

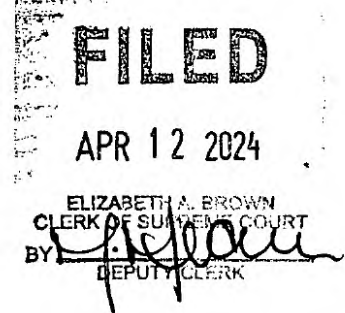
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BOBBIE PRICE; SUZANNE LOVELY;
AND BRADLEY BAILEY,
Appellants,

vs.

LOREN YOUNGMAN; BELEM
CAZARES; AND EMMANUEL
BARRIENTOS,
Respondents.

No. 86413-COA



ORDER OF AFFIRMANCE

Bobbie Price, Suzanne Lovely, and Bradley Bailey appeal from a final order in a quiet title matter. Eighth Judicial District Court, Clark County; Christy L. Craig, Judge.

Appellant Bradley Bailey was the owner of the real property at issue in this matter. In 2009, Bailey executed a promissory note that promised repayment to lender respondent Loren Youngman and was secured by a deed of trust against the property, with Youngman as the beneficiary. The deed of trust in favor of Youngman was recorded on October 20, 2009. In 2015, Bailey executed a quitclaim deed in favor of Tri-State Collection & Foreclosure Services, LLC (Tri-State Collection), transferring his entire interest in the property to Tri-State Collection. Appellant Suzanne Lovely was the manager of Tri-State Collection. In 2016, Bailey executed a quitclaim deed in favor of appellant Bobbie Price, transferring a 50 percent interest in the property to her.

In 2020, National Default Servicing Corporation (NDSC) became the trustee of the deed of trust related to Youngman. NDSC thereafter recorded a notice of default and election to sell under the deed of trust. NDSC subsequently recorded a notice of trustee's sale. NDSC also indicated that it complied with the service requirements provided by NRS Chapter 107. NDSC conducted the trustee's sale on February 22, 2021, and Youngman purchased the property at that sale. Despite the trustee's sale, Bailey executed a warranty deed in favor of the Bradley Bailey Revocable Living Trust on February 24, 2021. NDSC executed a trustee's deed in favor of Youngman, and the deed was recorded on February 25, 2021.

Youngman thereafter filed a complaint seeking to quiet title to the property in his favor, declaratory relief, and raising claims of unlawful detainer and forcible detainer. Price filed an answer and counterclaim on June 22, 2021, in which she denied Youngman's allegations, contended she was an occupant of the relevant property, and generally alleged that Youngman's claim to title was inferior to hers and that Youngman should not be permitted to receive title by way of the trustee's sale. Bailey and Lovely subsequently answered and similarly raised a counterclaim challenging Youngman's assertion that he had superior title through the trustee's sale. Lovely also contended she had a right to the property because she was also an occupant of it. Youngman answered the counterclaims. Appellants also recorded a notice of lis pendens against the property.

Youngman subsequently conveyed his interest in the property to respondents Belem Cazares and Emmanuel Barrientos. Cazares and Barrientos thereafter moved to intervene in this matter and the district

court granted their motion. Cazares and Barrientos filed a complaint in intervention seeking to quiet title to the property in their favor and declaratory relief in the form of an order stating that appellants had no remaining interest in the property. Appellants answered the complaint in intervention.

Youngman filed a motion for summary judgment and appellants opposed. Cazares and Barrientos later filed their motion for summary judgment and appellants also opposed. In their motions for summary judgment, respondents collectively contended that their interest in the property stemmed from the purchase at the trustee's sale, appellants did not have a valid interest in the property, the trustee's sale extinguished any interest appellants had in the property and, to the extent appellants challenged the trustee's sale, any such challenge was untimely pursuant to NRS 107.080(5)(b) and (6). Respondents also submitted affidavits and evidence in support of their motion. In their oppositions to respondents' motions, appellants urged the district court to reject respondents' claims and generally contended that the trustee's sale was invalid because the note should not have been in default. Within their oppositions, appellants generally sought additional time to conduct discovery. Respondents also made several requests for additional discovery.

The district court subsequently entered a written order granting both motions for summary judgment filed by respondents. In its order, the court found that the evidence demonstrated that Bailey had no remaining interest in the property as he had conveyed the entirety of his interest to Tri-State Collection. The court also found that Price had no

interest in the property because, when Bailey executed a quitclaim deed in favor of Price, he had no remaining interest to convey and she thus did not obtain an interest in the property via that deed. Moreover, the court found that any interest in the property claimed by Lovely was inferior to that claimed by respondents.

In addition, the court found that the evidence demonstrated that the relevant property was sold at the aforementioned trustee's sale and the deed reflecting that sale was recorded on February 25, 2021. The court further found that the trustee's sale extinguished the previously recorded interests in the property such that it extinguished appellants' claimed interests in the relevant property. The court also concluded that Youngman had the sole remaining interest in the property following his purchase of the property at the trustee's sale. The court found that Youngman subsequently conveyed his interest in the property to Cazares and Barrientos.

Because Youngman, Cazares, and Barrientos had superior title than appellants, the district court concluded they were entitled to judgment in their favor as to their claims of quiet title and for declaratory relief. The court further found that the claims of unlawful detainer and forceful detainer were moot. The court further rejected any counterclaims raised by appellants and expunged appellants' notice of lis pendens against the property.

Appellants thereafter filed a motion for reconsideration and requested the district court to allow them time to obtain additional discovery materials. The district court entered a written order denying the

motion for reconsideration and finding that appellants' discovery request was untimely as the motions for summary judgment had already been granted. This appeal followed.

On appeal, appellants generally challenge the district court's decision to grant summary judgment in favor of respondents. They also contend that the district court should have permitted them additional time to conduct discovery prior to issuing its decision concerning the motions for summary judgment.

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 dispute 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 disputes of fact. *Id.* at 731, 121 P.3d at 1030-31. The party moving for summary judgment must meet its initial burden of production to show there exists no genuine dispute of material fact. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). The nonmoving party must then "transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine [dispute] of material fact." *Id.* at 603, 172 P.3d at 134.

"While the burden of proof in a quiet title action rests with the plaintiff to prove good title in himself, a plaintiff's right to relief

ultimately . . . depends on superiority of title.” *Res. Grp., LLC v. Nev. Ass’n Servs., Inc.*, 135 Nev. 48, 51, 437 P.3d 154, 157-58 (2019) (internal quotation marks, brackets, and citations omitted). “And because [a] plea to quiet title does not require any particular elements, . . . each party must plead and prove his or her own claim to the property in question.” *Id.* at 51, 437 P.3d at 158. “A foreclosure sale generally terminates a party’s legal title to the property.” *Id.* “Moreover, a foreclosure sale is complete and title vests in the purchaser once payment has been made by the highest bidder.” *Id.* at 52, 437 P.3d at 158.

In addition, “[e]very sale made under the provisions of [NRS Chapter 107] vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption.” NRS 107.080(5). However, “a sale made pursuant to this section must be declared void” if, among other things, “an action is commenced in the county where the sale took place within 30 days after the date on which the trustee’s deed upon sale is recorded pursuant to subsection 10 in the office of the county recorder of the county in which the property is located.” NRS 107.080(5)(b) (2019). Moreover, NRS 107.080(6) requires a party to commence an action challenging a trustee’s sale based upon a lack of notice “within 90 days after the date of the sale.”

The evidence demonstrates that Bailey conveyed his entire interest in the property to Tri-State Collection via a recorded quitclaim deed. Thus, Bailey had no remaining interest in the property. *See* 22B Am. Jur. 2d *Deeds* § 273 (stating “a [quitclaim] deed is effectual to convey whatever interest the grantor has in the subject of the deed. The grantor is

divested of any interest in the deeded property, and any interest of the grantor vests in the grantee” (internal footnote omitted)); *see also Brophy Mining Co. v. Brophy & Dale Gold & Silver Mining Co.*, 15 Nev. 101, 107 (1880) (“A quitclaim deed is sufficient to convey whatever interest the grantor had in the property at the time the conveyance was made.”). Because the quitclaim deed Bailey executed in favor of Price could only transfer any interest Bailey had, *see* 22B Am. Jur. 2d *Deeds* § 273 (stating a quitclaim deed “conveys whatever interest the grantor has and nothing more. It does not, however, import that the grantor has any interest at all, and contains no representation of title in the grantor” (internal footnotes omitted)), Price obtained no interest in the property from that quitclaim deed. Finally, no evidence was presented indicating that Lovely obtained a recorded interest in the property.¹

To the extent appellants had any remaining interest in the property, it was extinguished by the trustee’s sale. Here, respondents filed evidence of Bailey’s default on the note secured by the deed of trust and service of the notice of default and the notice of sale. Respondents also filed evidence of the trustee’s sale, Youngman’s purchase of the relevant property at the trustee’s sale, and the recording of the trustee’s deed conveying interest in the property to Youngman on February 25, 2021. Moreover, even

¹To the extent Lovely sought to advance Tri-State Collection’s interest in the property, it is not a party to this appeal, non-lawyers cannot represent an entity, and entities are not permitted to appear in pro se. *See Salman v. Newell*, 110 Nev. 1333, 1336, 885 P.2d 607, 608 (1994) (observing that no statute or rule permits a non-lawyer to represent an entity and concluding that an entity cannot proceed in proper person).

if appellants' counterclaims were construed as an "action" challenging the February 22, 2021, trustee's sale under NRS 107.080(5), that action was time-barred by NRS 107.080(5)(b), (6) because it was commenced outside of the timely filing period.

