

SUPREME COURT OF NEVADA

SFR Investments Pool 1, LLC v. Bank of New York Mellon

No. 79290 (Nev. May 2, 2022) · No. No. 79290 · Decided May 20, 2022

SUMMARY

The Nevada Supreme Court affirmed a district court judgment holding that a deed of trust survived an HOA foreclosure sale. The court concluded that the respondent's quiet title claim was timely under NRS 11.220, relying on *U.S. Bank, N.A. v. Thunder Properties, Inc.* The court issued the decision without oral argument.

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF NEVADA SFR INVESTMENTS POOL 1, LLC, A No. 79290 NEVADA LIMITED LIABILITY COMPANY, Appellant, vs. BANK OF NEW YORK MELLON, F/K/A BANK OF NEW YORK, AS TRUSTEE, FILE IN TRUST FOR REGISTERED MAY 2 2022 HOLDERS OF CWABS, INC., ASSET- BACKED CERTIFICATES, SERIES 2005-IM3, A/K/A THE BANK OF NEW CI PUN CLERK YORK MELLON, F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR CERTIFICATEHOLDERS CWABS, IN.

ASSET-BACKED CERTIFICATES, SERIES 2005-IM3, Respondent. ORDER OF AFFIRMANCE This is an appeal from a district court final judgment in a judicial foreclosure and quiet title action. Eighth Judicial District Court, Clark County; Eric Johnson, Judge.'

The district court granted judgment for respondent, concluding that the first deed of trust survived the HOA's 2013 foreclosure sale. As the basis for its conclusion, the district court found that respondent's agent (Miles Bauer) tendered the superpriority portion of the HOA's lien such that 'Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

SUPREME COURT OF NEVADA II)) 1947A affigm 2-z-(6032 the deed of trust was not extinguished by the foreclosure sale. In so doing, the district court determined that respondent was not time-barred from asserting its tender "claim" because respondent referenced the tender in its January 20, 2015, interrogatory responses and filed an amended complaint asserting a quiet title claim on January 21, 2015, such that appellant was sufficiently apprised of the tender "claim" within any applicable limitations period.

After briefing in this appeal was completed, we decided *U.S. Bank, N.A. v. Thunder Properties, Inc.*, 138 Nev., Adv. Op. 3, 503 P.3d 299 (2022), wherein we held that NRS 11.220's four-year limitations period governs a deed of trust beneficiary's quiet title claim in situations such as in this case.

Thus, under *Thunder Properties*, respondent's 2015 quiet title claim was timely under any conceivable accrual date of NRS 11.220's limitations period. See *id.* at 306 ("[T]he statute of limitations should not run against a lienholder until it has something closely analogous to 'notice of disturbed possession, such as repudiation of the lien.'" (quoting *Berberich v. Bank of Am., N.A.*, 136 Nev. 93, 97, 460 P.3d 440, 443 (2020))).

Consequently, the district court correctly determined that respondent's quiet title claim was timely.² See *Holcomb Condos. Homeowners' Ass'n v. Stewart Venture, LLC*, 129 Nev. 181, 186-87, 300 P.3d 124, 128 (2013) ("[T]he application of the statute of limitations is a question of law that this court reviews de novo."); *Winn v. Sunrise Hosp. & Med. Ctr.*, 128 Nev. 246, 253, 277 P.3d 458, 463 (2012) ("The appropriate accrual date for the statute of limitations is a question of law only if the facts are uncontroverted."

²Insofar as appellant suggests that respondent needed to specifically plead "tendee as a "claim" in its complaint or reference "tendee therein, we are not persuaded, at least under the facts of this case. SUPREME COURT OF NEVADA 10) t947A QC* 2 (internal alteration and quotation marks omitted)).

In light of the foregoing, we ORDER the judgment of the district court AFFIRMED.³ C.J. Parraguirre.^{6.4t}; Hardesty cc: Hon. Eric Johnson, District Judge Eleissa C. Lavelle, Settlement Judge Hanks Law Group Wright, Finlay & Zak, LLP/Las Vegas Eighth District Court Clerk ³The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.

SUPREME COURT OF NEVADA Oh 1447A 40011., 3