Circuit Court for Montgomery County
Case No. 405774V

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 969

September Term, 2021

TIEMOKO COULIBALY

v.

DIANE ROSENBERG, *et al*.

Graeff,
Zic,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 25, 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.

In 2015, appellees, the substitute trustees, filed an Order to Docket seeking to foreclosure on real property owned by Tiemoko Coulibaly, appellant. Appellant filed a "response" (the response) wherein he set forth four "counts' against appellees: 1) violation of Maryland's Consumer Protection Act; 2) violation of the Maryland Consumer Debt Collection Act; 3) violation of the Maryland Mortgage Fraud Protection Act; and 4) declaratory and injunctive relief. In the response, appellant requested the court to stay or dismiss the foreclosure sale and to award him punitive damages of "at least $100,000,000."

Approximately two months later, appellant filed a motion for default judgment, asserting that appellees had failed to file a timely answer to the response. The court denied the motion on the grounds that the response did not constitute a counterclaim against appellees that was subject to a default judgment. Appellant filed a motion for reconsideration, which the court also denied. He then filed an interlocutory appeal to this Court. During the pendency of that appeal, appellees voluntarily dismissed the foreclosure action. Because the underlying case had been dismissed, this Court entered an order dismissing appellant's appeal.

In August 2017, appellees filed a new Order to Docket Foreclosure. Appellant's home was subsequently sold at a foreclosure auction, and the court ratified the sale in June 2018.[1] Following the foreclosure sale, appellant filed a new civil action against JPMorgan Chase Bank, N.A and two of the substitute trustees, Carrie M. Ward and Diane S. Rosenberg. That complaint, although sweeping in scope, raised, verbatim, the same four

[1] Appellant appealed from the ratification order and we affirmed. *Coulibaly v. Ward*, No. 809, Sept. Term 2018 (filed June 25, 2019).

causes of action that appellant had raised in the response. Appellees filed a motion to dismiss, contending that the claims were barred by res judicata because appellant had already raised them in prior lawsuits that he filed in federal court and alternatively, that the complaint failed to state a claim upon which relief could be granted. The court granted the motion to dismiss, and we affirmed the dismissal of the complaint on direct appeal. *Coulibaly v. Ward*, No. 3127, Sept. Term 2018 (filed Jan. 2, 2020).

In July 2021, appellant filed an "Emergency Second Motion for Default Judgment" in the 2015 foreclosure case, again claiming that the court was required to enter a default judgment because appellees had not filed an answer to the response. After the court denied that motion, appellant filed the instant appeal. On appeal, appellant raises three issues which reduce to one: whether the court erred in denying his second motion for default judgment. For the reasons that follow, we shall dismiss the appeal as moot.

"A question is moot if, at the time it is before the court, there is no longer an existing controversy between the parties, so that there is no longer any effective remedy which the court can provide." *Maryland Comm'n on Hum. Rels. v. Downey Commc'ns, Inc.*, 110 Md. App. 493, 512 (1996) (internal citation and quotations omitted). Here, appellant claims that the court should have entered a default judgment as to the counterclaims that he set forth in the response. However, after appellant filed the response, he also filed a separate civil action against the lender and two of the substitute trustees raising the exact same claims. That complaint was dismissed with prejudice and we affirmed the dismissal on appeal. Consequently, the doctrine of res judicata now bars appellant from litigating those claims in any other action. *See Anne Arundel Bd. Of Educ. v. Norville*, 390 Md. 93, 106

(2005) (noting that res judicata is "an affirmative defense [that] bar[s] the same parties from litigating a second lawsuit on the same claim" (quotation marks and citation omitted)); *see also Colandrea v. Wilde Lake Comm. Ass'n.*, 361 Md. 371, 392 (2000)(setting forth the elements of res judicata). Because the claims set forth in appellant's response have been fully adjudicated in another action, the issue of whether the court could have entered a default judgment against appellees with respect to those claims is moot because there is no longer any effective remedy that we can provide. Consequently, the appeal must be dismissed.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.