Our de novo review of the district court's grant of summary judgment thus demonstrates that appellants are not entitled to relief as there were no genuine disputes of material fact such that respondents were entitled to judgment as a matter of law. Respondents met their initial burden of production by submitting affidavits and evidence showing that their claim for quiet title had merit. Appellants thereafter failed to introduce specific facts to show that a genuine dispute of material fact existed. *See Cuzze*, 123 Nev. at 602-03, 172 P.3d at 134. The evidence before the district court was therefore sufficient to establish that respondents had superior title to the relevant property, and thus, respondents met their burden of proof as to their claim of quiet title. *See Res. Grp., LLC*, 135 Nev. at 51, 437 P.3d at 157-58.

Moreover, because the publicly recorded documents conclusively demonstrated that a counterclaim challenging the procedural aspects of the trustee's sale was time-barred, and because appellants have not identified any non-procedural basis for setting aside the sale, there was no set of facts appellants could have proven that would have entitled them to relief, and we conclude that the district court properly granted summary judgment in favor of respondents as to appellants' counterclaims. *See* NRS 107.080(5)(b), (6); *Las Vegas Dev. Grp., LLC v. Blaha*, 134 Nev. 252, 257, 416 P.3d 233, 237 (2018) (explaining that NRS 107.080(5) bars untimely

challenges to “the procedural aspects of a nonjudicial deed-of-trust foreclosure sale”); *see also Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (recognizing that appellate courts may affirm a district court decision on different grounds than those provided by the district court).

We also conclude that appellants fail to demonstrate the district court abused its discretion by refusing to grant them additional time for discovery so as to oppose respondents’ motions for summary judgment. We review the denial of a request for a continuance in the face of a motion for summary judgment for abuse of discretion. *Aviation Ventures, Inc. v. Joan Morris, Inc.*, 121 Nev. 113, 117-18, 110 P.3d 59, 62 (2005). NRCP 56(d) provides that a district court may allow additional time to conduct discovery if the nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition. *Choy v. Ameristar Casinos, Inc.*, 127 Nev. 870, 873, 265 P.3d 698, 700 (2011). In addition, such a request is only appropriate when the movant expresses how further discovery will create a genuine dispute of material fact. *Aviation Ventures*, 121 Nev. at 118, 110 P.3d at 62.

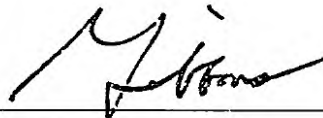
Here, appellants generally stated in their additional requests for discovery that they sought additional time to receive financial documents and responses to interrogatories, but they did not specifically explain how such information would create a genuine dispute of material fact, particularly in light of the evidence demonstrating that they had no interest in the relevant property and the untimely nature of their challenge to the trustee’s sale. Under these circumstances, the district court was well

within its discretion to decline to grant a continuance for discovery. *See id.* at 117-18, 110 P.3d at 62.

To the extent appellants challenge the district court's decision to deny their motion to reconsider its order granting summary judgment in favor of respondents and to permit them to conduct discovery, we conclude that the district court did not abuse its discretion by denying appellants' motion for reconsideration and rejecting their untimely discovery request. *See id.*; *see also AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 584-85, 589, 245 P.3d 1190, 1194, 1197 (2010) (recognizing that the denial of a timely motion for reconsideration of a final judgment can be reviewed, in the context of an appeal from that judgment, under an abuse of discretion standard).

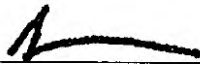
For the foregoing reasons, we conclude that appellants are not entitled to relief, and we

ORDER the judgment of the district court AFFIRMED.²



, C.J.

Gibbons



, J.

Bulla



, J.

Westbrook

²Insofar as appellants raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Christy L. Craig, District Judge
Bobbie Price
Bradley Bailey
Suzanne Lovely
Loren Youngman
Law Offices of Michael F. Bohn, Ltd.
Eighth District Court Clerk