

Circuit Court for Caroline County
Case No. C-05-CV-16-000039

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1017

September Term, 2020

CHARLENE FERENSIC

v.

ANDY R. HAWKINS

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

JJ.

PER CURIAM

Filed: April 6, 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.

Charlene Ferensic, appellant, and Andy Hawkins, appellee, co-owned real property that was sold at a judicial sale. Ms. Ferensic now appeals from an order issued by the Circuit Court for Caroline County which directed the trustee to distribute funds from that sale to Mr. Hawkins to satisfy a judgment that had been previously entered in favor of Mr. Hawkins against Ms. Ferensic (the distribution order). On appeal, Ms. Ferensic challenges the underlying judgment that was entered against her and the court's order that denied her exceptions and ratified the sale of the property. Because those orders are not properly before the Court in this appeal, and Ms. Ferensic has not demonstrated that the court erred in entering the distribution order, we shall affirm the judgment of the circuit court.

The parties were involved in a romantic relationship and co-owned the property as tenants in common. When the relationship soured, Mr. Hawkins moved out and filed a Complaint for Sale in Lieu of Partition. Ms. Ferensic filed an answer and counterclaim, alleging that Mr. Hawkins owed her approximately \$172,000 for damage to the property. In September 2017, the parties presented a settlement agreement to the court, wherein Ms. Ferensic agreed to pay \$70,000 to Mr. Hawkins, with the first \$50,000 to be paid within one month and, in exchange, Mr. Hawkins agreed to transfer his interest in the property to Ms. Ferensic. The court adopted the agreement, directed counsel for the parties to submit an order setting forth the agreement, and granted the parties' joint motion to dismiss the case without prejudice. In October 2017, the court signed an order incorporating the settlement agreement.

Ms. Ferensic subsequently filed a "Motion to Strike Court Order," claiming that her attorney had not explained the settlement agreement to her and that she would not have

entered into the agreement had she fully understood its terms. Mr. Hawkins filed an opposition, wherein he requested the court to enter a judgment against Ms. Ferensic because she had not timely paid him the first \$50,000 as required under the settlement agreement. In December 2017, the court denied Ms. Ferensic’s motion to strike, and entered a judgment against her in the amount of \$70,000.

Ms. Ferensic filed a timely notice of appeal from the December 2017 judgment. Three days after she filed the notice of appeal, she also filed a “Motion to Revise Judgment,” asserting that the December 2017 judgment was “procured by fraud, mistake, or irregularity” because her attorney had exceeded his authority in entering into the settlement agreement. The court subsequently denied that motion without a hearing. Ms. Ferensic did not file a new notice of appeal from that order. On appeal, we affirmed the December 2017 judgment. We also held that we lacked jurisdiction to consider the court’s order denying the Motion to Revise Judgment because Ms. Ferensic’s notice of appeal had been ineffective with respect to that order. *See Ferensic v. Hawkins*, No. 2207, Sept. Term 2017 (filed Mar. 4, 2019).

After the mandate issued, the circuit court granted Mr. Hawkins’s motion to appoint a trustee to sell the property to satisfy the judgment, and the property was subsequently sold at auction to a third-party in June 2019 for \$141,000. Ms. Ferensic filed exceptions to the sale, which were overruled, and the court entered an order ratifying the sale in August 2019 (the ratification order). Ms. Ferensic did not file a timely notice of appeal from the ratification order.

Following the ratification of the sale, Mr. Hawkins filed a motion requesting the court to order the trustee to distribute to him from the proceeds of the sale: (1) \$70,000, plus \$10,298.63 in post-judgment interest, to satisfy the judgment that had been entered in his favor against Ms. Ferensic, and (2) \$9,945.00 in attorney’s fees. Following a hearing, the court granted the motion in part, and ordered the trustee to distribute the \$70,000 plus post-judgment interest to Mr. Hawkins. With respect to attorney’s fees, the court ordered the trustee not to distribute the requested amount until a hearing could be held to determine whether attorney’s fees were in fact recoverable. Mr. Hawkins filed a timely notice of appeal from the distribution order.

On appeal, Ms. Ferensic claims that the December 2017 judgment was entered without her consent and in violation of her due process rights. She also contends that the court committed various errors when it denied her exceptions and ratified the foreclosure sale. However, Ms. Ferensic has already appealed from the December 2017 judgment, and this Court affirmed. Therefore, any claims with respect to that judgment are barred by the law of the case doctrine. *See Baltimore County v. Baltimore County Fraternal Order of Police, Lodge No. 4*, 220 Md. App. 596, 659 (2014) (noting that “neither the questions decided [by the appellate courts] nor the ones that could have been raised and decided are available to be raised in a subsequent appeal” (quotation marks and citation omitted)). Moreover, Ms. Ferensic did not file a timely notice of appeal from her motion to revise the December 2017 judgment or from the final judgment ratifying the foreclosure sale. Therefore, we may not consider the validity of those orders in this appeal.

Finally, Ms. Ferensic does not raise any specific claims of error with respect to the distribution order, the only order that is properly before us. Therefore, we will not consider whether the court erred in entering that order on appeal. *See Diallo v. State*, 413 Md. 678, 692 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (citation omitted)). Because appellant ultimately bears the burden of demonstrating that the court committed reversible error in issuing the distribution order, and she has not done so, we shall affirm the judgment of the circuit court.

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

The correction notice(s) for this opinion(s) can be found here:

<https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/1017s20order.pdf>