UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1361

September Term, 2014

YVONNE W. GIPSON

v.

THOMAS P. DORE, et al.
SUBSTITUTE TRUSTEES

Meredith,
Berger,
Kenney, James A., III
(Retired, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: August 20, 2015

In March 2005, Yvonne Gipson, appellant, financed the purchase of a parcel of real property located in Annapolis, Maryland, by a loan secured by a deed of trust (herein referred to as the "mortgage"). In May 2010, appellant failed to make the required monthly mortgage payment and defaulted on the loan. The lender subsequently appointed Thomas Dore, Mark Devan, Gerard Miles, Jr., Shannon Menapace, and Erin Gloth — collectively, the appellees in this case — to serve as substitute trustees. On March 7, 2012, appellees initiated foreclosure proceedings by filing an Order to Docket in the Circuit Court for Anne Arundel County. The property was ultimately sold to the secured party at auction in May 2013, and the sale was ratified in July 2014. In this appeal, appellant argues that the circuit court erred by denying her various defenses to the foreclosure action and by failing to conduct a hearing on her pre-sale motions. Appellant also maintains that the price obtained for the property at the foreclosure sale was unconscionably low.

QUESTIONS PRESENTED

Appellant submitted four questions for our review, which we have consolidated and rephrased as follows[1]:

[1] Appellant submitted the following questions for our review:

1. Did the Circuit Court err in declaring that the Order to Docket was complete despite irregularities raised by the Appellant pre-sale and post-sale regarding the Notice of intent, incomplete paperwork and evident deficiencies in the timing of the recording of the Substitute Trustee's Deed?

2. Whether denial of Motion to Shorten Time to Respond and to Set Expedited Hearing pre-sale was a denial of the Appellant's due process rights?

(continued...)

1. Did the circuit court err by denying appellant's pre-sale motions to prevent the foreclosure sale?

2. Did the circuit court err by ruling on appellant's pre-trial motions without conducting a hearing?

3. Was the foreclosure sale price unconscionably low?

Because we answer these three questions in the negative, we affirm the judgment of the Circuit Court for Anne Arundel County.

FACTS & PROCEDURAL HISTORY

On March 2, 2005, appellant borrowed $560,000 to finance the purchase of an unimproved parcel of real property located at 1404 Chesapeake Avenue in Annapolis, Maryland. The obligation to repay the loan was secured by a mortgage lien against the real property. After purchasing the land, appellant built a single family home on the property. Appellant and the lender twice agreed to modify the terms of the loan — the first time was in June 2005, and the second was in December 2009.

On May 2, 2010, appellant failed to make the monthly mortgage payment on the property and defaulted on the loan. On February 11, 2011, the lender sent appellant a

(...continued)

3. Did the Circuit Court err in denying Appellant's pre-sale requests for information agreed to by Appellee's during mediation?

4. Did the Circuit Court err in failing to find the sales price unconscionable and inappropriately base its decision on prejudicial inaccurate personal judicial testimony during the trial that suggested a biased and unfair determination?

document entitled Notice of Intent to Foreclose, informing her that she was in default on the loan and that she was at risk of losing her home. Appellees initiated mortgage foreclosure proceedings on March 7, 2012, by filing an Order to Docket in the circuit court. The Order to Docket contained a preliminary loss mitigation affidavit, dated January 19, 2012, which indicated that the lender had been unable to consider appellant for a loan modification because appellant had not submitted the required documents for the lender's review. The Order to Docket also contained several other statutorily-required affidavits prepared by appellees that were dated March 6, 2012. On May 15, the lender submitted a final loss mitigation affidavit, dated April 19, 2012, which stated that appellant was denied a loan modification because she had failed to submit the necessary documents.

On May 18, 2012, appellant filed a Motion to Strike the Order to Docket ("Motion to Strike"), arguing that appellees failed to wait the required 45 days after sending her the Notice of Intent to file the Order to Docket, as mandated by Maryland Code, Real Property Article, § 7-105.1(c). Appellant also contended that appellees failed to include the required "mediation opt in form" with the Order to Docket, and that the "legal pleadings provided [to Appellant] were not even executed before delivery." Included with the motion was an affidavit from appellant which stated that she was personally served with both the Notice of Intent to Foreclose and the Order to Docket on April 19, 2012. The circuit court denied appellant's motion without a hearing. After the parties participated in an unsuccessful foreclosure mediation session, the foreclosure sale was scheduled for October 4, 2012.

