

Circuit Court for Prince George's County
Case No. CAE15-25056

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1864

September Term, 2017

MICHAEL SMALLWOOD, *et al.*

v.

KRISTEN D. BROWN, *et al.*

Fader, C.J.,
Leahy,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: January 2, 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.

In 2015, Kristen D. Brown, William M. Savage, Gregory N. Britton, Lila Z. Stitely, R. Kip Stone, and Jordy B. Hirschfeld, appellees, acting as substitute trustees, filed an Order to Docket in the Circuit Court for Prince George’s County alleging that Michael Smallwood and Melanie Smallwood, appellants, had defaulted on a deed of trust loan on their home. On January 19, 2016, the Smallwoods filed a counterclaim against the substitute trustees and a third-party complaint against Wilmington Trust, National Association, as Successor Trustee to CitiBank, N.A., as Trustee for First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2005-FF12 and Nationstar Mortgage, LLC. Both the counterclaim and the third-party complaint were struck by the circuit court on September 26, 2016. The Smallwoods then filed a motion to stay or dismiss the foreclosure sale that was also denied. The Smallwoods’ home was ultimately sold at a foreclosure auction and the sale was ratified on April 5, 2017.

The Smallwoods did not appeal from the ratification order. Rather, on April 28, 2017, they filed a “Writ to Vacate Judgment Procured by Fraud, Mistake, Irregularity Pursuant to MD Rules Rule 2-535(b)” (Rule 2-535(b) motion), wherein they sought to vacate the court’s orders denying their motion to dismiss and ratifying the sale. That motion was denied on August 15, 2017. Thereafter, on August 22, 2017, the court entered an order ratifying the auditor’s report and closing the case statistically.

Again, the Smallwoods did not file a notice of appeal. Instead, on September 8, 2017, they filed three pleadings: (1) a “Request for Judicial Cognizance”; (2) a “Writ of Error Quae Coram Nobis Resident”; and (3) a new counterclaim and cross claim against

appellees. On November 2, 2017, the circuit court issued an order denying all three of those pleadings with prejudice. The Smallwoods filed a notice of appeal on November 14, 2017. On appeal, they raise two issues: (1) whether the circuit court erred in striking their 2016 counterclaim and third-party complaint, and (2) whether the circuit court erred in denying their Rule 2-535(b) motion. For the reasons that follow, we affirm.

Maryland Rule 8-202 provides that a party must file his or her notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” Because the Smallwoods’ notice of appeal was filed on November 14, 2017, it was not timely as to the September 26, 2016, order striking their counterclaim and third-party complaint; the April 5, 2017, order ratifying the foreclosure sale; the August 15, 2017, order denying their Rule 2-535(b) motion; or the August 22, 2017, order ratifying the auditor’s report. Consequently, their arguments challenging the validity of those orders are not properly before this Court. Moreover, because the Smallwoods do not contend that the trial court erred in issuing its November 2, 2017 order, the only other order that was timely appealed, we do not address the validity of that order on appeal. *See Broadcast Equities, Inc. v. Montgomery County*, 123 Md. App. 363, 390 (1998) (noting that arguments not presented in a brief or not presented with particularity will not be considered on appeal).

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**