

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **DEUTSCHE BANK NATIONAL TRUST**
3 **COMPANY, AS INDENTURE TRUSTEE,**
4 **FOR NEW CENTURY HOME EQUITY**
5 **LOAN TRUST 2005-2,**

Court of Appeals of New Mexico
Filed 4/15/2026 10:48 AM



Mark Reynolds

6 Plaintiff-Appellee,

7 v.

No. A-1-CA-42016

8 **HERMAN B. GARCIA,**

9 Defendant-Appellant,

10 and

11 **MARY HELEN GARCIA,**

12 Defendant.

13 **APPEAL FROM THE DISTRICT COURT OF DOÑA ANA COUNTY**

14 **Manuel I. Arrieta, District Court Judge**

15 Rose Ramirez & Associates, P.C.

16 Amanda L. Gates

17 Albuquerque, NM

18 for Appellee

19 Martin & Lutz, P.C.

20 David P. Lutz

21 Las Cruces, NM

22 for Appellant

1 **MEMORANDUM OPINION**

2 **ATTREP, Judge.**

3 {1} Appellant appeals from the district court’s order quieting title in Appellee. We
4 entered a notice of proposed disposition, proposing to affirm. Appellant filed a
5 memorandum in opposition to that notice. Having duly considered Appellant’s
6 memorandum, we remain unpersuaded and affirm.

7 {2} Our notice proposed to affirm based in part on our proposal that Appellant’s
8 tax deed was subordinate to Appellee’s mortgage. [CN 2-5] In his memorandum in
9 opposition, Appellant concedes that his deed was subordinate. [MIO 1] Appellant
10 contends, however, that he was entitled to separate notice of the foreclosure action
11 and the lack of such notice confers on him a right of redemption or other interest.

12 [MIO 2-6]

13 {3} We disagree. When the action was filed and the lis pendens recorded in 2013
14 [RP 1, 5], Appellant had no interest in the property and thus could not have been
15 joined as a party. Appellant’s interest did not arise until 2015, when Appellant
16 purchased the property at the tax sale. [RP 11] Upon purchase, Appellant stood in
17 the shoes of Blanca Villegas, the owner of the property, NMSA 1978, § 7-38-70(A)
18 (1982), who *had* been joined and served in the foreclosure action. Appellee’s filing
19 of the lis pendens with the county clerk was constructive notice to Appellant that the
20 foreclosure action was pending. *See* NMSA 1978, § 14-9-2 (1886-87). It was

1 incumbent on Appellant to search the county records to discover the mortgage and
2 the lis pendens, and, if he wished to protect his interest, to notify Appellee and the
3 district court of the existence of his interest, rather than for Appellee to discover and
4 notify Appellant. *See Reynolds v. Landau*, 2020-NMCA-036, ¶ 16, 468 P.3d 928
5 (“[I]t is incumbent on tax deed buyers to perform a title search and diligently
6 investigate the existence and status of any [recorded] mortgages prior to purchasing
7 the property.”). Appellant cites no legal authority that would impose on Appellee a
8 continuing duty to join or notify any person whose interest in the property accrues
9 after the foreclosure action is filed. *See Curry v. Great Nw. Ins. Co.*, 2014-NMCA-
10 031, ¶ 28, 320 P.3d 482 (“Where a party cites no authority to support an argument,
11 we may assume no such authority exists.”).

12 {4} Appellant argues that because Appellee did not join Appellant in, or notify
13 Appellant about, the foreclosure action, Appellant retains a right of redemption.
14 [MIO 3] Alternatively, Appellant argues that if Appellee’s failure to notify him was
15 intentional, Appellant has a lien on the property. [MIO 3] In support, Appellant cites
16 two cases, *Springer Corp. v. Kirkeby-Natus*, 1969-NMSC-045, 80 N.M. 206, 453
17 P.2d 376, and *Western Bank, Santa Fe v. Fluid Assets Development Corp.*, 1991-
18 NMSC-020, 111 N.M. 458, 806 P.2d 1048. In *Springer Corp.*, a senior mortgagee
19 foreclosed its mortgage on a property and inadvertently did not join a junior
20 lienholder. 1969-NMSC-045, ¶ 1. Our Supreme Court held that the junior

1 lienholder's interest survived the action, and the junior lienholder held a right of
2 redemption that would not begin to run until entry of judgment against the junior
3 lienholder. *Id.* ¶¶ 3, 5. In *Western Bank*, the senior mortgagee joined a junior
4 lienholder in a foreclosure action, but intentionally did not serve the junior lienholder
5 with the motion for default judgment, the foreclosure order, and the notice of
6 foreclosure sale. 1991-NMSC-020, ¶¶ 4, 5, 11, 12. Our Supreme Court held that the
7 junior lienholder's lien survived the sale. *Id.* ¶ 20.

