

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1925

September Term, 2022

MONIQUE YATES

v.

CICADA INVESTMENTS, LLC

Leahy,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: February 13, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On November 2, 2022, the Circuit Court for Baltimore City issued an order foreclosing the right of redemption of real property owned by Monique Yates. On December 2, 2022, Ms. Yates filed a motion to vacate the judgment of foreclosure. On the same date, she filed a notice of appeal.

On March 28, 2023, while this appeal was pending, the circuit court granted the motion to vacate the judgment of foreclosure. No appeal from that order was noted. Accordingly, we shall dismiss this appeal as moot.

BACKGROUND

On November 4, 2021, Cicada Investments, LLC (“Cicada”) filed a Complaint to Foreclose the Equity of Redemption of real property identified as 3305 Spaulding Avenue in Baltimore City (“Property”).¹ The complaint alleged that the Property had been sold at a tax sale to Interstate Holdings, LLC, which then assigned the certificate of sale to Cicada. The complaint alleged that the amount necessary to redeem the Property was \$297.74, plus interest from the date of the tax sale to the date of redemption.

On May 25, 2022, Ms. Yates, proceeding as an unrepresented litigant, filed an answer to the complaint, in which she asserted that she had not been properly notified of the tax sale. She further asserted that she learned that the Property had been sold after the fact, when she was contacted by an individual who offered to purchase the Property before foreclosure. Ms. Yates researched the matter and discovered that the tax sale had been

¹ Due to a typographical error in the complaint, the Property is misidentified as 3305 Sapulding Avenue.

prompted by a “bill” for “cutting grass/clean where necessary.”² Ms. Yates alleged that “the department that issued the bill” told her to “disregard” the bill because it “was from the previous owner.”

The court treated Ms. Yates’s pleading as a motion to declare the tax sale void *ab initio*. On June 9, 2022, the court, *sua sponte*, issued an order noting that Ms. Yates was “claiming that the lien subject to the tax sale should not have been included in the sale because it was from a previous owner[,]” and directing the Mayor and City Council of Baltimore City (“the City”) to “file a verified response . . . stating whether the [Property] was properly included in the 2021 tax sale.”

On July 11, 2022, in response to the court’s order, the City filed an affidavit of Edward Scrivener, the Delinquent Accounts Manager for the City’s Bureau of Revenue Management. In his sworn statement, Mr. Scrivener affirmed that he was “familiar with the records and status of delinquent real property taxes and other municipal charges pertaining to properties” in the City, “including the status of properties placed into the

² The Baltimore City Health Code (“Health Code”) provides that a person who owns or possesses property may not allow “any grass, weeds, or other rank vegetation” to “reach a height of 8 inches” or more. Health Code § 5-702. On an abutting sidewalk, gutter, or alley, such vegetation may not “reach a height of 4 inches or more.” *Id.* If a violation of these provisions is not corrected within ten days of written notice to the owner/possessor, the City is authorized to correct the condition at the expense of the owner or possessor of the property. Health Code § 5-705. The costs and expenses of said correction, unless paid, constitute a lien on the property. *Id.*

The Health Code is available online (last visited February 8, 2023): https://health.baltimorecity.gov/sites/default/files/BaltimoreCity_HealthCode.pdf.

Baltimore City Tax Sale.” Mr. Scrivener stated that he had reviewed the City’s records and confirmed that the Property “was properly included [in] the 2021 Tax Sale.”

On November 2, 2022, the court denied Ms. Yates’s motion to void the tax sale. On the same date, the court entered an order foreclosing all rights of redemption in the Property.

On December 2, 2022, Ms. Yates filed a notice of appeal. On the same date, she filed a motion to vacate the judgment of foreclosure.

On March 28, 2023, while this appeal was pending, the court granted Ms. Yates’s motion to vacate the judgment of foreclosure on grounds that she had not been given adequate time to redeem the Property after her motion to void the tax sale was denied. No appeal from that order was noted.

DISCUSSION

Ms. Yates asks this Court to vacate the judgment of foreclosure because (1) there was insufficient evidence to overcome her challenge to the validity of the tax sale; (2) Cicada Investments lacked standing to bring the action for foreclosure; and (3) she was not provided with adequate notice and time to redeem the property after her motion to void the tax sale was denied.³ Because the judgment of foreclosure has already been vacated by a valid order of the court, her request for relief is moot.

³ In her brief, and now represented by counsel, Ms. Yates presented the following issues for appellate review:

Should the Lower Court’s November 2, 2022 Order Denying Appellant’s Answer to the Complaint (Treated as a Motion to Void Tax Sale *Ab Initio* and the November 2, 2022 Judgment Foreclosing Right of Redemption Both Be Vacated Given That:

Ms. Yates assumes, incorrectly we conclude, that the court’s March 23, 2023 order vacating the judgment of foreclosure is “not enforceable” because it was issued after the appeal was filed. Under the facts of this case, the order is valid. We explain.

“[I]n the absence of a stay, trial courts retain fundamental jurisdiction over a matter despite the pendency of an appeal.” *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 360–61 (2013) (citing *Cottman v. State*, 395 Md. 729, 739 (2006); *Cnty. Comm’rs v. Carroll Craft Retail, Inc.*, 384 Md. 23, 44–45 (2004); *Pulley v. State*, 287 Md. 406, 417 (1980)). “Thus, a trial court may continue ordinarily to entertain proceedings during the pendency of an appeal, so long as the court does not exercise its jurisdiction in a manner affecting the subject matter or justiciability of the appeal.” *Id.* at 361 (citing *Carroll Craft Retail*, 384 Md. at 45). “Even if a trial court does so, however, such a ruling is not void for lack of jurisdiction, but is instead reversible on appeal.” *Id.* (citing *Downes v. Downes*, 388 Md. 561, 575 (2005); *Carroll Craft Retail*, 384 Md. at 45).

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- A. The Record Lacks Evidence That Appellee Cicada Investments LLC Is a Real Party In Interest Entitled to Enforce the May 17, 2021 Certificate of Tax Sale No. 372225; and/or
 - B. The Record Lacks Direct or Corroborating Evidence Supporting the Conclusory Statement in the City of Baltimore’s July 7, 2022 Affidavit That The Property Was Properly Sold at the 2021 Tax Sale; and/or
 - C. The Lower Court Did Not Give Ms. Yates Adequate Notice and Time to Redeem the Property after Denying Her Motion to Void Tax Sale *Ab Initio* on November 2, 2022 while simultaneously entering the November 2, 2022 Judgment Foreclosing Right of Redemption?

“[A] notice of appeal must be filed within 30 days after the entry of the trial court’s ruling on a motion filed more than 10 days after entry of a judgment for this Court to have jurisdiction to review such ruling.” *Brethren Mut. Ins. Co. v. Suchoza*, 212 Md. App. 43, 68 (2013). Because no appeal was noted from the March 23, 2023 order vacating the judgment of foreclosure, that order is not before us for appellate review. Consequently, the order vacating the judgment of foreclosure remains valid, and this appeal is moot. *See Suter v. Stuckey*, 402 Md. 211, 219 (2007) (“A case is moot when there is no longer an existing controversy when the case comes before the Court or when there is no longer an effective remedy the Court could grant.”). “Appellate courts do not sit to give opinions on abstract propositions or moot questions, and appeals which present nothing else for decision are dismissed as a matter of course.” *Id.* at 220 (quoting *State v. Ficker*, 266 Md. 500, 506–07 (1972)).

**APPEAL DISMISSED AS MOOT.
COSTS TO BE SHARED EVENLY BY THE
PARTIES.**