

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 16 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JOHN R. KIELTY,

Plaintiff-Counter-
Defendant-Appellant,

v.

NATIONSTAR MORTGAGE, LLC, et al.,

Defendants-Appellees,

FEDERAL HOME LOAN MORTGAGE
CORPORATION,

Defendant-Counter-Claimant-
Appellee,

FEDERAL HOUSING FINANCE
AGENCY,

Intervenor-Defendant-
Appellee,

and

RANCHO LAKE CONDOMINIUM UNIT-
OWNERS' ASSOCIATION, INC.,

Counter-Defendant.

No. 17-16913

D.C. No.
2:15-cv-00230-RCJ-GWF

MEMORANDUM*

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

JOHN R. KIELTY,

Plaintiff-Counter-
Defendant-Appellee,

v.

NATIONSTAR MORTGAGE, LLC, et al.,

Defendants,

RANCHO LAKE CONDOMINIUM UNIT-
OWNERS' ASSOCIATION, INC.,

Counter-Defendant,

and

FEDERAL HOME LOAN MORTGAGE
CORPORATION,

Defendant-Counter-Claimant-
Appellant,

FEDERAL HOUSING FINANCE
AGENCY,

Intervenor-Defendant-
Appellant.

No. 17-17080

D.C. No.
2:15-cv-00230-RCJ-GWF

Appeal from the United States District Court
for the District of Nevada
Robert Clive Jones, District Judge, Presiding

Submitted September 12, 2019**

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

San Francisco, California

Before: GOULD, BEA, and FRIEDLAND, Circuit Judges.

John R. Kielty appeals the district court's grant of summary judgment in favor of Nationstar Mortgage LLC, the Federal Home Loan Mortgage Corporation, and the Federal Housing Finance Agency (collectively, "Appellees"). Reviewing de novo, *Berezovsky v. Moniz*, 869 F.3d 923, 927 (9th Cir. 2017), we affirm.

The homeowners association's foreclosure sale, *see Nev. Rev. Stat.* § 116.3116, did not extinguish Appellees' deed of trust on the property at issue. When Nationstar's predecessor mortgage servicer tendered the full amount due the homeowners association, the homeowners association's superpriority lien on the property was discharged. *Bank of Am., N.A. v. SFR Invs. Pool 1, LLC*, 427 P.3d 113, 117-19 (Nev. 2018). Nevada law does not require that tender to be recorded. *Id.* at 119-20. Kielty's status as a bona fide purchaser of the property, which we need not reach, is irrelevant to the survival of Appellees' interest in the property. *Id.* at 121.

The judgment in case No. 17-16913 is **AFFIRMED**. The cross-appeal in case No. 17-17080 is **DISMISSED** as moot. The parties shall bear their own costs on appeal.