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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FIDEL H. PAJARILLO,

Plaintiff-Appellant,

v.

COUNTRYWIDE HOME LOANS INC;  
et al.,

Defendants-Appellees.

No. 13-17155

D.C. No. 2:09-cv-00078-LDG-  
GWF

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Lloyd D. George, District Judge, Presiding

Submitted November 16, 2016\*\*

Before: LEAVY, BERZON, and MURGUIA, Circuit Judges.

Fidel H. Pajarillo appeals pro se from the district court's judgment dismissing his action alleging, among other claims, wrongful foreclosure. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), and may affirm on any ground supported by the record. *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Dismissal of Pajarillo's action was proper because Pajarillo failed to allege facts sufficient to show that he was not in default on his loan. *See In re Mortg. Elec. Registration Sys., Inc.*, 754 F.3d 772, 785 (9th Cir. 2014) ("Nevada law requires that a trustor or mortgagor show a lack of default in order to proceed with a wrongful foreclosure claim.").

Contrary to Pajarillo's contentions, the district court correctly determined that Pajarillo's note and deed of trust were reunified by the August 2011 assignment of the deed of trust and note. *See Edelstein v. Bank of N.Y. Mellon*, 286 P.3d 249, 258 (Nev. 2012) ("MERS, as agent for [the original lender] and its successors and assigns, had authority to transfer the note on behalf of [the original lender] and its successors and assigns.").

Appellees' request for judicial notice, filed on June 6, 2014, is denied.

Pajarillo's motion to remand, filed on October 27, 2015, is denied.

**AFFIRMED.**