

**SON T. NGUYEN and HANH T. NGUYEN, Plaintiffs-Appellants,**  
**v.**  
**J.P. MORGAN CHASE BANK, N.A., Defendant-Appellee.**  
No. 14-15268.  
**United States Court of Appeals, Ninth Circuit.**

Submitted October 6, 2016<sup>[\*\*]</sup> San Francisco, California.  
Filed October 6, 2016.

Appeal from the United States District Court for the Northern District of California; D.C. No. 5:12-cv-04183-PSG, Paul S. Grewal, Magistrate Judge, Presiding.

Before: THOMAS, Chief Judge, and SCHROEDER and NGUYEN, Circuit Judges.

**NOT FOR PUBLICATION**

**MEMORANDUM**<sup>[\*]</sup>

Appellants Son and Hanh Nguyen (the "Nguyens") appeal the district court's grant of Defendant's motion for summary judgment, which we review de novo. *Mitchell v. Washington*, 818 F.3d 436, 441 (9th Cir. 2016). Because the parties are familiar with the factual and procedural history, we need not recount it here. We have jurisdiction over this case pursuant to 28 U.S.C. § 1291, and we affirm.

We deferred submission of this case pending a decision of the California Supreme Court in *Yvanova v. New Century Mortgage Corp.*, 365 P.3d 845 (Cal. 2016). The Court has now issued its opinion, in which it held in relevant part that a borrower subject to a nonjudicial foreclosure has standing to sue on the basis of a void assignment regardless of whether the borrower was in default on the loan, but **A BORROWER MAY NOT "ATTEMPT TO PREEMPT A THREATENED NONJUDICIAL FORECLOSURE BY A SUIT QUESTIONING THE FORECLOSING PARTY'S RIGHT TO PROCEED." *Id.* at 848. This case involves the attempted preemption of a threatened nonjudicial foreclosure; therefore, under *Yvanova*, the Nguyens lack standing.** Accordingly, the defendant is entitled to judgment as a matter of law. See *McSherry v. City of Long Beach*, 584 F.3d 1129, 1135 (9th Cir. 2009) (noting that summary judgment may be sustained "on the basis of any ground supported by the record").

**AFFIRMED.**

[\[\\*\\*\]](#) The panel unanimously concludes this case is suitable for decision without oral argument.  
*See* Fed. R. App. P. 34(a)(2).

[\[\\*\]](#) This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.