

Circuit Court for Baltimore City
Case No. 24-C-14-000206

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 845

September Term, 2017

GOLDEN ASHLAND SERVICES, LLC

v.

SOONSUE KIM

Graeff,
Shaw Geter,
Thieme, Raymond G., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: August 2, 2018

*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 appeal, Golden Ashland Services, LLC (“Golden Ashland”), appellant, challenges the June 15, 2017, order of the Circuit Court for Baltimore City vacating the judgment foreclosing the right of Soonsue Kim, appellee, to redeem a property that Golden Ashland bought at a 2013 tax sale. Golden Ashland raises the following issues for this Court’s review:

1. Did the circuit court abuse its discretion in vacating the judgment to foreclose Mrs. Kim’s right to redeem the property when, at the time of the order, Mrs. Kim had not satisfied the condition precedent of paying all taxes and expenses owed on the property?
2. Did the circuit court err or abuse its discretion in finding that Golden Ashland failed to properly serve Mrs. Kim with notice of the foreclosure judgment?

For the reasons set forth below, we answer those questions in the negative, and therefore, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Mrs. Kim owned real property located at 2041 Edmondson Ave., Baltimore, MD 21223 (“the Property”). The Property consisted of a carry-out restaurant, with apartments on top of the store.

Domingo Kim, Mrs. Kim’s husband, had responsibility for the business dealings associated with the Property, which was rented. He testified that the tenants paid the taxes on the Property, and he did not follow up on payment. On May 20, 2013, after taxes and

other payments were not made, the Director of Finance for Baltimore City sold the Property at auction to Golden Ashland.¹

On January 14, 2014, Golden Ashland filed a complaint in the Circuit Court for Baltimore City seeking to foreclose the right of redemption on the Property. The record reflects that Golden Ashland attempted to notify Mrs. Kim about the foreclosure proceeding in several ways.

First, it hired a private process server, who attempted to serve Mrs. Kim at the Property. The process server stated in an affidavit that she left the requisite documents with “Domingo Kim, Spouse, Co-occupant,” who she described as an Asian male, approximately 60 years of age, five feet, six inches in height, and approximately 170 pounds.

Second, on February 4, 2014, the Baltimore City Sheriff posted a notice of foreclosure at the Property.

Third, on February 22, 2014, Golden Ashland attempted to serve Mrs. Kim by certified mail, but the mailing was addressed to 2041 Edmondson Ave., Baltimore, MD 21228-4236, a Catonsville address in Baltimore County, as opposed to the Baltimore City address listed in the land instrument intake sheet included with the deed. On March 5, 2014, the mailing was returned, marked “insufficient address.”

¹ Pursuant to Md. Code (2012 Repl. Vol.) Tax-Property Article (“TP”), Title 14, Subtitle 8, property for which taxes have not been paid may be sold in a tax sale. The purchaser is advised that the owner may redeem the property by paying the unpaid taxes and other expenses, but the purchaser generally can file an action to foreclose the right of redemption six months after the sale. TP § 14-828.

Finally, Golden Ashland published notice in a newspaper of general circulation in Baltimore City once a week for three consecutive weeks. This notice, however, listed the same incorrect address in Baltimore County.

Mrs. Kim did not file a responsive pleading. On May 29, 2014, the circuit court issued a judgment foreclosing the right of redemption for the Property.

On July 11, 2014, Mrs. Kim, who was unrepresented at the time, filed a “Petition to Redeem,” stating:

I just got a couple pages of letters from my tenants which are a judgment letter and an urgent notice to my tenants not to pay the rent any more. I was very surprised because I never ever had received any notices or letters saying that my property is going on for foreclosure sale.²

On November 10, 2014, the circuit court denied Mrs. Kim’s Petition to Redeem, finding that she had not paid the “taxes and other relevant charges” on the Property, and therefore, she had failed to satisfy a “condition precedent to vacating” the judgment.

On January 28, 2015, Mrs. Kim, represented by an attorney, filed a motion for leave to pay the outstanding taxes and expenses on the Property into the court registry in advance of filing her motion to vacate judgment foreclosing right of redemption (“Motion for Leave”). Asserting that she “was never served or otherwise provided adequate notice of [the] proceedings,” she argued that Golden Ashland had “perpetrated an actual and constructive fraud upon this Court.” Mrs. Kim attached as an exhibit a draft motion to

² Mrs. Kim testified, at a subsequent proceeding, that she was not aware that the Property had been sold until the “springtime,” when her tenants stopped paying rent and told her that they “didn’t pay because the owner changed.”

vacate the judgment foreclosing right of redemption, stating that she intended to file this after the motion for leave was granted.