On September 28, 2012, appellant filed a Motion to Dismiss Order to Docket; Stay Foreclosure ("Motion to Dismiss"), arguing that the foreclosure action should be stayed or dismissed because appellees failed to adequately respond to her request for "information about her loan, its transfers, and the account statement." When the Motion to Dismiss was filed, the motion did not include a request for a hearing. At approximately 3:30 p.m. on October 3, appellant filed a Motion to Shorten Time to Respond and to Set Expedited Hearing ("Motion to Shorten Time"), reiterating that appellees had failed to provide her with the requested information about her loan and asking the court to stay the sale or dismiss the foreclosure action altogether. That motion included a request for an expedited hearing. For reasons that are not clear from the record, appellees did not proceed with the foreclosure sale on October 4. After hearing from both sides via conference call, the circuit court denied appellant's Motion to Shorten Time on October 10, 2012.

On May 16, 2013, appellees conducted the foreclosure sale and sold the property to the secured party for $598,500. Appellant subsequently filed exceptions to the sale pursuant to Maryland Rule 14-305, arguing, among other things, that appellees were not properly appointed as substitute trustees, and that the foreclosure sale price was unconscionably low. The circuit court denied appellant's post-sale exceptions without a hearing. Appellant subsequently filed a motion for reconsideration. While the motion was pending, appellant filed for bankruptcy in the United States Bankruptcy Court, which imposed an automatic stay on the foreclosure proceeding. On April 15, 2014, after the bankruptcy stay was lifted, the

circuit court agreed to reconsider its denial of appellant's post-sale exceptions, and scheduled a hearing for July 9, 2014.

At the beginning of the July 9 hearing, appellant's attorney conceded that appellees were properly appointed as substitute trustees, stating:

> Your honor, we made exceptions on four different grounds. The first one, I remove the exception. Our first exception, we believe that the substitute trustee had not been properly appointed before the sale. That would have been a very nice way to win the case, but in the opposition they produced the duly recorded substitution . . . so that is not a valid exception, it is removed from this argument.

The remainder of the hearing focused on the value of appellant's property and whether the foreclosure sale price was unconscionable. Appellant was the only witness who testified at the hearing. Appellant testified that her home had six bedrooms, and was located across the street from Oyster Creek, approximately two blocks from the Chesapeake Bay. Appellant conceded that the property's tax assessed value was $752,000, but expressed her belief as owner that the fair market value of the property was between $1,100,000 and $1,200,000. Appellant presented computer printouts from an online real estate database which showed the purchase prices of other homes in the surrounding communities that appellant asserted were comparable to her house. One of these printouts stated that a four bedroom waterfront property located in the Fishing Creek Farm neighborhood sold for $1,125,000 in July 2013. The circuit court judge remarked that, based on his longstanding familiarity with the area, he did not believe that the Fishing Creek Farm property was comparable to appellant's property, stating "I can assure you that Fishing Creek Farm is different than where your property is located." During the hearing, appellant's attorney acknowledged that, assuming

the property's tax assessed value of approximately $752,000 was accurate, a foreclosure sale price of around $600,000 would be unlikely to "shock the conscience" of the court.

At the end of the hearing, the circuit court denied appellant's exceptions, and explained:

> Well, I have listened to the argument. I can understand Ms. Gipson being 75 years of age and having put her life into this house, but in this case the Plaintiff has complied with all the rules and regulations required in the rules of this Court. The procedural matters that you talk about, I really don't find any merit to. The real issue in this case is whether there was a proper sale price, and in this case the sale brought at least 80 percent value based upon the estate assessed value.
>
> So under the circumstances — and then looking over these properties [presented by appellant as evidence of her property's value], these properties are really different than her property. These properties are located on the water front in Bay Ridge and Fishing Creek Farm. Every one of those homes are over $1,000,000.000 over there. These are just the houses you picked out that brought over $1,000,000.00. I don't think it — it certainly doesn't shock the conscience of the Court with regard to the value.
>
> So under the circumstances, I am going to deny your motion and I am going to ratify the sale.

