

Circuit Court for Montgomery County  
Case No. 409885V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 782

September Term, 2020

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MOHAMMED KHAN

v.

CARRIE M. WARD, *et al.*

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Graeff,  
Zic,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: November 2, 2021

\*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.

Mohammed I. Khan, appellant, appeals from the circuit court’s order ratifying the foreclosure sale of his property. On appeal, he claims that the court erred when it “issued [the] order of ratification of sale where substantial irregularities related to the date of sale were present” and when it “struck [his] amended exceptions to sale.” For the reasons that follow, we shall affirm.

In 2015, appellees, acting as substitute trustees,<sup>1</sup> filed an Order to Docket in the Circuit Court for Montgomery County, seeking to foreclose on real property owned by Mr. Khan. Mr. Khan’s home was ultimately sold at a foreclosure auction and appellees filed a report of sale on December 7, 2017. The same day the clerk issued a notice to the parties stating that the sale would be ratified unless cause to the contrary could be shown within 30 days from the date of the notice.

Mr. Khan did not file exceptions to the sale prior to that date. However, the court did not immediately move to ratify the sale after the time for filing exceptions expired because Mr. Khan had filed three separate appeals to this Court. Rather, the circuit court granted appellees several deferrals of dismissal of the foreclosure case while those appeals were pending. On November 27, 2019, and January 15, 2020, Mr. Khan filed motions, which the court treated as exceptions to the foreclosure sale. His sole claim in those motions was that the court had erred in deferring the dismissal of the foreclosure case.

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<sup>1</sup> Appellees are Carrie M. Ward, Howard N. Bierman, Jacob Geesing, Pratima Lele, Joshua Coleman, Richard R. Goldsmith, Jr., Ludeen McCartney-Green, Jason Kutcher, Elizabeth C. Jones, and Nicholas Derdock.

On February 10, 2020, the court issued a “Notification to Plaintiff Trustee of Noncompliant Foreclosure Filing and Contemplated Dismissal” (the Notification). In the Notification, the court noted that the “sale date in the pre-sale advertisement and the report of sale do not match” and requested appellees to “provide appropriate corrections.” Specifically, the pre-sale advertisement indicated that the foreclosure sale was going to occur on November 20, 2017. However, the report of sale stated that the sale had occurred on November 22, 2017. On March 9, 2020, appellees filed a response and “Amended Report of Sale and Affidavit of Fairness of Sale and Truth of Report,” averring that the date of sale in the report of sale had been a typographical error, and that the correct date of the foreclosure sale was, in fact, November 20, 2017, the same date listed in the pre-sale advertisement.

The court ultimately scheduled a hearing on Mr. Khan’s exceptions on September 16, 2020. At the start of that hearing, Mr. Khan indicated that he wanted to file a pleading entitled “Amended Exceptions to the Sale,” which had not yet been served on appellees. In his amended exceptions, Mr. Khan claimed for the first time that the sale had not actually occurred on November 20, 2017. Rather, he asserted that he had appeared for the sale on that date, but had been told by the auctioneer that the sale was not happening that day. The amended exceptions also raised other arguments related to the substitute trustees’ standing to pursue the foreclosure action.

Appellees made an oral motion to strike the amended exceptions on the grounds that they were untimely, which the court granted. Thereafter, the court noted that, even if the exceptions had been timely, the discrepancy in the sale dates was a typographical error that

did not prejudice Mr. Khan. The court also denied appellant’s initial exceptions challenging the court’s prior decisions to defer dismissal of the foreclosure sale. Following the hearing, the court entered an order ratifying the foreclosure sale. This appeal followed.

Mr. Khan contends that the court erred in striking his amended exceptions and ratifying the foreclosure sale because of the “irregularities related to the date of sale.” We disagree. Maryland Rule 14-305(d)(1) authorized Mr. Khan to file exceptions to the foreclosure sale. However, under that rule, any exceptions were required to “be filed within 30 days after the date of a notice issued pursuant to section (c) of this Rule or the filing of the report of sale if no notice is issued.” Regardless of whether we calculate the 30-day time limit from December 7, 2017, the date that the first report of sale was filed and the clerk issued the notice required pursuant to Rule 14-305(c), or March 9, 2020, the date that appellees filed the amended report of sale, Mr. Khan’s amended exceptions were untimely. Mr. Khan did not explain to the court why his amended exceptions could not have been timely filed. And having reviewed the record, we do not perceive anything that would justify the untimely filing, given that the discrepancy between the dates of the foreclosure sale in the pre-sale advertisement and the report of sale could have been discovered with due diligence on December 7, 2017, the date that the initial report of sale was filed in the circuit court. In fact, it is unclear to us how Mr. Khan would not have been aware of this issue within the 30-day time limit to file exceptions, given that he claimed to have shown up for the foreclosure sale on the date it was advertised and that the sale was not occurring on that date.

Maryland Rule 2-322(e) provides that the court may “order any pleading that is late or otherwise not in compliance with [Maryland Rules]” to be “stricken in its entirety.” Because we hold that Mr. Khan’s amended exceptions were not timely, the court did not err in granting appellees’ motion to strike and in refusing to consider them prior to ratifying the foreclosure sale.<sup>2</sup> Finally, we note that Mr. Khan does not contend on appeal that the court erred in denying his initial exceptions to the foreclosure sale, which challenged the court’s orders deferring dismissal of the foreclosure sale. Therefore, that issue is not properly before us and we will not consider it. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented in a brief or not presented with particularity will not be considered on appeal” (citation omitted)).

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

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<sup>2</sup> Because we hold that the court did not err in striking Mr. Khan’s amended exceptions, we do not address the merits of those exceptions. Nevertheless, we note that Maryland Rule 2-311(d) provides that a “motion . . . that is based on facts not contained in the record shall be supported by affidavit[.]” Mr. Khan’s claim that the sale did not actually occur on the date listed in the pre-sale advertisement was not supported by affidavit or other documentation, as required by that Rule. Therefore, the motion could have been denied for that reason alone. *See Scully v. Tauber*, 138 Md. App. 423, 431 (2001) (noting that facts set forth in a motion that does not comply with Rule 2-311 are not “appropriately before the court”).