8 {5} Based on these cases, Appellant contends that summary judgment was
9 premature, and the district court should have allowed discovery and conducted
10 proceedings to determine whether Appellant held a right of redemption or a lien.
11 [MIO 3-6] *Springer Corp.* and *Western Bank*, however, are not apposite. These cases
12 address the situation of (a) a junior *lienholder*, (b) whose lien exists when the
13 foreclosure action is commenced, and (c) who is either not joined in the foreclosure
14 action, as in *Springer Corp.*, 1969-NMSC-045, ¶ 1, or is joined in the action but not
15 served with notices of the foreclosure order and sale, as in *Western Bank*, 1991-
16 NMSC-020, ¶¶ 4, 5. In such cases, the lienholder's interest is not foreclosed and the
17 lienholder retains a right of redemption or a lien. *See Springer Corp.*, 1969-NMSC-
18 045, ¶ 5; *Western Bank*, 1991-NMSC-020, ¶ 20. Unlike the junior lienholders in
19 *Springer Corp.* and *Western Bank*, (a) Appellant's interest was as successor to the
20 mortgagor, (b) his interest did not yet exist when the foreclosure action was

1 commenced, and (c) the mortgagor was joined and served in the action. Appellant
2 cites no authority requiring Appellee to join or notice a non-party who succeeds to
3 the mortgagor's interest after the action is filed, and we therefore assume none exists.
4 *See Curry*, 2014-NMCA-031, ¶ 28; *Titus v. City of Albuquerque*, 2011-NMCA-038,
5 ¶ 30, 149 N.M. 556, 252 P.3d 780 (“This Court has no duty to review an argument
6 that is not adequately developed.”).

7 {6} Appellant does not contend that mortgagor Blanca Villegas was not served
8 with the summons in this action or that she was not notified of the judgment or the
9 sale. While Appellant, as successor to Blanca Villegas, may have had a right of
10 redemption, that right expired under the terms of the mortgage thirty days after the
11 date of foreclosure sale. [RP 84 ¶ 24] *See* NMSA 1978, § 39-5-18(A), (D), (F)
12 (2007) (conferring on mortgagor or their successor a post-sale right of redemption
13 and permitting the parties to alter the redemption period by agreement); *Ulivarri v.*
14 *Lovelace*, 1934-NMSC-087, ¶ 5, 39 N.M. 36, 38 P.2d 1114 (stating that the sole
15 right remaining to mortgagor after entry of foreclosure judgment is the right of
16 redemption); *cf. Springer Corp.*, 1969-NMSC-045, ¶ 5 (stating that right of
17 redemption would not begin to run against junior lienholder not joined in foreclosure
18 action until a separate foreclosure judgment is entered against them).

19 {7} Appellant's memorandum in opposition does not respond to the other issues
20 addressed in our calendar notice. Where a party has not responded to the Court's

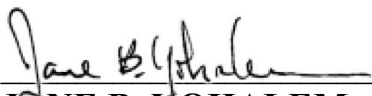
1 proposed disposition of an issue, that issue is deemed abandoned. *See State v.*
2 *Salenas*, 1991-NMCA-056, ¶ 2, 112 N.M. 268, 814 P.2d 136. We conclude that
3 Appellant has not demonstrated error in our proposed disposition. *See Hennessy v.*
4 *Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have
5 repeatedly held that, in summary calendar cases, the burden is on the party opposing
6 the proposed disposition to clearly point out errors in fact or law.”).

7 {8} Accordingly, we affirm for the reasons stated in our notice of proposed
8 disposition and in this memorandum opinion.

9 {9} **IT IS SO ORDERED.**

10
11 
JENNIFER L. ATTREP, Judge

12 **WE CONCUR:**

13 
14 **JANE B. YOHALEM, Judge**

15 
16 **GERALD E. BACA, Judge**