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POSTPONEMENT OF A TRUSTEE’S SALE: NOTICE REQUIREMENTS

Summary

The Court determined that NRS 107.082(2) does not require a trustee to give notice of a sale pursuant to NRS 107.080 that has been postponed by oral proclamation three times “unless, after the third oral postponement has been given, the sale’s date, time, or place is later changed.”

Background

Appellee, Coastline RE Holdings NV Corp. (“Coastline”), or its trustee recorded a notice of a trustee’s sale, seeking to foreclose on real property to secure a debt by appellant, JED Property, LLC (“JED”). The sale was orally postponed three times before being made at the time and place set by the third postponement.

After Coastline initiated suit, JED brought a counterclaim against Coastline, arguing that it violated NRS 107.082(2) by failing to give written notice of the sale’s time and place as provided in NRS 107.080 after it orally postponed the sale three times. Coastline filed a motion for summary judgment. The district court granted Coastline’s motion and awarded attorney fees and costs.

Discussion

Standard of review

Citing past decisions², the Court determined that de novo review applies to arguments concerning summary judgment, statutory interpretation, and the award of attorney fees and costs.

NRS 107.082(2)’s plain meaning

In accordance with *Davis v. Beling*³, the Court interpreted the meaning of NRS 107.082(2) as an unambiguous statute by reading it as a whole, giving effect to each word and phrase. The Court held that in the context of the statute it references—NRS 107.080, the plain meaning of NRS 107.082(2) provides that written notice of “new sale information” is required only if the date, time, or place of a trustee’s sale changes after the third oral postponement.⁴

The district court did not err in granting summary judgment

¹ By Katherine Frank.

² *Washoe Med. Ctr. v. Second Judicial Dist. Court*, 122 Nev. 1298, 1302, 148 P.3d 790, 792 (2006); *Thomas v. City of N. Las Vegas*, 122 Nev. 82, 90, 127 P.3d 1057, 1063 (2006); *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

³ 128 Nev. __, __, 278 P.3d 501, 508 (2012).

⁴ *See id.*; §§ 107.080(2)(c), (3), (4).

The Court explained that summary judgment is proper when there are no genuine issues of material fact.⁵ Because the parties did not dispute that the trustee's sale was orally postponed three times and that the sale occurred on the date and at the place identified in the third postponement, the Court found that the district court correctly granted summary judgment for Coastline.

The district court did not err when awarding attorney fees

Finally, the Court determined that because summary judgment in favor of Coastline was proper, the district court did not abuse its discretion in awarding attorney fees and costs to Coastline.

Conclusion

Because JED submitted no evidence that the day, time, or place of the trustee's sale changed after the third postponement, the Court affirmed the district court's grant of summary judgment in favor of Coastline and the district court's award of attorney fees and costs.

⁵ Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).