

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1218

September Term, 2014

JOYCE H. SAMS

v.

JANE G. HENDERSON, LLC

Wright,
Graeff,
Alpert, Paul E.
(Retired, Specially Assigned),

JJ.

Opinion by Alpert, J.

Filed: December 11, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In this *pro se* appeal, Joyce H. Sams (“Ms. Sams” or “appellant”), appeals from an order of the Circuit Court for Charles County denying her opposition to the claim of Jane G. Henderson, LLC against the estate of Jane G. Henderson. Ms. Sams presents two questions for our review, which we have combined and rephrased as follows:¹

Whether the trial court erred in denying appellant’s objection to the claim of Jane G. Henderson, LLC against the estate of Jane G. Henderson.

Finding no error, we affirm.

BACKGROUND

Jane G. Henderson (“Ms. Henderson”) was the sole owner of an approximate 188-acre farm in St. Mary’s County (“the Farm”). In 1992, she and her daughter, Ms. Sams, obtained a line of credit from Citizens Bank for use to finance various “business deals.” The line of credit was secured by a deed of trust on the Farm that was recorded on December 23, 1992.²

In 2001, Ms. Henderson established Jane G. Henderson, LLC, (“the LLC”) a limited liability company “to carry out all forms of agricultural activity possible to be performed upon, and to own, [the Farm]” and she transferred ownership of the Farm to the LLC. Ms.

¹Ms. Sams phrased the questions as:

1. Pursuant to Maryland Rule 8-131 has the Circuit Court erred, as a matter of law, when it denied Appellant’s objection to the claim of Adam B. Henderson against the estate of Jane G. Henderson?
2. Was the Circuit Courts [sic] decision supported by a preponderance of the evidence?

²Evidence was introduced that the deed of trust was improperly recorded so it did not appear as a lien on the title to the Farm.

Henderson named her oldest son, Adam B. Henderson (“Duke Henderson”), managing member of the LLC and gave him the only voting share. Duke Henderson later established Golden Beach Road, Inc. (“Golden Beach”) to manage his interest in the LLC.

In May 2008, the LLC obtained a loan from New Carrollton Bank in the amount of \$1 Million to develop the Farm. In connection with obtaining the \$1 Million loan, the LLC paid \$193,927.61 to satisfy the line of credit. Ms. Henderson died on July 27, 2011. On January 25, 2012, Golden Beach, on behalf of the LLC, filed a statement of claim against Ms. Henderson’s estate (“the Estate”) in the Orphan’s Court for Charles County seeking repayment of the line of credit payoff in the amount of \$193,927.61 plus interest. Ms. Sams filed an opposition to the LLC’s claim, which the court denied. Ms. Sams appealed to the circuit court. On March 14, 2014, following a trial de novo, the court denied Ms. Sams’ opposition to the LLC’s claim. Ms. Sams then filed a motion to alter or amend the judgment of the circuit court, which the court denied on July 15, 2014. This appeal followed. Additional facts will be introduced in the discussion as they become relevant.

DISCUSSION

Ms. Sams contends that the circuit court erred in denying her opposition to the claim of the LLC against the Estate on several grounds. Ms. Sams asserts: 1) the Estate was not responsible for the payment of the claim because the evidence was insufficient to prove that Ms. Henderson agreed to repay the LLC for the payoff of the Citizens Bank credit line; 2) the claim was time-barred; and 3) Duke Henderson, via Golden Beach, did not have authority

to submit the claim on behalf of the LLC because Golden Beach was a defunct corporation at the time of the filing of the claim.

The LLC counters that: 1) the circuit court’s decision was supported by substantial evidence demonstrating that the Estate was obligated to repay the LLC for the payoff of the line of credit; 2) the claim was not time barred; and 3) Duke Henderson, via Golden Beach, was authorized to sign the statement of claim on behalf of the LLC, and Ms. Sams waived the argument that Golden Beach was not authorized to submit the claim because she failed to present evidence on this issue before the circuit court.

I. Standard of Review

The case was tried by the circuit court without a jury. Therefore we review the case on both the law and evidence. *Banks v. Pusey*, 393 Md. 688, 697 (2006). Pursuant to Maryland Rule 8-131(c), we “[w]ill not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Our determination of whether the circuit court’s conclusions are legally correct, however, is reviewed under a de novo standard. *Banks, supra*, 393 Md. at 697(internal quotation and citation omitted).

Moreover, “[u]nder the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case.” *L.W. Wolfe Enterprises, Inc. v. Maryland Nat’l Golf, L.P.*, 165 Md. App. 339, 343

(2005)(citation omitted). If substantial evidence was presented to support the trial court’s determination, it is not clearly erroneous and cannot be disturbed. *Id.* (citations omitted).

II. The Claim Against the Estate

It was undisputed that on May 29, 2008, the LLC paid the balance due on the Citizens Bank line of credit in the amount of \$193,927.61. Ms. Sams opposed the LLC’s claim against the Estate on the grounds that the LLC’s payoff of the line of credit in 2008 was improper, and, in any event, she asserted that her mother did not agree to repay the LLC for the \$193,927.61.

Ms. Sams claims that the line of credit was not in default or otherwise due when the LLC paid it off. She claims that her brother, Duke Henderson, paid it off because he had misrepresented to Carrollton Bank that the title to the Farm was unencumbered in order to obtain a \$1 Million loan to develop the Farm. In support, Ms. Sams introduced a May 21, 2008 deed of trust filed by Carrollton Bank as security for the \$1 Million loan which provides that the LLC, “covenants ... that it has good, right and lawful authority to bargain, sell, grant and convey the same as provided in this Deed of Trust, in fee simple, and that the said property is free and clear of all encumbrances [.]” The title to the Farm, however, was not free and clear of all encumbrances due to the existence of the previous lien for the line of credit.

