

CARRINGTON MORTGAGE V. TOWNSEND

This decision of the New Mexico Court of Appeals was not selected for publication in the New Mexico Appellate Reports. Refer to Rule 12-405 NMRA for restrictions on the citation of unpublished decisions. Electronic decisions may contain computer-generated errors or other deviations from the official version filed by the Court of Appeals.

CARRINGTON MORTGAGE SERVICES, LLC,
Plaintiff-Appellee,
v.
JOHN F. TOWNSEND,
Defendant-Appellant.

Docket No. A-1-CA-37399
COURT OF APPEALS OF NEW MEXICO
March 25, 2019

APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY, John A. Dean, Jr.,
District Judge

COUNSEL

Rose L. Brand & Associates, P.C., Eraina M. Edwards, Albuquerque, NM, for Appellee.

NM Trust and Probate Law Firm, LLC, Monica A. Davis, Albuquerque, NM, for Appellant.

JUDGES

LINDA M. VANZI, Judge. WE CONCUR: KRISTINA BOGARDUS, Judge, BRIANA H. ZAMORA, Judge

AUTHOR: LINDA M. VANZI

MEMORANDUM OPINION

VANZI, Judge.

{1} Defendant appeals from the district court's order denying his motion to reconsider summary judgment and order for sale and underlying summary judgment and order for foreclosure sale. In this Court's notice of proposed disposition, we proposed to summarily reverse and remand. Defendant filed a memorandum in support, and Plaintiff filed a memorandum in response to proposed notice of summary disposition (MIO).

{2} In its memorandum in opposition, Plaintiff acknowledges that “the error occurred at the summary judgment phase,” argues that it is entitled to file a second motion for summary judgment providing the required evidence, and requests that this Court instruct the district court to “only set aside the summary judgment and resulting foreclosure sale.” [MIO 1, 3] Accordingly, for the reasons stated in our notice of proposed disposition and herein, we reverse the district court’s denial of Defendant’s motion for reconsideration, entered April 18, 2018; reverse the district court’s summary judgment and order for foreclosure sale, entered September 8, 2017, because there are issues of material fact; and remand for further proceedings.

{3} IT IS SO ORDERED.

LINDA M. VANZI, Judge

WE CONCUR:

KRISTINA BOGARDUS, Judge

BRIANA H. ZAMORA, Judge