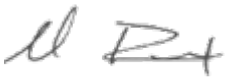
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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 11/19/2026 12:19 PM



Mark Reynolds

AMPHIBIOUS VICTORY II, LLC,
a New Mexico limited liability company,

Petitioner-Appellant,

v. **No. A-1-CA-43454**

REALTEK, INC.,

Respondent-Appellee,

and

GATEWAY MORTGAGE GROUP,
a division of GATEWAY FIRST BANK,

Plaintiff,

v.

THE UNKNOWN HEIRS, DEVISEES AND LEGATEES OF GEORGIA R.H. LARSON, Deceased,

Defendants.

APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
Kathleen McGarry Ellenwood, District Court Judge

Law Offices of Brian A. Thomas, P.C.
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Albuquerque, NM

for Appellant

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Albuquerque, NM

for Appellee

MEMORANDUM OPINION

BACA, Judge.

{1} Petitioner appeals following the district court's order granting summary judgment in favor of Respondent on Petitioner's redemption petition. [RP 310-18] We entered a calendar notice, proposing to affirm. Petitioner filed a memorandum in opposition, which we have duly considered. Unpersuaded, we affirm.

{2} "Summary judgment is appropriate where there are no genuine issues of material fact and the movant is entitled to judgment as a matter of law." *Self v. United Parcel Serv., Inc.*, 1998-NMSC-046, ¶ 6, 126 N.M. 396, 970 P.2d 582. We review legal questions in this context de novo. *Id.*

{3} The relevant facts in this matter are undisputed. On May 27, 2025, the district court entered an in rem default judgment, which foreclosed the mortgage secured by property located in Santa Fe, New Mexico and ordered a sale of the property. [RP 135-36] The sale of the property was noticed for August 13, 2025. [RP 140] On August 8, 2025, the DeVargas Heights Townhouse Association (the Association), who was not a party to the foreclosure proceedings, recorded a lien in the amount of $2,485.49. [RP 215] The Association assigned the lien to Petitioner on August 13,

2025, the same day of the sale. [Id.] On September 17, 2025, the district court entered an order approving special master's report and confirming foreclosure sale, which noted that Respondent was the highest bidder at the foreclosure sale. [RP 151-52, 212] On October 7, 2025, Petitioner, which was also not a party during the foreclosure proceedings, filed its petition for redemption of the property, claiming redemption rights "by way of an assignment of lienhold rights possessed by" the Association. [RP 157, 212] The district court subsequently granted Respondent's motion for summary judgment and concluded Petitioner did not have a right to redeem. [RP 310-18]

{4} In our calendar notice, we proposed to affirm the district court because it did not err in interpreting NMSA 1978, Section 39-5-18(A) (2007) as a matter of law. [CN 6] Section 39-5-18(A) states, in relevant part, that "[*a*]*fter sale of real estate pursuant to the order, judgment or decree of foreclosure in the district court*, the real estate may be redeemed by . . . any junior . . . lienholder *whose rights were judicially determined in the foreclosure proceeding*." (Emphasis added.) We suggested that the plain, unambiguous language of this statute defined a specific type of junior lienholder who may seek redemption. [CN 4] *Cf. Chase Manhattan Bank v. Candelaria*, 2004-NMSC-017, ¶ 9, 135 N.M. 527, 90 P.3d 985 ("One of the purposes of the redemption statute is to give the property owner, *or certain others listed under the redemption statute*, a reasonable opportunity to redeem the

property." (emphasis added)); *see also Cortez v. Cortez*, 2009-NMSC-008, ¶ 32, 145 N.M. 642, 203 P.3d 857 ("[S]tatutory redemption is a narrow right that affords a debtor, *having already lost in formal judicial proceedings*, one last opportunity to reclaim his property." (emphasis added)). We further suggested that Petitioner did not meet that qualification because Petitioner's interest was not judicially determined in the foreclosure proceeding. [Id.] *See id.* ("New Mexico courts routinely require debtors to comply strictly with the terms set forth by statute as a condition to redemption."); *Mortg. Elec. Registration Sys., Inc. v. Montoya*, 2008-NMCA-081, ¶ 16, 144 N.M. 264, 186 P.3d 256 ("In the usual mortgage foreclosure, a junior mortgagee and other junior lienholders are joined, the lien interests of and debts owed to the mortgagee and other lienholders are adjudicated, and priorities are established.").

{5} In its memorandum in opposition, Petitioner continues to rely on many of the same arguments and legal authorities that were presented in the docketing statement and were addressed in our calendar notice. This includes Petitioner's contention that its interest was automatically judicially determined by the foreclosure sale and Petitioner's reliance on authority stating that there is a general public policy favoring redemption that is in accordance with the statute providing for redemption. [MIO 11-18] "A party responding to a summary calendar notice must come forward and specifically point out errors of law and fact," and the repetition of earlier arguments

does not fulfill this requirement. *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003, *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374. We therefore refer Petitioner to our analysis in our calendar notice with respect to these issues.

{6} To the extent Petitioner continues to rely on *Western Bank, Santa Fe v. Fluid Assets Development Corp.*, 1991-NMSC-020, 111 N.M. 458, 806 P.2d 1048, we conclude this case is inapplicable in this circumstance. [MIO 12] As we noted in our calendar notice, *Western Bank* predates the 2007 amendments to Section 39-5-18(A), which added the language that is at the crux of this appeal. [CN 3-4] *Compare* § 39-5-18(A) (1987, amended 2007), *with* § 39-5-18(A). At the time *Western Bank* was decided, Section 39-5-18(A) (1987) permitted all junior lienholders to seek redemption without having their interest judicially determined in the foreclosure proceedings. Additionally, *Western Bank* concerned a junior lienholder who was a party to the foreclosure proceedings, but did not receive notice of the foreclosure sale, which is inapposite to the facts presented by this case. *See* 1991-NMSC-020, ¶ 2 ("In this appeal we consider whether a mortgagee first lienholder can use the judicial system to enforce its rights in a foreclosure proceeding after deliberately failing to serve notice upon junior lienholders of record of its intention to hold the foreclosure sale, even though the junior lienholders were parties to a lawsuit brought by the mortgagee and were entitled to actual notice of the sale.").

{7} Based on our understanding of the memorandum in opposition, we believe Petitioner has presented two additional contentions that have yet to be addressed. Petitioner appears to be contending that their interest was improperly omitted from the foreclosure proceeding because the Association, Petitioner's predecessor in interest, possessed a lien at that time based on NMSA 1978, Section 47-16-6 (2013). [MIO 8-9, 12-15] However, Petitioner does not identify where in the record this argument was made and we do not read its response to the motion for summary judgment to have made the argument either. [RP 272-73] *Crutchfield v. N.M. Dep't of Tax'n & Revenue*, 2005-NMCA-022, ¶ 14, 137 N.M. 26, 106 P.3d 1273 ("[O]n appeal, the party must specifically point out where, in the record, the party invoked the court's ruling on the issue. Absent that citation to the record or any obvious preservation, we will not consider the issue."); *Benz v. Town Ctr. Land, LLC*, 2013-NMCA-111, ¶ 24, 314 P.3d 688 ("To preserve an issue for review on appeal, it must appear that appellant fairly invoked a ruling of the trial court on the same grounds argued in the appellate court." (internal quotation marks and citation omitted)). Indeed, Petitioner did not even invoke Section 47-16-6 in its response. We therefore conclude that the argument concerning Section 47-16-6 was unpreserved.

{8} We also understand Petitioner to be contending, without citing any supporting legal authority, that the district court judicially determined its interest because in its order it "proposed" that Petitioner's interest could be paid from the excess funds

resulting from the foreclosure. [MIO 20, 22] *See Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482 ("Where a party cites no authority to support an argument, we may assume no such authority exists."). We do not read the district court's order to have made this finding explicitly, as Petitioner appears to acknowledge. Instead, the district court's analysis in this regard was tangentially related to its conclusion that Petitioner did not have a redemption right. We note that this argument also appears to be unpreserved. [RP 272-73] *Crutchfield*, 2005-NMCA-022, ¶ 14; *Benz*, 2013-NMCA-111, ¶ 24. Regardless, even if the findings were more concrete and the argument had been preserved, we would still conclude that this does not establish that the requirements of Section 39-5-18(A) were satisfied because the district court's finding in this regard occurred within its order granting summary judgment, which was entered after the foreclosure proceedings had concluded. As a result, any determination made by the district court in the subsequent summary judgment proceedings would not be a determination made "in the foreclosure proceeding." Section 39-5-18(A).

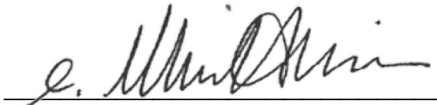
{9} Accordingly, we affirm.

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



GERALD E. BACA, Judge

WE CONCUR:



J. MILES HANISEE, Judge



SHAMMARA H. HENDERSON, Judge