Duke Henderson denied any deception on his part in connection with his procurement of the \$1 Million loan. He testified that Carrollton Bank was aware of the previous lien on

the Farm. But because the deed of trust for the line of credit did not appear in a title search of the Farm due to a recording error, the bank agreed to issue the loan without requiring prior removal of the lien. He explained that he promised Carrollton Bank that he would pay off the Citizens Bank line of credit and clear the encumbrance from the title with proceeds from the loan, which he did. Duke Henderson further testified that he paid off the line of credit because his mother did not have the funds to pay it off and they had agreed that the funds would be repaid at the time the Farm was sold, or from her estate.

Ms. Sams disputed her brother's explanation for the payoff of the credit line. She argued that she and her mother had made regular payments on the credit line and it was in good standing. Moreover, because there was no "contract" evidencing Ms. Henderson's agreement to repay the LLC, and because the line of credit was not solely the obligation of Ms. Henderson, Ms. Sams asserts that the LLC's claim should not have been paid from the proceeds of her mother's estate.

The circuit court determined that it was understood by the parties involved, including Ms. Henderson, that the LLC would be reimbursed either when the property was sold or upon Ms. Henderson's death, whichever came first. In support of its finding, the court cited to Item 6(b) of Ms. Henderson's will as evidence of her intent that the line of credit would be repaid (either by Ms. Sams or by Ms. Henderson's estate):

During my lifetime, together with JOYCE H. SAMS, I executed an agreement for an equity line of credit * * * which was drawn upon by JOYCE H. SAMS in the amount of [\$168,025.00](the "Draw"). If during the administration of my Estate JOYCE H. SAMS, or if she predeceases me her descendants,

satisfies the Draw from the line of credit and any interest accrued and payable thereon, JOYCE H. SAMS shall be entitled to an equal share of my residuary estate. If however, during the administration of my estate the Draw is not fully satisfied, including the interest due thereon, then this equal share of my residuary estate shall be offset by the Draw amount and any interest accrued and payable thereon.

The court's finding that Ms. Henderson understood that the LLC would be repaid from the proceeds of her estate is supported by substantial evidence in the record. Ms. Henderson and Ms. Sams were co-borrowers on the equity line of credit. The line of credit, however, was secured by a deed of trust to the Farm, which Farm was the sole property of Ms. Henderson when the line of credit was obtained in 1992. Once Ms. Henderson transferred her ownership of the Farm to the LLC, it was neither improper nor unusual for the LLC to clear the title to the property for future development and sale.

III. Statute of Limitations

Ms. Sams contends that the LLC's claim against the estate was time-barred because the three year statute of limitations on the claim expired on May 29, 2011, two months before Ms. Henderson's death. Pursuant to Md. Code Ann., Estates and Trusts § 8-102, "[u]nless a contrary intent is expressly indicated in the will, a claim which was barred by a statute of limitations at the time of the death of the decedent may not be allowed or paid."

Ms. Sams asserts that the cause of action arose on May 29, 2008, the day the LLC paid off the line of credit. "A civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced." Md. Code Ann., Cts & Jud. Proc. § 5-101. There was no

evidence, however, that the LLC ever demanded payment from Ms. Henderson during her lifetime. To the contrary, the evidence indicated that Ms. Henderson and Duke Henderson understood that the LLC would be repaid either when the property was sold or upon Ms. Henderson's death, as evidenced by Section 6(b) of her will. The court's finding that the LLC's claim was not barred by the statute of limitations because the claim arose at the time of Ms. Henderson's death, pursuant to the understanding of the parties, was not clearly erroneous. Moreover, a claim for repayment of funds, if not made during the lifetime of the obligor, does not accrue until the claim is made to the estate. *See Boyd v. Bowen*, 145 Md. App. 635, (2002) (holding that a claim for repayment did not accrue until the claim was made to the decedent's estate since no demand for repayment was made during the decedent's lifetime).

IV. Authority to Submit the Claim

Ms. Sams argues that Golden Beach, the managing member of the LLC, was a defunct corporation on January 25, 2012 and therefore its filing of the claim on behalf of the LLC was null and void. The LLC counters that we need not address Ms. Sams' argument regarding the forfeited status of Golden Beach because Ms. Sams failed to raise this argument before the circuit court.

Maryland Rule 8-131(a) provides that: “[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised or decided by the trial court[.]” The primary purpose of Rule 8-131(a) is to ensure fairness for all

parties in a case by requiring them to bring their positions to the attention of the lower court so that the trial court has an opportunity to rule upon the issues presented. *Wajer v. Baltimore Gas and Elec. Co.*, 157 Md. App. 228, 236-37 (2004) (internal quotation and citation omitted). The rules apply equally to *pro se* litigants. *See Tretick v. Layman*, 95 Md. App. 62, 68 (1993).

Here, Ms. Sams failed to raise the question of whether the defunct status of Golden Beach affected the validity of the filing of the claim on behalf of the LLC. The record demonstrates that no evidence was presented to the circuit court on this issue and the court did not rule on the issue. We decline to address this argument for the first time on appeal.

**JUDGMENT OF THE CIRCUIT
COURT FOR CHARLES COUNTY
AFFIRMED.
COSTS TO BE PAID BY
APPELLANT.**