

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 21 2022

FOR THE NINTH CIRCUIT

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

JAMES BARROW; GEORGE A TACKER,

No. 21-15626

Plaintiffs-Appellants,

D.C. No. 3:20-cv-08064-SMB

v.

MEMORANDUM*

NEWREZ LLC, DBA Shellpoint Mortgage
Servicing; MORTGAGE LAW FIRM PC, an
Arizona Corporation; DITECH FINANCIAL
LLC, a foreign Limited Liability Company;
NEW RESIDENTIAL MORTGAGE LLC,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona

Susan M. Brnovich, District Judge, Presiding

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

James Barrow and George A. Tacker appeal pro se from the district court's
judgment dismissing their action alleging federal and state law claims arising out

* 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).

of foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(6). *Cervantes v. United States*, 330 F.3d 1186, 1187 (9th Cir. 2003). We affirm.

The district court properly dismissed plaintiffs’ action because all of plaintiffs’ claims rely on the untimeliness of defendant’s foreclosure proceedings, but the record shows the foreclosure was timely under Arizona law. *See* Ariz. Rev. Stat. § 12-548 (a contract in writing that is executed in Arizona has a statute of limitations of six years); *In re Smith*, 101 P.3d 637, 639 (Ariz. 2004) (“Under Arizona law, enforcement is stayed and the time in which to enforce the judgment is tolled during the pendency of bankruptcy actions.”).

We do not consider matters not specifically and distinctly raised and argued in the opening brief or allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.