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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-38852

BANK OF AMERICA, N.A.,

Plaintiff-Appellee,

v.

**JEROME T. ROYBAL and
AMY J. ROYBAL,**

Defendants-Appellants.

**APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY
Erin B. O’Connell, District Judge**

Snell & Wilmer L.L.P.
Gregory J. Marshall
Jeanne Y. Sohn
Albuquerque, NM

for Appellee

Rachel O. Woods
Albuquerque, NM

for Appellants

DECISION

BACA, Judge.

{1} Defendants, Jerome T. Roybal and Amy J. Roybal, appeal the district court’s order denying Defendants’ motion to vacate the order confirming sale and the special master’s report in this foreclosure proceeding.

{2} In any appeal before this Court “it is the appellant’s burden to demonstrate, by providing well-supported and clear arguments, that the district court has erred.” *Premier Tr. of Nev., Inc. v. City of Albuquerque*, 2021-NMCA-004, ¶ 10, 482 P.3d 1261. “The

presumption upon review favors the correctness of the trial court's actions. Appellant must affirmatively demonstrate its assertion of error." *Farmers, Inc. v. Dal Mach. & Fabricating, Inc.*, 1990-NMSC-100, ¶ 8, 111 N.M. 6, 800 P.2d 1063. Further, Rule 12-318(A)(4) NMRA requires "an argument which, with respect to each issue presented, shall contain . . . citations to authorities, record proper, transcript of proceedings, or exhibits relied on." And, "[i]t is not our practice to rely on assertions of counsel unaccompanied by support in the record. The mere assertions and arguments of counsel are not evidence." *Chan v. Montoya*, 2011-NMCA-072, ¶ 9, 150 NM 44, 256 P.3d 987 (internal quotation marks and citation omitted).

{3} Defendants' brief in chief is deficient in this regard. Apart from general citations to law and a rehashing of the list of notices filed with the Santa Fe County Clerk, Defendants develop no arguments about how the district court erred by denying its motion to vacate.

{4} After reviewing the briefing, the authorities cited there, and the record before us, we conclude that Defendants have not established an error on the part of the district court that requires reversal. Accordingly, we affirm the district court's order denying Defendants' motion to vacate.

CONCLUSION

{5} For the reasons stated above, we affirm.

{6} **IT IS SO ORDERED.**

GERALD E. BACA, Judge

WE CONCUR:

J. MILES HANISEE, Chief Judge

MEGAN P. DUFFY, Judge