Golden Ashland opposed the motion. It argued that the judgment foreclosing the right of redemption was “*final and conclusive* pursuant to Sections 14–844 and 845” of the Tax-Property Article, vesting it “with the Fee Simple interest in the subject Property.”

On February 24, 2015, before the circuit court had ruled on the motion, Mrs. Kim filed a Motion to Stay Execution of Writ of Possession, asking the circuit court to “stay the execution of the Writ of Possession issued on January 16, 2015[,] and any evictions currently scheduled.” Mrs. Kim requested a hearing on the motion.

On March 26, 2015, the circuit court, without a hearing, denied the motion for leave and the motion to stay. Mrs. Kim noted an appeal on April 21, 2015.³

On March 18, 2016, this Court vacated the order denying Mrs. Kim’s motions on the ground that Mrs. Kim did not have actual notice of the proceedings prior to entry of judgment. *Kim v. Golden Ashland Servs., LLC*, No. 0309, Sept. Term, 2015, slip op. at 5 (filed Mar. 18, 2016). We remanded to the circuit court for a hearing regarding whether Golden Ashland failed to provide adequate notice of the motion to foreclose and whether it warranted reopening of the judgment. *Id.*

³ On April 17, 2015, with the appeal pending, Mrs. Kim filed a Motion to Strike Judgment Foreclosing Right of Redemption Motion to Strike Deed (“Motion to Vacate”), in which she claimed that Golden Ashland’s failure to provide adequate notice of the judgment foreclosing her right to redeem the Property amounted to constructive fraud.

On June 6, 2017, the circuit court held a hearing on Mrs. Kim's motion to strike the judgment. Counsel for Mrs. Kim stated that the judgment should be stricken because Golden Ashland failed to serve Mrs. Kim in compliance with Md. Rule 2-121(a). Mrs. Kim testified that she did not live at the Property, that her husband, Mr. Kim, took care of business dealings at the Property, and that she learned of the tax sale only after the tenants of the Property stopped paying rent and told her they did so "because the owner changed."

Mr. Kim testified that he was authorized by his wife, the owner of the Property, to take care of business matters at the Property, which included the payment of taxes. He denied that he personally had been served court documents regarding the sale or that he received mailed notice. He explained that a tenant named Shin Kang had been living at the Property in 2013 and 2014, and he described Mr. Kang as a non-English speaker who was approximately five feet, two inches tall and weighed approximately 150-160 pounds. When asked about his own physical description, Mr. Kim stated that he was five feet, eleven inches tall, weighed 220 pounds, and was 53 years of age.⁴

Mr. Kim explained that the tenants at the Property usually paid the taxes, pursuant to a provision in their lease agreements. He stated that he "didn't follow up" on whether tenants paid taxes because he thought they "automatically" paid taxes. The tenants obtained the tax bills when they opened the mail addressed to Mrs. Kim that came to the

⁴ Mr. Kim's description of himself is different from the process server's description of the person she served: Asian male, approximately sixty years of age, five feet, six inches in height, and approximately 170 pounds.

Property. Mr. Kim “hardly ever” went to the Property unless the tenants made a repair request.

Once Mr. Kim realized that the bills were not being paid, he went to Baltimore City to change the billing address for the Property to 3351 Greenmount Ave., where he and Mrs. Kim resided. He thought it was in the spring of 2014, but he was “not sure of [the] exact dates.”⁵

Sam Lee testified that Mr. and Mrs. Kim had lived at a house on Greenmount Ave. at least “[s]ometime before 2013.” Neither one had ever lived at the Property.

Following Mr. Lee’s testimony, Golden Ashland sought to introduce two documents into evidence. First, it sought to admit “notice to the city attorneys, Jason Greenberg and Mary Keenan,” which was intended to show when Mr. Kim’s change of address occurred. Second, it sought to introduce a Maryland State Department of Assessments & Taxation (“SDAT”) printout listing the Edmondson address as Mrs. Kim’s mailing address. Mrs. Kim objected to the admission of both documents on the grounds that they had not been properly authenticated, and the circuit court sustained her objections.

