

Circuit Court for Montgomery County
Case No. 419288V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 256

September Term, 2020

FREDERICK KITCHER, *et al.*

v.

KRISTINE D. BROWN, *et al.*

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 1, 2022

*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.

Frederick and Dora Kitcher, appellants, appeal from an order issued by the Circuit Court for Montgomery County ratifying the foreclosure sale of their property. On appeal, they contend that appellees, the substitute trustees,¹ lacked standing to foreclose because the Note, and a 2014 loan modification agreement that had been entered into prior to the foreclosure action, were not properly transferred to the secured party, Wilmington Trust, N.A., in an individual capacity, but solely as Trustee for MFRA Trust 2015-1.

Although appellants filed two motions to stay or dismiss the foreclosure action, neither of those motions raised the claim that they now raise on appeal. Nor did they raise that contention in any other motion that was filed in the circuit court.² Consequently, this issue is not preserved, and we will not address it for the first time on appeal. *See* Maryland Rule 8-131(a) (noting that an appellate court will ordinarily not decide any issue “unless it plainly appears by the record to have been raised in or decided by the trial court”). Moreover, because appellants do not contend that the court erred in denying any of the claims that they did raise in their motions to dismiss, the issue of whether the court erred in denying those motions is not properly before the Court. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will

¹ Appellees are Kristine D. Brown, Gregory N. Britto, William M. Savage, Lila Stitely, and R. Kip Stone.

² We note that the issue was raised and rejected in appellants’ bankruptcy case. However, raising the issue in a federal bankruptcy proceeding does not preserve the issue for appellate review in this Court.

not be considered on appeal” (quotation marks and citation omitted)).³ Because appellants have not demonstrated that the court erred in ratifying the foreclosure sale, we shall affirm the judgment of the circuit court.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS
TO BE PAID BY APPELLANTS.**

³ In any event, Maryland Rule 14-211(a)(2)(A) provides that a motion to stay or dismiss the foreclosure action must be filed no later than 15 days after the last to occur of: 1) the filing date of the final loss mitigation affidavit; 2) the date the court grants a motion to strike post-file mediation; or 3) where mediation was requested and not stricken the first to occur of: (a) the date the post-file mediation was held; (b) the date the [OAH] files with the court a report stating that no post-file mediation was held; or (c) sixty days after transmittal of the request for mediation. Any motion that is untimely must state with particularity the reasons why it was not timely filed. Md. Rule 14-211 (a)(3)(F). If the court concludes that the motion was not timely filed and does not show good cause for excusing non-compliance, it must deny the motion. Md. Rule 14-211(b)(1). Here, both motions to dismiss were filed more than 15 days after the date post-file mediation was held and neither motion provided any reason for why it had been untimely filed. Consequently, the court did not err in denying both motions for that reason alone.