The circuit court issued a written order dated July 9, 2014, ratifying the foreclosure sale. On July 21, 2014, appellant filed a second motion for reconsideration, asking the court to once again revisit the denial of her post-sale exceptions. The circuit court denied the motion on August 7. Appellant filed a notice of appeal on September 4, 2014.

DISCUSSION

The issues raised on appeal fall into three broad categories. First, appellant alleges that a number of procedural irregularities occurred prior to the foreclosure sale, and she argues that the circuit court erred by failing to stay or dismiss the foreclosure action. Second,

she argues that the circuit court erred by failing to conduct a pre-sale hearing on her Motion to Dismiss and Motion to Strike. Finally, she asserts that the circuit court erred by ratifying the sale because, in her view, the foreclosure sale price was unconscionably low. These arguments are all without merit.

I. Denial of Appellant's Objections to the Foreclosure Sale

Appellant contends that the circuit court erred by denying the defenses to the foreclosure action raised in her Motion to Strike, Motion to Dismiss, and post-sale exceptions. More specifically, appellant argues that she did not receive a timely Notice of Intent to Foreclose from appellees, that the Order to Docket contained "unexecuted documents . . . as well as missing information," and that appellees lacked the authority to foreclose on the property because they were not properly appointed as substitute trustees. Appellant also argues that the circuit court should have dismissed the foreclosure action because the lender failed to inform her of "the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and sale," as required by the deed of trust. Finally, she asserts "the Deed of Trust was unenforceable for failure of the Affidavit of Consideration under the Code of Maryland RP §4-106," and that appellees misrepresented the status of her loan modification application in the loss mitigation affidavits. We will address these claims in turn.

A. Timeliness of the Notice of Intent to Foreclose

Appellant argues that the circuit court should have dismissed the foreclosure action because the Notice of Intent to Foreclose was sent in February 2011, more than a year before appellees ultimately initiated the foreclosure process by filing the Order to Docket. Relying on *Granados v. Nadel*, 220 Md. App. 482 (2014), appellant suggests that, once a lender sends a Notice of Intent to Foreclose to a borrower in default, the lender has a limited period of time in which it must file the Order to Docket before the Notice of Intent becomes stale. Stated differently, she argues that, if too much time passes between the sending of the Notice of Intent and the filing of the Order to Docket, the lender must restart the foreclosure process from the beginning by sending a new Notice of Intent to the borrower.

Putting aside the substantial factual differences between the instant case and *Granados*, we do not reach the merits of appellant's argument because it was not raised in the circuit court, and therefore the issue is not preserved for our review. *See* Maryland Rule 8-131(a) ("Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court . . . "). *See also Fraternal Order of Police, Montgomery Cnty. Lodge 35 v. Montgomery Cnty.*, 437 Md. 618, 630 (2014) ("[T]he appellate court is limited ordinarily to the arguments raised by the parties and the issues decided by the lower courts."). Although appellant did object to the timing of the filing of the Notice of Intent in her May 2012 Motion to Strike, the substance of her argument was entirely different than that presented here. In the Motion to Strike, appellant asserted that she was not provided with the Notice of Intent until April 2012, approximately

a month after appellees initiated foreclosure proceedings by filing the Order to Docket. Appellant argued in that motion that, under Maryland Code, Real Property Article § 7-105.1(c), appellees were required to wait 45 days after the filing of the Notice of Intent to file the Order to Docket, and therefore, the Order to Docket was filed prematurely. In short, although the issues raised in the Motion to Strike and this appeal both concern the timing of the filing of the Notice of Intent relative to the Order to Docket, in the Motion to Strike, appellant argued that the Notice of Intent was filed too late, and on appeal she argues that it was filed too early. These are fundamentally different arguments, and therefore appellant's argument that the Notice of Intent became stale by the time appellees filed the Order to Docket is not preserved for our review.

B. Flaws in Documents Submitted with the Order to Docket

In her brief, appellant suggests that the circuit court erred by allowing the foreclosure sale to proceed, because appellees "submitted unexecuted documents in the Order to Docket, as well as missing information." Appellant does not identify which documents she believes were missing or defective, and does not provide any legal argument or citations to legal authority explaining why she was entitled to a stay or dismissal of the foreclosure action based on this alleged circumstance. Because appellant's brief fails to provide any legal or factual support for this claim of error, the argument is waived and we will not address the potential merits of her contentions. *See Anderson v. Litzenberg*, 115 Md. App. 549, 577–78 (1997) (refusing to address argument where appellants did not cite any legal authority in

support of their contentions). *See also Brass Metal Prods., Inc. v. E-J Enters., Inc.*, 189 Md. App. 310, 380 (2009) (same).