The only evidence admitted on behalf of Golden Ashland was the testimony of Lee Shpritz, a member of Golden Ashland. He testified that he was familiar with the office retained to foreclose the Property, and he had seen the Property. He testified that he had

⁵ At one point, Mr. Kim agreed that May 19, 2014, sounded “about right” for the date that he changed the mailing address, but he subsequently stated that he was not sure of the date, other than that it was after he heard from the tenants.

met Mr. Kim at the Property after a hearing, and again when they tried to gain access to the building.

During closing arguments, Golden Ashland argued that Mr. Kim “clearly had actual notice” of the proceedings. In support, counsel stated that Mr. Kim changed the billing address for the Property on May 19, 2014, which was one week before the court issued the judgment foreclosing the right of redemption. Moreover, he argued that someone at the Property claimed to be Mr. Kim, and Mr. Kim’s testimony at the hearing that he was not served was not credible.

Counsel for Mrs. Kim argued that the Kims did not have notice of the action until their tenants stopped paying rent. He argued that notice was not properly given, and the court never acquired jurisdiction over Mrs. Kim because she was never served.

On June 15, 2017, the circuit court issued an order vacating the judgment foreclosing the right of redemption. The court found that the “failure to properly serve and notify a defendant in a tax foreclosure case is a clear basis for setting aside a judgment for both lack of jurisdiction and constructive fraud under TP § 14-845.” It further found that Mrs. Kim “was not served with the Complaint in accordance with Rule 2-121, and did not have actual notice of the above-captioned case prior to entry of judgment.” It ordered, in addition to vacating the judgment, that Mrs. Kim redeem the Property within 45 days.

This appeal followed.

STANDARD OF REVIEW

In a motion to vacate a tax sale foreclosure, “we will not overturn the ruling unless it appears from the record that the trial court erred as a matter of law or abused its discretion in denying the motion.” *Voltolina v. Prop. Homes, LLC*, 198 Md. App. 590, 600, *cert. denied*, 421 Md. 559 (2011). “We review *de novo* a trial judge’s decision involving a purely legal question.” *Ehrlich v. Perez*, 394 Md. 691, 708 (2006).

DISCUSSION

I.

Golden Ashland’s first contention is that “the circuit court abused its discretion by entering judgement in [Mrs. Kim’s] favor” when she failed to satisfy the condition precedent of paying the outstanding taxes and expenses. In support, it relies on *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374, 396 (2006), where the Court of Appeals held, in the context of a motion to vacate the judgment foreclosing the right to redemption on the grounds of fraud, mistake or irregularity, that: “[I]n order to challenge the foreclosure of the equity of redemption in a tax sale, the taxes and other relevant charges acknowledged to be due, either prior to the challenge or simultaneously with it, must, as a condition precedent, be paid.”

Mrs. Kim contends that this issue is not preserved for this Court’s review because it was not raised below. In any event, she notes that she attempted to pay, but her payment was refused, which either satisfied *Canaj, Inc.*, or rendered compliance impossible.

We address first Mrs. Kim’s preservation argument. Ordinarily, we will not decide an issue “unless it plainly appears by the record to have been raised in or decided by the trial court.” Md. Rule 8-131(a). Issues that are not raised below are deemed to be waived. *DiCicco v. Baltimore Cty.*, 232 Md. App. 218, 227 (2017) (declining to review appellant’s argument regarding monetary cap on fine because it was “not raised below, and therefore, [] not preserved for review.”). As the Court of Appeals has explained:

The purpose of Md. Rule 8-131(a) is “to ensure fairness for all parties in a case and to promote the orderly administration of law.” *State v. Bell*, 334 Md. 178, 189, 638 A.2d 107, 113 (1994) (quoting *Brice v. State*, 254 Md. 655, 661, 255 A.2d 28, 31 (1969)). Fairness and the orderly administration of justice is advanced “by ‘requiring counsel to bring the position of their client to the attention of the lower court at the trial so that the trial court can pass upon, and possibly correct any errors in the proceedings.’” *Bell*, 334 Md. at 189, 638 A.2d at 113 (quoting *Clayman v. Prince George’s County*, 266 Md. 409, 416, 292 A.2d 689, 693 (1972)). For those reasons, Md. Rule 8-131(a) requires an appellant who desires to contest a court’s ruling or other error on appeal to have made a timely objection at trial. The failure to do so bars the appellant from obtaining review of the claimed error, as a matter of right.

Robinson v. State, 410 Md. 91, 103 (2009).

