NOT FOR PUBLICATION

FILED

JUL 13 2020

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THE BANK OF NEW YORK MELLON, FKA Bank of New York, as Trustee for the Certificateholders of The CWABS, Inc., Asset-Backed Certificates, Series 2006-4,

Plaintiff-Appellee,

v.

886 PARK WALK TRUST,

Defendant-Appellant,

and

OAK PARK HOMEOWNERS ASSOCIATION; ABSOLUTE COLLECTION SERVICES, LLC,

Defendants.

No. 19-16281

D.C. No.
2:17-cv-03084-MMD-NJK

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, Chief District Judge, Presiding

Submitted July 9, 2020**
Seattle, Washington

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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).

Before: HAWKINS, D.M. FISHER,*** and M. SMITH, Circuit Judges.

886 Park Walk Trust (the "Trust") challenges the district court's adverse grant of summary judgment declaring that the Trust purchased property located at 886 Park Walk, Las Vegas, Nevada subject to a deed of trust held by the Bank of New York Mellon ("BNY"). We have jurisdiction under 28 U.S.C. § 1291 and affirm.

The Trust's sole contention on appeal is that BNY's claim is barred by a three-year statute of limitations. The Trust concedes, however, that it failed to raise its statute of limitations defense in district court. We may consider an issue raised for the first time on appeal under certain "exceptional circumstances," *AlohaCare v. Hawaii, Dep't of Human Servs.*, 572 F.3d 740, 744–45 (9th Cir. 2009), but this case does not present such circumstances.

AFFIRMED.

*** The Honorable D. Michael Fisher, United States Circuit Judge for the U.S. Court of Appeals for the Third Circuit, sitting by designation.