C. Appointment of Appellees as Substitute Trustees

Appellant argues that the circuit court erred by failing to strike the Order to Docket, because the Order to Docket contained "no evidence of a recorded Declaration of Substitution of Trustees." This argument is without merit for a number of reasons. First, despite appellant's contentions to the contrary, the record clearly reflects that appellees filed a copy of the Declaration of Substitute Trustees with the Order to Docket which was filed on March 7, 2012. Further, at the hearing on appellant's post-sale exceptions, appellant's counsel conceded that appellees had provided documentation showing that they had been properly appointed as substitute trustees and demonstrating that their appointment had been properly recorded.

Additionally, even if appellant's allegation was supported by the record, the issue was waived because she did not timely raise this argument before the circuit court. Appellant did not raise the argument in either of her pre-sale motions, but instead, presented the argument for the first time in her Rule 14-305 post-sale exceptions. As our appellate courts have held numerous times, "Rule 14-305 is not an open portal though which any and all pre-sale motions may be filed as exceptions, without regard to the nature of the objection or when the operative basis underlying the objection arose and was known to the borrower." *Bates v. Cohn*, 417 Md. 309, 327 (2010). *See also Thomas v. Nadel*, 427 Md. 441, 445 (2012) ("[T]he adoption of Maryland Rule 14-305 . . . limited the permissible scope of post-sale

exceptions to 'irregularities [with the foreclosure sale].'"). Rule 14-211 requires a homeowner to raise any available defenses to the foreclosure sale prior to the foreclosure sale, including a challenge to the lender's right to foreclose. *Bates, supra*, 417 Md. at 328–29. *See also* Maryland Rule 14-211(a)(3) ("A motion to stay and dismiss shall . . . state with particularity the factual and legal basis of each defense that the moving party has to the validity of the lien or the lien instrument or to the right of the [lender] to foreclose in the pending action."). But, after the foreclosure sale has taken place, the borrower can challenge *only* procedural irregularities in the sale or with the statement of indebtedness. *Bates, supra*, 417 Md. at 327. If a defense to the right of the trustees to proceed with the sale is not timely raised in a pre-sale motion, it is waived. Because appellant failed to raise the issue of the appointment of the substitute trustees prior to the foreclosure sale, this argument was not timely presented, and therefore, the circuit court did not err by refusing the overturn the sale on that basis. Further, even if the issue had been timely raised in the circuit court, appellant's argument would fail because her brief does not cite to any legal authority supporting her contention that she is entitled to relief. *See Anderson, supra*, 115 Md. App. at 577–78.

Notwithstanding her previous contention that appellees failed to provide a valid Declaration of Substitution of Trustees, appellant later acknowledges in her brief that a valid Declaration was properly filed on March 7, 2012. However, she argues that the Order to Docket was fatally flawed because it contained affidavits prepared prior to March 7, and that indicates to her that appellees prepared the affidavits before they had the authority to do so. This argument was not presented in the circuit court, and therefore, it is not preserved for our

review. Maryland Rule 8-131(a) (appellate courts will not address issues not raised or ruled on in the circuit court). Additionally, even if the argument had been preserved for our review, appellant's argument would fail because she does not provide any legal authority explaining why this alleged defect in the affidavits entitles her to relief. *See Anderson, supra*, 115 Md. App. at 577–78 (court will not address arguments not supported by legal argument or citation to legal authority).

D. Lender's Failure to Inform Appellant of Right to Defend Action

Appellant also argues that the circuit court erred by ratifying the sale because, she asserts, the lender failed to provide her with a notice "inform[ing her] of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and sale," as required by the deed of trust. This argument is unavailing because appellant did not raise it in either of her pre-sale motions, and instead, presented it for the first time in her Rule 14-305 post-sale exceptions. As discussed above, a borrower must raise any defenses to the trustees' right to conduct the foreclosure action *before* the sale takes place. *Bates, supra*, 417 Md. at 328–29. After the sale is conducted, the borrower can challenge only procedural irregularities which occurred in the sale itself and cannot assert substantive defenses to the right of the lender to conduct the foreclosure action. *Id*. Because this aspect of appellant's claim related to the lender's right to foreclose, rather than an irregularity during the foreclosure sale, the argument was not cognizable as a post-sale exception, and therefore, the circuit court did not err by ratifying the sale.

Additionally, even if the issue had been timely raised in the circuit court, we fail to see how appellant was prejudiced by the alleged irregularity. In order to set aside the sale, appellant must do more than simply allege that an irregularity occurred during the foreclosure process — she must demonstrate that her substantial rights were negatively affected. *Bachrach v. Washington United Coop., Inc.*, 181 Md. 315, 320 (1943) ("It is essential to the prompt administration of justice that the rule be inviolably observed that no court shall set aside a foreclosure sale merely because of harmless errors or irregularities committed in connection with the exercise of the power of sale, or for any slight or frivolous reasons not affecting the substantial rights of the parties."). The Court of Appeals has stated: "The party excepting to the sale bears the burden of showing that the sale was invalid, **and must show that any claimed error caused prejudice**." *Fagnani v. Fisher*, 418 Md. 371, 384 (2011) (emphasis added). Here, appellant filed two pre-sale motions, post-sale exceptions, and multiple motions for reconsideration. She demonstrated that she was aware that she had the right to fight the foreclosure action in court even if she did not receive this particular notice. As a result, she did not show that this claimed error caused her prejudice.

E. Validity of the Affidavit of Consideration

Appellant asserts: "[T]he Deed of Trust was unenforceable for failure of the Affidavit of Consideration Under the Code of Maryland RP §4-106." Appellant does not explain how the affidavit was defective and does not cite to any legal authority to support her apparent contention that a defect in the affidavit of consideration merits dismissal of a foreclosure action. As a result, we will not address the merits of this argument. *See Anderson, supra*,

115 Md. App. at 577–78 (court will not address arguments not supported by citation to legal authority). *See also Rollins v. Capital Plaza Assocs., L.P.*, 181 Md. App. 188, 201–02 (2008) (court need not delve through record to find factual support for appellant's arguments and will not seek out law to sustain her legal contentions).

F. Alleged Misrepresentations in Loss Mitigation Affidavits

Appellant also contends that the circuit court erred by ratifying the foreclosure sale in the face of alleged inaccuracies in the preliminary and final loss mitigation affidavits filed by appellees. First, appellant asserts that the preliminary loss mitigation affidavit — which was filed with the Order to Docket in March 2012 and stated that appellant had failed to produce the documents necessary to process her application for a loan modification — was inaccurate because it was prepared on January 19, 2012, and therefore was "clearly not an accurate reflection of [her] efforts to seek out loss mitigation at the time of the March filing." Appellant did not raise this objection in either of her pre-sale motions or Rule 14-305 post-sale exceptions, and therefore the issue is not preserved for our review. *See* Maryland Rule 8-131(a) (appellate court will not address arguments not raised in the circuit court). Additionally, even if the issue was preserved, appellant does not cite any evidence in the record proving that the affidavit was inaccurate, nor does she provide any legal authority that demonstrates that she was entitled to relief on this basis. *See Anderson, supra*, 115 Md. App. at 577–78.

Appellant also asserts that the May 2012 final loss mitigation affidavit — which also stated that her application for a modification had been denied due to her failure to submit the

required documentation — was defective because, "by April 19, [2012] . . . Appellant had an active workout package with the Servicer." She asserts that appellees falsely stated that she had not submitted the necessary documents in order to "facilitate an expedited sale so that the Lender/Services can just check mediation off the list because, perhaps, they never intended on objectively evaluating the Appellant for any available modification or workout options." Once again, appellant fails to identify any evidence in the record proving that appellees misrepresented her efforts to obtain a loan modification. Because appellant's allegations of misconduct are without factual or legal support, she cannot prevail in this appeal on that basis. *Rollins, supra*, 181 Md. App. at 201–02 (appellate court will not comb through record and caselaw to find evidentiary or legal support for a party's contentions). Further, appellant did not raise this issue in either of her pre-sale motions, and instead raised it for the first time in her post-sale exceptions. As discussed previously, a borrower must raise all known defenses to the foreclosure sale, including the lender's failure to properly consider the borrower for a loan modification, prior to the foreclosure sale. *Bates, supra*, 417 Md. at 329 ("[A] lender's failure to comply with loss mitigation requirements goes it its *right* to foreclose, rather than its procedural handling of the sale. As a result, a homeowner, who wishes to use the lender's failure as the basis of his of her claim, must do so through Rule 14-211's pre-sale injunctive relief apparatus."). Because appellant did not timely raise the issue in the circuit court, the court did not err by denying her exception to the sale.

II. Circuit Court's Failure to Conduct Hearing on Appellant's Pre-Sale Motions

Appellant argues that the circuit court erred and "created an irreparable hampering of her due process rights" by failing to conduct a pre-sale hearing on her Motion to Strike and Motion to Dismiss. This argument is without merit. The circuit court is not required to conduct a hearing on every motion challenging the validity of a foreclosure action. Maryland Rule 14-211(a)(3)(B) provides that a pre-sale motion to stay or dismiss a foreclosure action must "state with particularity the factual and legal basis of each defense that the moving party has to the validity of the lien or the lien instrument or to the right of the plaintiff to foreclose in the pending action." If the motion "does not on its face state a valid defense to the validity of the lien instrument or to the right of the plaintiff to foreclose," the circuit court "**shall** deny the motion, **with *or without* a hearing**." Md. Rule 14-211(b)(1) (emphasis added). If the court concludes — as the circuit court did in this case — that the motion does not meet the standard for relief, the court is authorized to deny the motion without holding a hearing. The circuit court's determination that the motion did not state a valid defense to the foreclosure sale, and therefore that the matter did not warrant a hearing, is reviewed *de novo*. *Buckingham v. Fisher*, 223 Md. App. 82, 93 (2015) ("[W]e review the circuit court's decision to decline to hold an evidentiary hearing on the merits to determine whether or not it was legally correct.").

We note that appellant did not request a hearing in either her Motion to Strike or in her Motion to Dismiss, which were filed on May 18 and September 28, 2012, respectively. Instead, appellant first requested a pre-sale hearing on her motions in her Motion to Shorten

Time, which was filed at 3:30 p.m. on October 3, 2012, the day before the foreclosure sale was scheduled to take place. By the time appellant actually requested a hearing, conducting a pre-sale hearing was, for all practical purposes, impossible.

Additionally, none of the motions that appellant filed prior to the foreclosure sale stated a valid defense to the foreclosure action. To merit relief under Rule 14-211, any defenses to the foreclosure must be pled with particularity. *Id*. at 91–92. *See also* Md. Rule 14-211(a)(3) ("A motion to stay and dismiss shall . . . state with particularity the factual and legal basis of each defense that the moving party has to the validity of the lien or the lien instrument or to the right of the plaintiff to foreclose in the pending action."). This means that "each element of a defense must be accompanied by some level of factual and legal support," and that "[g]eneral allegations will not be sufficient to raise a valid defense requiring an evidentiary hearing on the merits." *Buckingham, supra*, 223 Md. App. at 92. Here, appellant's various pre-sale motions included inadequate legal support and consisted of little more than bare allegations of wrongdoing by appellees. Given the conclusory nature of the allegations contained in the motions, as well as the lack of legal authority supporting appellant's requests for a stay or dismissal of the foreclosure action, the circuit court did not err by denying appellant's motions without conducting a hearing.

IV. Validity of the Foreclosure Sales Price

Appellant argues that circuit court erred by overruling her exceptions to the foreclosure sale, because the price the property sold for at auction — $598,500 — was, in her view, unconscionably low. She also asserts that the circuit court judge who conducted

the hearing on her post-sale exceptions had an "inappropriate bias," as evinced by his conclusion that appellant's property was not comparable to another property in a nearby neighborhood that had recently sold for $1,125,000. Again, we are not persuaded.

When ruling on exceptions to a foreclosure sale, "the court considers both questions of fact and law." *Maddox v. Cohn*, 199 Md. App. 63, 70 (2011), *rev'd on other grounds*, 424 Md. 379 (2012). "On appeal, we defer to the trial court's factual findings unless they are clearly erroneous, while '[q]uestions of law decided by the trial court are subject to a de novo standard of review.'" *Id*., 199 Md. App. at 70 (quoting *Jones v. Rosenberg*, 178 Md. App. 54, 68 (2008)). The circuit court's determination that a foreclosure sale price was legally adequate is reviewed for clear error. *See Griffin v. Shapiro*, 158 Md. App. 337, 351–52 (2004).

A foreclosure sale is presumptively valid and fair, and the borrower "has the burden to prove that the sale was invalid." *Maddox, supra*, 199 Md. App. at 70. Mere "inadequacy of price alone will not prevent ratification of a foreclosure sale 'unless it is so grossly inadequate as to shock the conscience of the court.'" *Hurlock Food Processors Inv. Assocs. v. Mercantile-Safe Deposit Trust Co.*, 98 Md. App. 314, 340 (1993) (*quoting Garland v. Hill*, 277 Md. 710, 712–13 (1976)). "[M]ere inadequacy of price[,] unless it be so glaring and palpable as to indicate fraud or unfairness, or suggest that the trustee lacked the judgment and skill necessary to any adequate administration of the duties of his office, will not be accepted as sufficient ground to set aside a sale fairly made." *Ten Hills Co. v. Ten Hills Corp.*, 176 Md. 444, 449 (1939).

As our appellate courts have acknowledged, the price obtained for a property in foreclosure is rarely equal to the price that could be obtained if the property was sold voluntarily by a willing seller. *Hurlock Food, supra*, 98 Md. App. at 344. *See also McCartney v. Frost*, 282 Md. 631, 640 (1978) ("One does not expect a price produced at a foreclosure sale to be commensurate with the fair market value."). Accordingly, our courts have held on numerous occasions that foreclosure sale prices well below the asserted market value of the property do not shock the conscience of the court. *See, e.g., Fagnani v. Fisher*, 190 Md. App. 463, 474–75 (2010) (foreclosure sale price of $83,800 for a half interest in property with tax assessed value of $327,730 did not shock court's conscience), *aff'd*, 418 Md. 371, 394-95; *Griffin, supra*, 158 Md. App. at 351–52 (affirming circuit court's conclusion that foreclosure price that was between 45% and 53% of property's value did not shock the conscience); *Hurlock Food, supra*, 89 Md. App. at 342 (affirming ratification of sale where foreclosure price was 37% of asserted value). *But see McCartney, supra*, 282 Md. at 640 (foreclosure price that was approximately 11% of assessed value was unconscionably low).

We conclude that the court did not clearly err by concluding that the foreclosure price did not shock the conscience of the court. The evidence presented at the hearing showed that the price obtained for the property at the foreclosure sale was approximately 80% of the property's tax assessed value, which is a greater percentage than we approved in *Fagnani*, *Griffin*, and *Hurlock Foods*. Appellant's attorney even conceded at the exception hearing that a foreclosure sale price that was 80% of the property's assessed value was not likely to

shock the court's conscience. Although appellant testified that she believed her property was worth substantially more than the tax assessment value, she failed to present any appraisal evidence showing that her property was worth more, and the trial court was not obligated to accept her opinion on this issue.

Appellant maintains that the circuit court erred by refusing to credit her testimony that the property was worth between $1,100,000 and $1,200,000, and by asserting that her house was not comparable to properties located in nearby Fishing Creek Farms. In her view, by refusing to accept her testimony regarding the value of the property, the court "gave the appearance of inappropriate testimony and bias." We do not agree. When the court is the factfinder, the judge may "draw his own conclusions as to the evidence presented, the inferences arising therefrom, and the credibility of the witnesses testifying." *Homa v. Friendly Mobile Manor, Inc.*, 93 Md. App. 337, 358 (1992) (internal quotations omitted).

Finally, appellant asserts in her brief that:

> The "Purchaser's Affidavit" was executed by "Brandon M. Kilberg" who is a member of the law firm of the Substitute Trustee, "Covahey, Boozer, Devan & Dore, PA" (aka Alba Law Group) as agent for HSBC Bank USA, National Association as Trustee for GSAA Home Equity Trust 2005-15 which raises obvious questions regarding whether the fix was in and whether the foreclosure sales price was intentionally or artificially kept low.

Appellant did not raise this issue in the circuit court, and on appeal, she does not explain why this proves that "the fix was in," or why it would require us to reverse the ratification of the

foreclosure sale. Because this assertion was not supported by legal argument or citation, we will not address the merits of her contentions. *Anderson, supra*, 115 Md. App. at 577–78.

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