Here, the record reflects that Golden Ashland did not raise below, as it does on appeal, the argument that the court could not vacate the judgment because the condition precedent of paying the outstanding taxes had not been satisfied. To be sure, as Golden Ashland points out, the court did inquire whether Mrs. Kim had “submitted the money that’s due.” When counsel explained that the Kims had “attempted to give a check in the amount of \$13,000, but the clerk rejected” it, the issue was dropped, and the proceedings thereafter focused solely on the issue of notice. Under these circumstances, the argument

that Mrs. Kim had not satisfied the condition precedent of paying taxes and expenses on the Property is not preserved for this Court's review, and we will not address it.

II.

Golden Ashland next contends that the circuit court erred in vacating the judgment on the ground that Mrs. Kim was not served with notice of the proceedings. It asserts that, pursuant to Maryland Code (2012 Repl. Vol.) § 14-833(a) of the Tax-Property Article ("TP"), it attempted to serve Mrs. Kim at the Baltimore County address listed on the tax roll records, which it obtained from SDAT.⁶ Golden Ashland contends that it "had no choice but to attempt service at the address disclosed by a search of the records," and that the "proceeding would have been defective had it done otherwise." It asserts that, pursuant to TP § 14-839(a)(2), it was not required to "make any investigations or to search any other records or sources of information other than those stated."

Mrs. Kim contends that the circuit court "properly reopened the judgment foreclosing the right of redemption 'for lack of jurisdiction and constructive fraud under TP § 14-845.'" She argues that the court properly found, as a fact, that she was never served, and therefore, the court never had jurisdiction over her. She claims that Mr. Kim was never personally served, and even if he had been, the service was invalid because

⁶ Golden Ashland attempted to introduce Maryland State Department of Assessments & Taxation ("SDAT") records dated August 13, 2013, which listed the zip code of the Property as 21228-4236, which corresponds to an area in Baltimore County. At the hearing, Mrs. Kim objected on the ground that these SDAT records had not properly been authenticated. The circuit court sustained the objection, and Golden Ashland has not challenged that ruling on appeal.

neither she nor her husband lived at the Property, and under Md. Rule 2-121(a)(2), a non-defendant can accept service only when he is a “resident of suitable age and discretion” at the defendant’s “dwelling house or usual place of abode.” Furthermore, she argues that the attempted service by certified mail was defective because it was “sent to an address in Baltimore County,” not the address provided in the deed that Golden Ashland reviewed.

In *PNC Bank, Nat’l Ass’n v. Braddock Props.*, 215 Md. App. 315, 322-23 (2013), this Court provided an overview of the procedures to be followed in a tax sale:

In Maryland, when an owner fails to pay *ad valorem* taxes levied upon real property, the taxing authority for the political subdivision within which the property is located must sell the property at auction. *See* TP § 14-808; *St. George Antiochian Orthodox Church v. Aggarwal*, 326 Md. 90, 91, 603 A.2d 484 (1992). After the sale, the owner of the property, and any other person having an equitable interest in the property, has the right to “redeem” title to the property by reimbursing the successful bidder (the “tax sale purchaser”) for the taxes and other expenses paid. TP § 14-827; *see Aggarwal*, 326 Md. at 91, 603 A.2d 484; *Voltolina*, 198 Md. App. at 598-99, 18 A.3d 944.

After a period of six months, the tax sale purchaser has the right to acquire fee simple title by filing a complaint in the circuit court to “foreclose all rights of redemption of the property....” TP § 14-833. This action not only gives the record owner and any other interest holders in the property an opportunity to raise procedural or other challenges to the taxes and the tax sale, *see* TP § 14-842, but also serves as a means to give those persons one last opportunity to redeem the property. *See Stewart v. Wheatley*, 182 Md. 455, 457, 35 A.2d 104 (1943) (interpreting predecessor statute). The right to redeem is effective until the circuit court enters final judgment. TP §§ 14-827 and 833(b).

Here, the circuit court issued a judgment foreclosing the right of redemption on May 29, 2014.

A final order in a tax sale foreclosure proceeding can be reopened, however, in limited circumstances, i.e., a lack of jurisdiction or fraud in the conduct of the proceedings to foreclose. TP § 14-845(a). If the request to reopen is made on “the ground of constructive fraud in the conduct of the proceedings,” the application to reopen the judgment must be “filed within 1 year from the date of judgment.” *Id. Accord Voltolina*, 198 Md. App. at 599.

Mrs. Kim filed her motion to strike the judgment on the ground of constructive fraud within 1 year. She alleged that she was never served or provided adequate notice of the proceedings.

