

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1152

September Term, 2015

HADIZA WADA, et al.

v.

STATE DEPARTMENT FEDERAL CREDIT
UNION

Krauser, C.J.,
Nazarian,
Eyler, James R.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: June 20, 2016

*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.

Appellants, Isa Wada and Hadiza Wada, husband and wife, appeal from the order of the Circuit Court for Prince George’s County granting the motion for summary judgment filed by appellee, State Department Federal Credit Union (“credit union”). After conducting a thorough review of the record, we conclude that the circuit court’s order was legally correct. *See Beatty v. Trailmaster Products, Inc.*, 330 Md. 726, 737 (1993) (“the standard for appellate review of a trial court’s grant of a motion for summary judgment is simply whether the trial court was legally correct.”)

In 2007, the Wadas refinanced the mortgage on their primary residence with a home loan from the credit union. After the Wadas defaulted on the loan, they applied for a loan modification, but the modification was never finalized. In May 2012, the Wadas filed a complaint against the credit union in the circuit court, based on the credit union’s handling of the mortgage loan as well as its processing of the loan modification application. The complaint alleged violations of the Maryland Consumer Protection Act, fraud, promissory estoppel, negligence, negligent misrepresentation, breach of trust, and breach of fiduciary duty.

The credit union filed for foreclosure in October 2012. The foreclosure sale was stayed when Mrs. Wada, individually, filed for Chapter 13 bankruptcy (“the bankruptcy case”). The credit union filed a proof of claim in the bankruptcy case, and the bankruptcy court allowed the claim over objection. In October 2014, the bankruptcy court issued an order confirming the Chapter 13 bankruptcy plan. The credit union then filed a motion for summary judgment in the circuit court action, asserting that the order of confirmation was

res judicata as to the claims presented by the Wadas. Following a hearing, the court granted the motion. This appeal followed.

Maryland Rule 2-501 provides that, where there is no genuine dispute as to material fact and a party is entitled to judgment as a matter of law, the court may enter judgment in favor of that party. There is no dispute that the credit union filed a proof of claim in Hadiza Wada's Chapter 13 bankruptcy action, and that the claim was based on the Wada's default on the mortgage note held by the credit union. Additionally, there is no dispute that the order of the United States Bankruptcy Court for the District of Maryland confirming Hadiza Wada's Chapter 13 plan resolved that claim. At issue is whether the Wada's circuit court action against the credit union is barred by the res judicata effect of the confirmation order.

A prior bankruptcy judgment has res judicata effect on subsequent litigation when three conditions are met:

- 1) [T]he prior judgment was final and on the merits, and rendered by a court of competent jurisdiction in accordance with the requirements of due process; 2) the parties are identical, or in privity, in the two actions; and, 3) the claims in the second matter are based upon the same cause of action involved in the earlier proceeding.

Covert v. LVNV Funding, LLC, 779 F.3d 242, 246 (4th Cir. 2015) (citation and internal quotation marks omitted). The Wada's concede that the parties to the bankruptcy action were the same or in privity, but dispute that the other two conditions were satisfied.

We find no merit in the Wada's arguments. First, it is clear that there was a final judgment on the merits. *Id.* (“confirmation of a bankruptcy plan is a final judgment on the merits.”) Secondly, with respect to the condition that the claims must be based on the same

cause of action, the *Covert* court noted that “claims are part of the same cause of action when they arise out of the same transaction or series of transactions, and the same core of operative facts.” *Id.* at 247 (citation and internal quotation marks omitted). Here, the credit union’s claim in the bankruptcy proceedings, and the claims asserted in the Wada’s complaint in the circuit court arose out of the same series of transactions, that is, the mortgage loan agreement between the Wadas and the credit union, and the subsequent default which prompted the Wadas to apply for loan modification.

And, although the record before us does not include the nature of any challenges to the credit union’s proof of claim in the bankruptcy court, *res judicata* bars litigation of “all claims that were actually adjudicated or that could have been adjudicated in an earlier action[.]” *Id.* at 246. The Wada’s claims in the circuit court action were based entirely on the credit union’s handling of the mortgage loan as well as the application for a loan modification. The Wadas had the opportunity to raise these during the bankruptcy proceedings. *Id.* at 247-48 (holding that debtors could have objected to creditor’s proofs of claim in bankruptcy proceeding on grounds that they violated consumer protection statutes, and could have asserted affirmative claims for damages during bankruptcy process). Consequently, any such claims asserted after the entry of the confirmation order are barred.

Accordingly, as all three requirements for the application of the doctrine of *res judicata* were met, the circuit court’s order granting the credit union’s motion for summary judgment on that basis was legally correct. We further conclude that the circuit court did not err, as the Wadas suggest, by entering summary judgment without considering the

merits of their action. Because the Wada’s claims were barred by the doctrine of res judicata, the circuit court was precluded from considering the merits. *See Anderson v. Burson*, 196 Md. App. 457, 468 (2010) (explaining that res judicata “ensures that courts do not waste time adjudicating matters which have been decided or *could have been* decided fully and fairly” (citation and internal quotation marks omitted, emphasis in original)), *aff’d*, 424 Md. 232 (2011). Similarly, because the claims were precluded, the court properly determined that any outstanding motions were rendered moot once summary judgment was granted. Finally, the court’s award of costs to the credit union was proper. *See* Md. Rule 2-603 (“the prevailing party is entitled to costs.”) We decline to address the remainder of the questions presented by the Wadas as they are not properly before this Court on an appeal from the circuit court’s order granting summary judgment.

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