

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
**UNITED STATES DISTRICT COURT****DISTRICT OF NEVADA**

SFR INVESTMENTS POOL 1, LLC,

Plaintiff

v.

NEWREZ LLC,

Defendant

AND ALL RELATED COUNTERCLAIMS

Case No.: 2:22-cv-00415-APG-VCF

**Order Granting Defendant's Motion for  
Judgment on the Pleadings**

[ECF No. 34]

Plaintiff SFR Investments Pool 1 LLC filed this action in state court to stop a foreclosure sale of its property located at 68 Magical Mystery Lane in Henderson, Nevada. ECF No. 1-1 at 2-24. SFR asserts claims for violation of Nevada Revised Statutes (NRS) § 107.200 et seq., cancellation of the deed of trust, declaratory relief under NRS § 40.010, cancellation of the notice of default and notice of sale, and wrongful foreclosure.

Defendant NewRez LLC is the servicer of the loan secured by the deed of trust. NewRez removed this action from state court based on diversity jurisdiction. ECF No. 1-1. NewRez moves for judgment on the pleadings on SFR's claim for cancellation of the deed of trust. NewRez argues that this claim fails as a matter of law because the deed of trust has not been extinguished by operation of NRS § 106.240 as alleged in the complaint. SFR did not respond.

Because SFR did not respond, I grant the motion as unopposed. LR 7-2(d). Moreover, the claim fails on the merits. As I stated in my order denying SFR's motions for injunctive relief, the May 2009 recorded notice of default was decelerated by a September 2011 recorded rescission. ECF No. 25 at 1-2; *see also SFR Invs. Pool 1, LLC v. U.S. Bank N.A.*, 507 P.3d 194, 198 (Nev. 2022) (holding that a recorded rescission decelerates the loan for purposes of NRS

1 § 106.240). SFR alleges the loan was accelerated again in May 2011, but the September 2011  
2 rescission decelerated the same debt that was the subject of any lender communication in May  
3 2011. Additionally, the Ninth Circuit has held that an unrecorded notice of acceleration does not  
4 start the clock for purposes of NRS § 106.240. *See Daisy Tr. v. Fed. Nat'l Mortg. Ass'n*, No. 21-  
5 15595, 2022 WL 874634, at \*1-2 (9th Cir. Mar. 24, 2022). Consequently, the ten-year period to  
6 extinguish the lien has not run as a matter of law. I therefore grant NewRez's motion for  
7 judgment on the pleadings for this claim.

8 I THEREFORE ORDER that defendant NewRez LLC's motion for judgment on the  
9 pleadings (**ECF No. 34**) is **GRANTED**. Plaintiff SFR Investments Pool 1, LLC's claim for  
10 cancellation of the deed of trust is dismissed with prejudice. Plaintiff SFR Investments Pool 1,  
11 LLC's other claims remain pending.

12 DATED this 15th day of September, 2022.



---

ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE