

Circuit Court for Montgomery County
Case No. 427991V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1757

September Term, 2019

DEBRA BONILLA-MEAD

v.

HSBC MORTGAGE
SERVICES, INC. NY, *et al.*

Beachley,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 17, 2020

*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 2006, Debra Bonilla-Mead, appellant, executed a Note and Deed of Trust in the principal amount of \$364,000 in favor of HSBC Mortgage Services, Inc. NY, appellee (HSBC). The Deed of Trust was secured by real property located at 19705 Greenside Terrace, Gaithersburg, Maryland (the property). Ms. Bonilla-Mead has been in default under the Deed of Trust since November 2008. In 2010, HSBC appointed substitute trustees who filed an Order to Docket Foreclosure in the Circuit Court for Montgomery County; however, that case was ultimately dismissed. In 2016, the Note was assigned to Deutsche Bank Trust Company Americas, as Trustee for Residential Accredited Loans, Inc., Mortgage Asset Backed Pass-Through Certificates, Series 2006-QS17 (Deutsche Bank), an appellee. The substitute trustees filed a new Order to Docket Foreclosure in July 2018. Ms. Bonilla-Mead filed a motion to stay or dismiss that foreclosure action, which the circuit court denied. Ms. Bonilla-Mead appealed that decision to this Court, and we affirmed. *See Bonilla-Mead v. O’Sullivan*, No. 3055, Sept. Term 2018 (filed June 9, 2020). The property was sold at a foreclosure auction in December 2018, but, at present, the sale has not yet been ratified.

In 2016, prior to the filing of the second Order to Docket Foreclosure, Ms. Bonilla-Mead filed a complaint in the Circuit Court for Montgomery County against HSBC, Deutsche Bank, PHH Mortgage (PHH), and McCabe, Weisburg & Conway, LLC (McCabe).¹ In that complaint, which she subsequently amended, Ms. Bonilla-Mead sought to quiet title to the property, claiming that any action to foreclose on the Deed of

¹ PHH was the servicer of the loan and McCabe represented HSBC.

Trust was barred by the statute of limitations. She also alleged that appellees had engaged in a civil conspiracy to unlawfully foreclose on the property. The court granted McCabe’s motion to dismiss the complaint in April 2017 and granted Deutsche Bank and PHH’s motion to dismiss the complaint in May 2017. Ms. Bonilla-Mead filed an interlocutory appeal; however, that appeal was dismissed by this Court in February 2018. In June 2019, the circuit court entered an order deferring entry of dismissal for 60 days, stating that if HSBC had not filed a response or if Ms. Bonilla-Mead had not shown proof of service on HSBC by that time, the action against HSBC, the last remaining defendant, would be dismissed. Following a hearing on October 28, 2019, the court dismissed the complaint with prejudice because proof of service had not been filed. This appeal followed.

As an initial matter, we note that Ms. Bonilla-Mead’s brief is very difficult to follow and consists almost entirely of conclusory allegations of misconduct against the circuit court and appellees. Maryland Rule 8-504(a) requires a party’s brief to contain a “clear concise statement of the facts material to a determination of the questions presented,” a “concise statement of the applicable standard of review for each issue,” and “[a]rgument in support of the party’s position on each issue.” Ms. Bonilla-Mead’s brief contains none of these things. And although we are mindful that Ms. Bonilla-Mead is self-represented, it is not this Court’s responsibility to “attempt to fashion coherent legal theories to support [her] sweeping claims” of misconduct. *See Konover Property Trust, Inc. v. WHE Assocs., Inc.*, 142 Md. App. 476, 494 (2002).

Nevertheless, as far as we can discern, Ms. Bonilla-Mead appears to raise three issues on appeal: (1) whether the court “abuse[d] its jurisdiction and authority by denying

[her] right to a jury as demanded in [her] bill of complaint”; (2) whether the court lacked the authority to “hold[] the proceedings of October 28, 2019, and to dismiss her complaint” because she had an appeal pending in this Court, and (3) whether the “master audio transcript of [the October 28, 2019] proceedings has been heavily redacted in favor of appellees.” Because these claims lack merit, we shall affirm the judgment of the circuit court.

First, although Ms. Bonilla-Mead demanded a jury trial, such a demand did not free her of her obligations to state a claim upon which relief could be granted and to effect service on all the defendants named in her complaint. The circuit court determined that her complaint did not state a valid cause of action against Deutsche Bank, PHH, and McCabe and that she had failed to show proof of service on HSBC. Because Ms. Bonilla-Mead does not specifically contend that the court erred in dismissing her complaint for these reasons or offer any particularized arguments to support such a claim, the merits of the dismissal order are not properly before this Court. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (citation omitted)). Consequently, we hold that the court’s dismissal of her complaint did not improperly deprive her of her right to a jury trial.

Ms. Bonilla-Mead further asserts that the court lacked jurisdiction to dismiss her complaint because she had an appeal pending with this Court when the dismissal order was entered. Again, we disagree. It is true that a trial court may “not exercise its jurisdiction in a manner affecting the subject matter or justiciability of the appeal” when an appeal is pending. *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 361 (2013). However, there was no

appeal pending in this case when the trial court entered its order dismissing Ms. Bonilla-Mead’s complaint. Rather, the only appeal that was pending on October 28, 2019 was Ms. Bonilla-Mead’s appeal from the denial of her motion to stay or dismiss the foreclosure case, an entirely separate legal action. Because the subject matter of this case was not affected by her appeal in the foreclosure action, the circuit court was not prohibited for exercising its jurisdiction to dismiss her complaint.

Finally, Ms. Bonilla-Mead asserts that the “master audio transcript of [the October 28, 2019] proceedings has been heavily redacted in favor of appellees.” However, a “party seeking correction of the record shall file a motion that specifies the parts of the record or proceedings that are alleged to be omitted or erroneous.” *See* Maryland Rule 8-414(b)(1). If such a motion is “based on facts not contained in the record” and “not admitted by all the other parties [it] shall be supported by affidavit.” *Id.* Ms. Bonilla-Mead has not filed such a motion in this court, or in the circuit court, and her brief does not meet the requirements of an affidavit. Moreover, her brief does not specifically identify what parts of the hearing she believes are not reflected in the transcript or why those portions of the hearing are relevant to resolving the issues she raises on appeal. In fact, it is not clear that the transcript of that hearing is necessary to decide this appeal because, as previously noted, she does not address the merits of the court’s dismissal order.

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