

Circuit Court for Baltimore City
Case No. 24-C-17-004563

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 01829

September Term, 2017

MARLENA JAREAUX

v.

MARILYN BENTLEY, CLERK OF CIRCUIT COURT
FOR BALTIMORE CITY

Nazarian,
Arthur,
Thieme, Raymond G., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: February 5, 2019

*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.

On two prior occasions, appellant Marlena Jareaux has litigated and lost a challenge to the wording of a notice of recorded judgment against her. Undeterred, Jareaux filed a petition for a writ of mandamus or prohibition to require a clerk of court to change the way in which the judgment was described in court records.

The Circuit Court for Baltimore City denied the petition, and Jareaux appealed. We affirm.

BACKGROUND

On March 2, 2011, Gail Proctor brought a derivative suit on behalf of Proceaux Properties, LLC, against Marlena Jareaux in the Circuit Court for Howard County. On August 27, 2012, the court signed an order by which it directed the entry of judgment “in favor of the Plaintiff Gail Proctor on behalf of Proceaux Properties, LLC,” and awarded \$49,942.00 in damages. *See Proctor v. Jareaux*, 2012 WL 6057376 (Cir. Ct. for Howard Cty. Aug. 27, 2012). A docket entry of the same date reflects the entry of judgment “in favor of plaintiff, Gail Proctor on behalf of Proceaux Properties LLC in the amount of \$49,942.00.” The following day, August 28, 2012, the clerk issued a notice of recorded judgment in favor of “Proctor, Gail R.” Jareaux’s subsequent appeal was dismissed, apparently because she failed to pursue it.

On February 6, 2013, more than four months after the judgment had become enrolled, Jareaux filed what she called a “Motion to Correct Clerical Error and in the Electronic Maryland Judiciary Case Record.” In that motion, Jareaux argued that the notice of recorded judgment incorrectly stated that the judgment was in favor of Gail Proctor individually. The court denied Jareaux’s motion on January 9, 2015, and in an

unreported opinion we affirmed on two grounds. *Jareaux v. Proctor*, No. 322, Sept. Term 2015, 2016 WL 3919277 (Md. Ct. Spec. App. July 19, 2016), *cert denied*, 450 Md. 432 (2016) (“*Jareaux I*”). First, we reasoned that a notice of recorded judgment has no substantive effect on a judgment. Second, we reasoned that because the notice in question did not expressly state that the judgment was in favor of Proctor in her individual capacity, it was not inconsistent with the trial court’s August 27, 2012 order.

Meanwhile, on October 18, 2012, Proctor had recorded the Howard County judgment in the Circuit Court for Baltimore City. On April 23, 2013, the Baltimore City clerk issued a notice of recorded judgment, which, like its Howard County counterpart, stated: “Judgment in Favor of: Proctor, Gail R.” Later, on February 12, 2015, the Baltimore City court complied with Proctor’s request that it issue a writ of execution that listed “Gail R. Proctor” as the judgment creditor.

On April 27, 2015, Jareaux filed what she called a “Motion to Vacate Judgment Enrolled in Error By Clerk and to Stay a Requested Writ of Execution” in the Circuit Court for Baltimore City. Proctor responded by filing a motion to strike. The Baltimore City court ultimately denied Jareaux’s motion and granted Proctor’s. In an unreported opinion, we affirmed. *Jareaux v. Proctor*, No. 0772, Sept. Term 2015, 2016 WL 5885881 (Md. Ct. Spec. App. Oct. 4, 2016), *cert. denied*, 451 Md. 261 (2017) (“*Jareaux II*”). In reaching that decision, we reasoned that because Jareaux had failed to show any error in the notice of recorded judgment from Howard County in *Jareaux I*, a notice that tracked the Howard County notice also tracks the Howard County judgment. We concluded: “[T]here was no clerical error to correct here, nor any element of the

Baltimore City circuit court’s decisions to revise, nor any doubt that the circuit court had the authority to register and index the judgment.”

Jareaux commenced the present case on September 12, 2017, by filing a petition for writ of prohibition or mandamus against Marilyn Bentley, the Clerk of the Circuit Court for Baltimore City. In her petition, Jareaux sought to compel the clerk to “correct” the records of the Circuit Court for Baltimore City to reflect a judgment in favor of “Gail Proctor on behalf of Proceaux Properties, LLC.” Jareaux claimed that her action concerns the data entered by the clerk in the “civil money judgment and land records division databases.”

