below were sufficient to prove Fannie Mae's ownership of the note and the agency relationship between it and Nationstar in the absence of contrary evidence, *see id.* at 234-36, 445 P.3d at 849-51, the district court properly concluded that the Federal Foreclosure Bar prevented extinguishment of Nationstar's deed of trust and that TWT took the property subject to it. *See Saticoy Bay*

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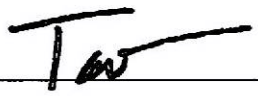
that would entitle it to relief in this civil matter. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that the appellate courts need not consider claims unsupported by cogent argument or relevant authority).

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). Consequently, 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. 32
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk

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[2]We decline to impose sanctions against TWT or its counsel under NRAP 38 as requested by Nationstar. Nevertheless, we remind TWT and its counsel of their obligation to provide this court with an adequate appellate record. *See* NRAP 30(b)(3); *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007). We further remind TWT's counsel of his obligations under RPC 3.1 to only advance arguments if there is a basis in law and fact for doing so and, when existing precedent does not align with his clients' interests, to present good-faith arguments for its modification or reversal. Finally, in light of our disposition, we note that we need not address the parties' arguments concerning tender.