

Circuit Court for Anne Arundel County  
Case No. C-02-OCV-15-3268

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 915

September Term, 2017

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HARRIET LOVE

v.

KEITH YACKO, *et al.*,  
SUBSTITUTE TRUSTEES

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Woodward, C. J.,  
Fader,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: July 31, 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 2015, appellees, acting as substitute trustees,<sup>1</sup> filed an Order to Docket, in the Circuit Court for Anne Arundel County, seeking to foreclose on real property owned by Harriet Love, appellant. The case was stayed on two occasions because of pending bankruptcy proceedings. However, Love did not request mediation or file any pre-sale motions to stay or dismiss the foreclosure action. The property was ultimately sold at a foreclosure sale and the circuit court ratified the sale on April 5, 2017.

On April 13, 2017, Love filed an “Affidavit to Cease and Desist Case and Affirmative Defense, Facts to Vacate Final Ratification of Sale/Response to Order of Deficiency,” which we construe as a motion to alter or amend the judgment pursuant to Maryland Rule 2-534 (first revisory motion). In that motion, Love requested that the case be dismissed for various reasons including that appellees were “perpetrating Fraud upon the court”; were “not the injured party”; had “fail[ed] to state a cause of action”; “lack[ed] standing to bring and maintain the action”; had “not proved the debt [was] valid or the amount of the debt was accurate”; did “not have jurisdiction”; and “failed to file the deficiencies noted by the court in a timely fashion.” Love also asserted that the action was barred by the statute of frauds and the statute of limitations.<sup>2</sup> The circuit court denied that motion on May 31, 2017.

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<sup>1</sup> Appellees are Keith Yacko, Robert Frazier, Thomas Gartner, Jason Hamlin, Gene Jung, and Glen Tschirgi.

<sup>2</sup> We note that most of the claims raised in the first revisory motion were conclusory and did not set forth any background facts to support them.

On June 5, 2017, Love filed a “Motion to Vacate Ratification of Sale and Motion to Vacate Judgment” (second revisory motion), wherein she essentially raised the exact same claims that she had raised in her first revisory motion.<sup>3</sup> The court denied that motion on July 5, 2017. Love then filed her notice of appeal on July 14, 2017. On appeal, Love raises three issues. However, for the reasons set below, the only issue that this Court can consider is whether the circuit court abused its discretion in denying Love’s second revisory motion. Finding no abuse of discretion, we affirm.

Maryland Rule 8-202 provides that a party must file his or her notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” That 30-day deadline is tolled when a motion to alter or amend judgment under Md. Rule 2-534 is filed within ten days of the entry of judgment. *See* Md. Rule 8-202(c).

Here, the April 5, 2017 order ratifying the foreclosure sale constituted the final judgment on the merits as to the validity of the foreclosure sale. *See Hughes v. Beltway Homes, Inc.*, 276 Md. 382, 384 (1975) (“An order ratifying a sale is a judgment . . . because it is an order of the court final in its nature.” (internal quotation marks omitted)); *Ed Jacobsen, Jr., Inc. v. Barrick*, 252 Md. 507, 511(1969) (“[T]he law is firmly established in Maryland that the final ratification of the sale of property in foreclosure proceedings is res judicata as to the validity of such sale, except in the case of fraud or illegality, and hence its regularity cannot be attacked in collateral proceedings.” (citations omitted)). Love filed the first revisory motion within ten days of the circuit court’s order ratifying that sale and,

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<sup>3</sup> As in her first revisory motion, the claims in Love’s second revisory were also conclusory.

therefore, her time to file a notice of appeal from the ratification order was tolled until the first revisory motion was resolved. The first revisory motion was ultimately denied in an order docketed on May 31, 2017. Love therefore had until June 30, 2017, to file a notice of appeal from the ratification order and the denial of her first revisory motion.

But Love did not note an appeal to this Court before that time. Instead, she filed her second revisory motion on June 5, 2017. That motion, however, did not toll the time to file her notice of appeal from either the ratification order or the order denying her first revisory motion. *See Leese v. Department of Labor, Licensing and Regulation*, 115 Md. App. 442, 445 (1997) (noting that a party cannot obtain additional extensions of the deadline to appeal by filing a series of successive motions to alter or amend the previous motion’s denial). Consequently, Love’s July 14, 2017, notice of appeal was timely only as to the denial of the second revisory motion.

Because the second revisory motion was filed more than 30 days after the ratification order, the only basis for the circuit court to have vacated that order would have been if Love could demonstrate the existence of fraud, mistake, or irregularity in the judgment. *See* Maryland Rule 2-535(b). However, none of the claims raised in Love’s second revisory motion demonstrate the existence of fraud, mistake or irregularity, as those terms are used in Rule 2-535(b), that would have warranted the circuit court vacating its order ratifying the foreclosure sale. *See generally Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (“Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments.”). To be sure, Love generally contends that appellees engaged in fraud. But “to establish fraud under Rule 2-

535(b), a movant must show extrinsic fraud, not intrinsic fraud.” *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (internal citations omitted). “Fraud is extrinsic when it actually prevents an adversarial trial but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, the truth was distorted by the complained of fraud.” *Id.* at 290-91. Here, the fraud alleged by Love was not extrinsic because it had no bearing on her ability to fully present her case. In other words, she had every opportunity to raise her challenges prior to the foreclosure sale being ratified, yet she did not do so. Consequently, the court did not abuse its discretion in denying her second revisory motion.<sup>4</sup> Moreover, because the court’s decision to deny appellant’s revisory motion was not dispositive of a claim or defense, no hearing was required. *See Pelletier v. Burson*, 213 Md. App. 284, 292-93 (2013) (noting that the court is not required to hold a hearing before denying a motion for

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<sup>4</sup> Even assuming that Love had timely appealed from the ratification order, and thus was not required to demonstrate the existence of fraud, mistake, or irregularity in the judgment, we would still find no error. A debtor must raise all claims challenging the validity of a foreclosure prior to the foreclosure sale. *See Wells Fargo Home Mortgage, Inc. v. Neal*, 398 Md. 705, 726 (2007) (citations omitted). After the foreclosure sale, a debtor’s right to redemption ends and a debtor may only file exceptions challenging procedural irregularities in the foreclosure sale. *See Manigan v. Burson*, 160 Md. App. 114, 120 (2004) (“Ordinarily, upon the court’s ratification of a foreclosure sale objections to the propriety of the foreclosure will no longer be entertained.”). Here, Love did not raise any substantive challenges to the foreclosure action until her first revisory motion. However, that motion was not filed until after the foreclosure sale occurred and was ratified. Therefore, her challenges to the validity of the foreclosure were untimely.

reconsideration filed more than ten days after the entry of judgment because the denial of such a motion is not dispositive of a claim or defense).

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