The clerk moved to dismiss Jareaux’s petition on numerous grounds, including defensive, non-mutual collateral estoppel. The Circuit Court for Baltimore City declined to issue the writ and denied the petition on November 8, 2017. Jareaux filed a timely appeal.

QUESTIONS PRESENTED

Jareaux presents two questions, which we have distilled into one: Did the trial court properly deny Jareaux’s petition?¹

¹ Jareaux phrased her questions as follows:

1. If the Circuit Court denied Plaintiff’s Petition based upon arguments articulated in Defendant’s Answer and motion to dismiss, was it legally correct to do so?
2. If the Circuit Court denied Plaintiff’s Petition by sua sponte dismissal on its own accord, was it an abuse of discretion to do so?

For the reasons discussed below, we conclude that there was no error and thus shall affirm.

ANALYSIS

“The doctrine of collateral estoppel precludes a party from re-litigating a factual issue that was essential to a valid and final judgment against the same party in a prior action.” *Shader v. Hampton Improvement Ass’n, Inc.*, 217 Md. App. 581, 605 (2014), *aff’d*, 443 Md. 148 (2015). To establish the applicability of collateral estoppel in this case, the clerk was required to show: (1) that the issue decided in the prior adjudication is identical to the one presented in this action; (2) that there was a final judgment on the merits; (3) that the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication; and (4) that the party against whom collateral estoppel is asserted was given a fair opportunity to be heard on the issue. *Id.* Defensive, non-mutual collateral estoppel applies “when a defendant seeks to prevent a plaintiff from relitigating an issue the plaintiff has previously litigated unsuccessfully in another action against a different party.” *Id.* at 608. “[W]e examine *de novo* the court’s legal determination of whether collateral estoppel should apply[.]” *Id.* at 605.

The first element of collateral estoppel – that the issue decided in the prior adjudication is identical to the one presented in this action – is met. The issue in this case – the correct way of identifying the judgment-creditor – is identical to the issue in both *Jareaux I* and *Jareaux II*. In *Jareaux I* Jareaux moved to correct a “clerical error” because the court’s written order and the docket entry ordered judgment in favor of Proctor “on behalf of” Proceaux Properties, LLC, but the notice of recorded judgment

reflected a judgment in favor of “Proctor, Gail R.” In *Jareaux II* Jareaux moved to vacate the notice of recorded judgment in Baltimore City because it too reflected a judgment in favor of “Proctor, Gail R.” In both cases, we rejected the premise that there was any error to correct.

In this case, Jareaux attempts to disguise the issue by focusing on the “data entered by both the civil and land records divisions of the Baltimore City Circuit Court Clerk,” rather than the contents of the notices of recorded judgment. Yet, the language in the civil and land records is identical to the language in the notices of recorded judgment. If there was no error to correct in the notices of recorded judgment, there could not possibly be any error to correct in the civil and land records. This issue has been decided in both *Jareaux I* and *Jareaux II*.

The second element – that there was a final judgment on the merits – is obviously met. In both cases, Jareaux obtained a final judgment, appealed and lost, and failed to persuade the Court of Appeals to issue a writ of certiorari. The judgments could not be more final.

The third element – that the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication – is also met. The clerk has asserted collateral estoppel against Jareaux, who was a party in both *Jareaux I* and *Jareaux II*, where the issue has been previously decided on the merits.

The fourth element – that the party against whom collateral estoppel is asserted was given a fair opportunity to be heard on the issue – is obviously met as well. In both *Jareaux I* and *Jareaux II*, the issues were fully briefed before the courts ruled. In fact, in

Jareaux I, the court denied the request for relief at a hearing in open court.

Under these circumstances, it is clear Jareaux had a fair opportunity to be heard on her contention that the court erred in recording the judgment and issuing a notice of judgment in favor of Proctor. Collateral estoppel, therefore, barred Jareaux’s claim.²

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**

² Even if collateral estoppel did not apply, the circuit court could have correctly denied the petition for writ of mandamus, because Jareaux had no legal right, let alone a clear legal right, to the requested relief in view of this Court’s two prior decisions that there was no error to correct in the notices of recorded judgment. *See, e.g., Wilson v. Simms*, 380 Md. 206, 229 (2004) (recognizing that party had no right to writ of mandamus when “she had no clear right to the remedies she sought”).