

Circuit Court for Prince George's County  
Case No.: CAEF17-15639

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1242

September Term, 2023

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ANDRENA C. BROWN, *et al.*

v.

WARD, BIERMAN, GEESING,  
LELE, MONTO, AND COLEMAN

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Nazarian,  
Reed,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 4, 2024

\*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

In July 2017, the appellees, acting as Substitute Trustees,<sup>1</sup> filed an Order to Docket, in the Circuit Court for Prince George’s County, seeking to foreclose on real property owned by Andrena C. and Dennis M. Brown, appellants. The Browns filed an untimely motion to stay or dismiss the foreclosure action, and their property was ultimately sold at a foreclosure auction on May 31, 2023. Thereafter, the Browns filed exceptions to the foreclosure sale, which the circuit court overruled. The sale was then ratified, and this appeal followed.

On appeal, the Browns raise three issues, which we have rephrased: (1) that the Substitute Trustees lacked the right to initiate the foreclosure action; (2) that the action was barred by the statute of limitations; and (3) that the sale “is clogging” their equitable right of redemption.

The Browns’ first two contentions both challenge the Substitute Trustees’ right to foreclose on the property. Such arguments are not proper as exceptions to a foreclosure sale under Maryland Rule 14-305(e). *See Thomas v. Nadel*, 427 Md. 441, 443–44 (2012). “[E]xceptions to the sale may challenge only procedural irregularities at the sale[.]” *Id.* at 444 (quotation marks omitted) (quoting *Greenbrier Condo. v. Brooks*, 387 Md. 683, 688 (2005)). Challenges to the validity of the lien or the right to foreclose must, instead, be raised in a pre-sale motion to stay or dismiss under Rule 14-211(a). Consequently, the Browns’ first two contentions were not cognizable post-sale exceptions and were properly overruled.

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<sup>1</sup> Substitute Trustees are Carrie M. Ward, Howard N. Bierman, Jacob Geesing, Richard R. Goldsmith, Jr., Elizabeth C. Jones, Nicholas Derdock, and Andrew J. Brenner.

We also note, however, that the Browns did raise the same arguments in their pre-sale motion to stay or dismiss, and it is unclear from the record whether the circuit court ever ruled on that motion. To be sure, the court’s order overruling the Browns’ exceptions cites to Rule 14-211, but it does not expressly rule on the Browns’ motion filed under that Rule. That said, under Rule 14-211(a)(2)(A)(iii)(a), a motion to stay or dismiss must be filed no later than 15 days after the date the postfile mediation was held. Here, that date was February 8, 2018. The record reflects that the Browns did not file their motion until March 29, 2019—more than a year later<sup>2</sup>—and did not allege any good cause for excusing the untimeliness. So, under Rule 14-211(b)(1)(A), the circuit court had discretion to deny the motion without a hearing.

What is more, the Browns did not allege, in either their exceptions to the foreclosure sale or appellate brief, that the court failed to address their motion to stay or dismiss or that its failure to do so was erroneous. By failing to raise the issue, they have arguably waived it. *See* Md. Rule 8-131(a). But in any event, to the extent that the circuit court denied the Browns’ motion in the same order in which it overruled their exceptions to the sale, it did not err because their motion was untimely without good cause.

The Browns’ final contention concerning the equitable right of redemption also lacks merit. First, unlike tax sales, the right of redemption in mortgage foreclosures

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<sup>2</sup> Admittedly, the circuit court proceedings were stayed automatically for a portion of that time due to the Browns’ filing for bankruptcy, *see* 11 U.S.C. §§ 362(a) & 1301(a), and their motion to stay or dismiss mentions that fact. But the record reflects also that the bankruptcy proceedings were not initiated until May 9, 2018, which is still three months after the date the postfile mediation was held.

extinguishes when the property is sold, not when the sale is later ratified. *Butler v. Daum*, 245 Md. 447, 453 (1967). Further, as noted above, “exceptions to the sale may challenge only procedural irregularities at the sale[.]” *Thomas*, 427 Md. at 444 (quotation marks omitted) (quoting *Greenbriar Condo.*, 387 Md. at 688). “Clogging” the right of redemption, even if it had not been extinguished, would not constitute a procedural irregularity at the sale. Consequently, the Browns’ third contention was not a cognizable post-sale exception and was properly overruled.

**JUDGMENTS OF THE CIRCUIT  
COURT FOR PRINCE GEORGE’S  
COUNTY AFFIRMED. COSTS TO  
BE PAID BY APPELLANTS.**