A complainant’s failure to “comply with applicable notice requirements” can constitute constructive fraud. *Voltolina*, 198 Md. App. at 600. We thus turn to the notice requirements when an action to foreclose the right of redemption is filed.

Pursuant to TP § 14-836, Golden Ashland was required to send written notice to Mrs. Kim, the “record title holder” of the Property. TP § 14-836(b)(4)(ii) provides: “The notice under this subsection shall: 1. be sent by certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and 2. be accompanied by a copy of the complaint.” Persons who have an interest in the property, but are not necessary parties, are provided notice by publication under order of court. TP § 14-836(b)(3); *Royal Plaza Cmty. Ass'n, Inc. v. Bonds*, 389 Md. 187, 196 (2005).⁷

⁷ TP § 14-840 provides that notice of the proceeding be published in a newspaper having general circulation for three consecutive weeks.

TP § 14-836(b)(6) provides: “Further notice of the proceeding shall be required by posting of the property in accordance with applicable Maryland Rule of Procedure.” And TP § 14-839(a)(5) provides: “Notice to a defendant may be made in any other manner that results in actual notice of the pendency of the action to the defendant. When notice is made under this paragraph it shall be certified to by an affidavit that fairly describes the method and time of service.”

The Maryland Rules also address the notice required when a complaint to foreclose the right of redemption is filed. Pursuant to Md. Rule 14-502(a), a complaint to foreclose the right of redemption may not be filed until notice of the sale has been sent to the owner.

Rule 14-503(a) provides:

Notice to defendants whose whereabouts are known. Upon the filing of the complaint, the clerk shall issue a summons as in any other civil action. The summons, complaint, and exhibits, including the notice prescribed by Rule 14-502 (c) (3), shall be served in accordance with Rule 2-121 on each defendant named in the complaint whose whereabouts are known.⁸

Rule 2-121(a) provides:

Service of process may be made within this State or, when authorized by the law of this State, outside of this State (1) by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it; (2) if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual’s dwelling house or usual place of abode with a resident of suitable age and discretion; or (3) by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: “Restricted Delivery--show to whom, date, address of delivery.” Service by certified mail under this Rule is complete upon delivery. Service

⁸ The rules also provide for service to defendants whose whereabouts are unknown, *see* Md. Rule 14-503(b), but Golden Ashland never made such a claim or invoked those procedures.

outside of the State may also be made in the manner prescribed by the court or prescribed by the foreign jurisdiction if reasonably calculated to give actual notice.

We will address each of these methods of service, in turn.

A.

Personal Service

The circuit court found that Mrs. Kim did not receive valid personal service pursuant to Rule 2-121. There is no dispute that Golden Ashland did not personally deliver notice to Mrs. Kim.

B.

Service at Dwelling House

On February 27, 2014, a private process server attempted to serve Mrs. Kim at the Property. In an affidavit, the process server stated that, although she was unable to locate Mrs. Kim, she left the requisite documents with “Domingo Kim, spouse, Co-occupant,” who she described as an Asian male, approximately sixty years of age, five feet, six inches in height, and 170 pounds. The process server further stated that Mr. Kim was a “person residing [at the Property] who is at least 18 years of age or older.”

On February 11, 2015, the process server filed a Supplemental Affidavit of Service, which described the Property as a “Fast Food Fried Chicken Carryout.” It stated that Mr. Kim had given her his name “upon request” and told her that he was Mrs. Kim’s spouse.

At the hearing, Mr. Kim denied that he was served. The circuit court credited this testimony, and the record supports the circuit court's factual finding that Mr. Kim was not served with notice of the proceedings.⁹

In any event, even if Mr. Kim was served, it was not valid service because he could have accepted service on behalf of Mrs. Kim only if the Property was Mrs. Kim's "dwelling house or principle place of abode," and he was a "resident" of the Property. Rule 2-121(a)(2). *See Mooring v. Kaufman*, 297 Md. 342, 349, 355 (1983) (service did not occur at a "dwelling house or usual place of abode" because "the place at which delivery was made is a place at which the [d]efendant no longer live[d]."). At the hearing, both Mr. and Mrs. Kim testified they had never lived at the Property. This testimony was corroborated by the testimony of Mr. Lee, as well as by Mr. Kang's affidavit. Based on this evidence, the circuit court was within its discretion to find that the attempted personal service was invalid because Mr. and Mrs. Kim did not live at the Property when service was attempted. *See Mooring*, 297 Md. at 349.

