

Circuit Court for Montgomery County
Case No. 463215V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 705

September Term, 2019

ANWAR KAMAL

v.

SPECIALIZED LOAN SERVICING, LLC

Nazarian,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 7, 2020

*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.

Anwar Kamal, appellant, owns real property located at 9617 McAlpine Road in Silver Spring. In 2006, he executed a note and deed of trust in exchange for \$27,300. The deed of trust was secured by a lien on the property. In 2010 Mr. Kamal defaulted on the debt and the loan was later charged off. Specialized Loan Servicing, LLC, appellee (SLS) was the loan servicer for the debt.

In February 2019, Mr. Kamal filed an action to quiet title and for declaratory and injunctive relief, naming SLS as the sole defendant. The complaint alleged that, because the default had occurred in 2010, the statute of limitations for SLS to file a foreclosure action had expired and therefore, the lien against the property was no longer enforceable. As relief, the complaint sought “an order declaring the interests held by the parties hereto and in the Property”; an “Order declaring that the Defendant, and of them and their assigns, have no estate, right, title, lien and/or other interest in the Property”; an “Order requiring the Defendant to issue a release of the unenforceable lien”; and an “Order permanently enjoining the Defendant, and each of them and their assigns, from instituting any action in foreclosure[.]”

In response, SLS filed a motion to dismiss, claiming that: (1) the complaint was not ripe because it had “not taken any action to enforce the loan either through collections actions or foreclosure of the Subject Deed of Trust,” and (2) Mr. Kamal’s claim that there was a three-year statute of limitations applicable to foreclosure actions was incorrect as a matter of law. Following a hearing, the court granted the motion to dismiss.

Mr. Kamal’s sole contention on appeal is that the court erred in dismissing the complaint because SLS “failed to establish its legal standing.” Specifically, he asserts that

SLS lacked standing to foreclose or enforce the lien because it was “never assigned the deed of trust” and “never filed any affidavit claiming that they are the Note holder.”¹ The parties agree, however, that, after the complaint was dismissed, the Note and/or the Deed of Trust were transferred to NDF1, LLC; that SLS is no longer the servicer of the loan; and that SLS no longer has any interest in the subject property. Consequently, the issue of whether SLS had standing to foreclose or enforce the lien is now moot. *See Potomac Abatement, Inc. v. Sanchez*, 424 Md. 701 (1991) (stating that a case is moot when there is no longer “a controversy between the parties for which, by way of resolution, the court can fashion an effective remedy” (citation omitted)).² Because no exception to the mootness doctrine applies, we shall dismiss the appeal.³

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

¹ Mr. Kamal does not contend on appeal that the circuit court erred in finding that his complaint was not ripe or that the statute of limitations barred the filing of any foreclosure action by SLS. Therefore, we do not consider these issues.

² Although Mr. Kamal’s complaint contained a factual allegation that the “Montgomery County land records [did] not support [SLS’s] claim” that they were the second lienholder, he never argued that SLS lacked standing to foreclose for the reasons he now asserts on appeal. Nor did he request the court to enter a declaration to that effect. Consequently, even if the issue were not moot, it is not preserved for appellate review.

³ We note that the dismissal of this appeal is without prejudice to Mr. Kamal raising any claims that he may have against NDF1, LLC in a separate proceeding.