

Circuit Court for Montgomery County
Case No. 464345V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1269

September Term, 2020

SCOTT WEBBER

v.

LAURA O’SULLIVAN, *et al.*

Graeff,
Ripken,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 2, 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.

Appellees, the substitute trustees,¹ filed an Order to Docket foreclosure in the Circuit Court for Montgomery County seeking to foreclose on real property owned by Scott Webber, appellant. In August 2019, appellant filed a “Motion to Vacate and Motion to Stay Sale and Motion to Dismiss” (first Motion to Vacate) claiming that appellees had failed to comply with the post-file mediation requirements set forth in § 7-105.1 of the Real Property Article; that his loan had been previously modified to a 0% interest rate; and that the loan had been discharged in bankruptcy. The court held a two-day evidentiary hearing and denied the motion, finding that it was untimely, and that Mr. Webber had failed to prove that he had a valid defense to the foreclosure action. The order denying the First Motion to Vacate was entered on October 8, 2020. On October 29, 2020, appellant filed a “Motion to Revise/Correct Error” (Motion to Revise) pursuant to Maryland Rule 2-535(a) challenging several factual findings in the court’s October 8 order. That motion was initially set for hearing on January 19, 2021. However, appellees filed a motion to strike the hearing and allow the sale to proceed. The court granted the motion to strike and denied the Motion to Revise without a hearing on December 30, 2020.

After the court denied the first Motion to Vacate, and prior to the court denying the Motion to Revise, Mr. Webber also filed three additional motions to stay or dismiss the foreclosure sale: Two of these motions, entitled “Emergency Motion to Stay” and “Amended Motion to Vacate” were denied without a hearing on December 1, 2020. The

¹ Appellees are Laura O’Sullivan, Chasity Brown, Michael Cantrell, Jessica Horton, and Rachel Kiefer.

third motion entitled “Supplemental Motion to Dismiss,” was denied without a hearing on December 11, 2020. The sole claim raised in the Supplemental Motion to Dismiss was that the foreclosure action was barred by the statute of limitations. Appellant filed his notice of appeal on January 8, 2021. Thereafter, he filed two additional motions to stay the foreclosure action, which were denied on February 10, 2021, and February 20, 2021 respectively.

On appeal, Mr. Webber contends that the court erred in denying all of the foregoing motions without holding a hearing. For the reasons that follow, we hold that the only orders that are properly before us in this appeal are the court’s December 11, 2020 order denying the Supplemental Motion to Dismiss and December 30, 2020 order denying the Motion to Revise. Because the court did not err in denying those motions without a hearing, we shall affirm the judgment of the circuit court.

Generally, parties may appeal only upon the entry of a final judgment. *See* Cts. & Jud. Proc. Art. § 12-301. And at the time Mr. Webber filed his notice of appeal no final judgment had been entered in this case because the court had not yet ratified the foreclosure sale. *See Huertas v. Ward*, 248 Md. App. 187, 205 (2020) (holding that an order ratifying a foreclosure sale constitutes the “final judgment as to any rights in the real property”). To be sure, a motion to stay or dismiss filed in a foreclosure case is appealable on an interlocutory basis as an order refusing to grant an injunction. *Id.* at 202. But like an appeal from a final judgment, an appeal from such an interlocutory order must still be filed within 30 days from the date that order is entered. *In re Guardianship of Zealand W.*, 220 Md. App. 66, 78-79 (2014).

In the instant case, Mr. Webber filed his notice of appeal on January 8, 2021. Therefore, his appeal was untimely as to the court’s October 8 order denying his first Motion to Vacate and the court’s December 1 orders denying his Emergency Motion to Stay and Amended Motion to Vacate.² Moreover, to the extent Mr. Webber is seeking appellate review of the court’s February 2021 orders, his notice of appeal was premature as to those orders and therefore is “of no force and effect.” *Makovi v. Sherwin Williams, Co.*, 311 Md. 278, 282-83 (1987) (“[W]hen an order of appeal is filed before there is an appealable judgment the order of appeal is of no force and effect.” (internal quotation marks and citation omitted)). Consequently, the only orders that we may review in this appeal are the court’s December 11, 2020 order denying his “Supplemental Motion to Dismiss” and the December 28, 2020 order denying his “Motion to Revise/Correct Error.”³

As to those motions, the court did not err in denying them without a hearing. The Motion to Revise was filed pursuant to Maryland Rule 2-535(a) and therefore no hearing was required. *See Llantén v. Cedar Ridge Counseling Centers, LLC*, 214 Md. App. 164, 178 (2013) (“The denial of a motion to alter or amend or a motion to revise [pursuant to Rule 2-535(a)] is not a dispositive motion and therefore, requires no hearing even if one was requested.”). Moreover, a hearing is only required on the merits of a motion to stay or dismiss a foreclosure action when that motion is timely filed and states on its face a

² Although Mr. Webber filed a motion to revise the October 8 order it did not toll the time for him to file his appeal as it was filed more than 10 days after the October 8 order was entered. *See* Maryland Rule 8-202(c).

³ We note that Mr. Webber may still obtain review of the other orders in an appeal taken from the court’s final judgment ratifying the sale. *Huertas*, 248 Md. App. at 204 n.6.

defense to the validity of the lien or the right of the plaintiff to foreclose. *See* Maryland Rule 14-211(b)(2). The sole claim raised in Mr. Webber’s Supplemental Motion to Dismiss was that the foreclosure action was barred by the three-year statute of limitations. However, we have previously held that no statute of limitations applies to mortgage foreclosure actions in Maryland. *Daughtry v. Nadel*, 248 Md. App. 594, 631 (2020). Consequently, the court also did not err in denying the Supplemental Motion to dismiss without a hearing.

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