⁹ The record supports the circuit court's finding that Mr. Kim was not served in several ways. First, although the process server stated in her affidavits that the individual served was five feet, six inches in height and weighed 170 pounds, Mr. Kim testified that he was five feet, eleven inches tall and weighed 220 pounds. Mr. Kim's testimony regarding his height and weight was corroborated by a copy of his Maryland driver's license, which was included as an exhibit to an affidavit filed with the court, describing Mr. Kim as six feet tall and weighing 190 pounds. Second, Mr. Kim testified that a former tenant at the Property, Mr. Kang, was five feet, two inches in height and weighed 160 pounds, which more closely matches the individual described in the affidavit of service. This testimony was corroborated in part by an affidavit that Mr. Kang submitted to the court, which stated that he: (1) was a former tenant at the Property; and (2) weighed 143 pounds.

C.

Certified Mail

Golden Ashland also attempted to serve Mrs. Kim by certified mail, but the address on the mailing contained the wrong zip code. The mailing was sent to zip code 21228-4236, which corresponds with an area in Catonsville, in Baltimore County, not Baltimore City, where the Property is located. The notice subsequently was returned to Golden Ashland's counsel marked "insufficient address." Under these circumstances, the circuit court was within its discretion to find that this attempted service was invalid.

In *Nichol v. Howard*, 112 Md. App. 163, 166-67 (1996), Howard, who sought to foreclose the equity of redemption on a property, mailed notice to the owner of the property, but the notice subsequently was returned to him marked "Return to Sender." After the mailing was returned, Howard made no attempt to "effectuate personal service at the property's address." *Id.* at 166. Instead, Howard attempted to notify the owner "solely by publication." *Id.* at 167.

This Court held that "a mailed notice returned undelivered with a notation 'Return to Sender' is, although not conclusive, indicative of a potential problem with the address contained thereon, *i.e.*, that the address may not be the current address of the owner." *Id.* at 173. In such circumstances, where

the tax sale purchaser or his attorney is aware that the address to which notice was sent was, or might be, "bad" and if the purchaser's search, *i.e.*, title examination of the records expressly required to be examined by statute, discloses an entity that might reasonably know the owner's correct address, the purchaser is deemed to know also of that address, and failure to send notice to that address will constitute grounds for setting the tax sale aside.

Id. at 169-70. We noted that, once the mailing was returned to Howard, he was on notice that Nichol might not have lived there, and he should have done more to determine the correct address, such as contacting the mortgagees of the property or asking the tenants where they mailed their rent payments. *Id.* at 173-74. Because Howard failed to do that, he was deemed to have “known” Nichol’s correct address, and therefore, he failed to furnish the requisite notice. *Id.* at 176.

Applying the reasoning of *Nichol* to the present case leads to the same result. When the certified mailing was returned to Golden Ashland’s counsel marked “insufficient address,” Golden Ashland was put on notice that the address may be invalid. There is no evidence, however, that Golden Ashland made any efforts to obtain the correct address, either by asking the tenants of the Property where they mailed their rent or by looking to the sources set forth in TP § 14-839(a).¹⁰ The record in this case indicates that, if Golden

¹⁰ TP § 14-839(a) provides, in pertinent part, as follows:

(1) The plaintiff shall show in the title of the complaint the last address known to the plaintiff or to the attorney filing the complaint of each defendant, as obtained from:

(i) any records examined as part of the title examination;

(ii) the tax rolls of the collector who made the sale, as to the property described in the complaint; and

(iii) any other address that is known to the plaintiff or the attorney filing the complaint.

Ashland had done so, by checking “records examined as part of the title examination,” i.e., the land instrument intake sheet accompanying the deed by which Mrs. Kim took title, Golden Ashland could have discovered the correct zip code of the Property, 21223, a Baltimore City zip code, as opposed to 21228, a Baltimore County zip code. Under these circumstances, Golden Ashland failed to direct notice to Mrs. Kim at an address that was “known” within the meaning of TP § 14-839(a)(1)(iii). *See Nichol*, 112 Md. App. at 176.

As indicated, the failure to comply with the notice requirements can constitute constructive fraud. *Voltolina*, 198 Md. App. at 600. Under the circumstances here, the circuit court properly found that Golden Ashland engaged in constructive fraud, and it did not err or abuse its discretion in issuing an order vacating the judgment foreclosing the right of redemption.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY IS AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**

(2) Paragraph (1) of this subsection does not require the plaintiff or the attorney for the plaintiff to make any investigations or to search any other records or sources of information other than those stated.