

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1888

September Term, 2015

TERESA DARBY

v.

THOMAS P. DORE, *et al.*
SUBSTITUTE TRUSTEES

Meredith,
Friedman,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: November 9, 2016

*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.

The appellant in this case, Teresa Darby, contends that the Circuit Court for Montgomery County should not have required her to make mortgage payments as a condition of a foreclosure stay. We conclude, however, that the trial court should not have granted the stay at all. We, therefore, affirm and remand for further proceedings.

BACKGROUND

Teresa Darby and her husband bought a home in Gaithersburg, Maryland, in 2004. Because they did not make payments, the loan went into default in 2012. Darby and the bank discussed loan modification, but Darby was unable to provide her estranged husband's financial information, and, as a result, loss mitigation was not successful. Eventually the Appellees, Thomas Dore and others, substitute trustees for the bank (who we shall refer to collectively as Dore), docketed a foreclosure action.

Two foreclosure mediations were held but were not successful. Following the unsuccessful mediation attempts, Darby filed a Motion to Stay and/or Dismiss Foreclosure Proceedings pursuant to Maryland Rule 14-211. The trial court granted the stay for the express purpose of giving Darby time to obtain a divorce. Dore filed a motion for reconsideration seeking to lift the stay or in the alternative requesting that Darby be required to make her monthly mortgage payment as a condition of the stay. The trial court granted Dore's motion and ordered that Darby make the regular monthly mortgage payment. After Darby failed to make the next month's mortgage payment, Dore again moved to vacate the stay. The trial court granted the motion and vacated the stay. Darby appealed.

DISCUSSION

Darby believes that the trial court properly entered the foreclosure stay but erred when it later added a condition to the stay. It is irrelevant, however, whether the trial court could or could not impose conditions on the stay because the trial court lacked the authority to enter the stay in the first place.

Trial courts have an inherent power to stay proceedings but that inherent power is limited when the court has been granted the express power to stay under the Maryland Rules. “The power to issue a stay is not an inherent judicial power in the sense that it may never be limited or denied by legislative enactment.” *Comm’n on Med. Discipline v. Stillman*, 291 Md. 390, 402 (1981). “The power to stay ... is only inherent in the sense that it is a traditional power that equity courts could utilize without express statutory authorization.” *Id.* (citation omitted). In a foreclosure action, Maryland Rule 14-211 sets out the statutory limits for the trial court’s power to issue a stay. *See Bechamps v. 1190 Augustine Herman, LC*, 202 Md. App. 455, 460-1 (2011) (stating that the inherent power to stay is in accord with Rule 14-211 but does not extend past Rule 14-211). Thus, when a party moves to stay a foreclosure proceeding, it may only do so pursuant to Rule 14-211 and must meet the requirements of Rule 14-211. *Id.*

Rule 14-211 permits a stay in two situations only. The requesting party must “state with particularity” its defense to either (1) “the validity of the lien or the lien instrument;” or (2) “the right of the plaintiff to foreclose.” Md. Rule 14-211(a)(3)(b). These two grounds

are the trial court’s exclusive grounds for staying a foreclosure sale and, outside of those two grounds, the trial court lacks the power to enter a stay.

Here, the trial court did not grant the motion to stay on either of these two exclusive grounds. Instead, the trial court, after hearing Darby’s argument that she needed more time to obtain a divorce, granted the motion to stay specifically so that Darby would have time to obtain a divorce.

We conclude, therefore, that it was an abuse of discretion for the trial court to grant the stay. *Bechamps*, 202 Md. App. at 460 (stating that we review a decision to stay a proceeding for an abuse of discretion); *Johnson v. Franklin*, 223 Md. App. 273, 288 (2015) (“A failure to consider the proper legal standard in reaching a decision constitutes an abuse of discretion.”) (citation omitted). As noted above, however, the trial court has already vacated the improvidently granted stay. Because the stay has already been vacated, we affirm that decision, and remand the case for the foreclosure proceedings to continue.¹

¹ Our determination that the stay should not have been entered renders moot Ms. Darby’s arguments regarding the conditions added to the stay and whether the trial court should have modified the stay. In regard to her remaining argument that her motion to dismiss was never fully adjudicated, it is unclear from the docket entries and from the record whether the trial court disposed of Ms. Darby’s motion to dismiss. The trial court stated at the hearing that it was “not doing dismissal” but the docket entries indicate that the motion to dismiss was postponed. We need not, however, decide this matter. On remand, the trial court may deny the motion, with or without a hearing, as permitted by Rule 14-211(b)(1). Or, the trial court may grant the motion to dismiss if, after holding a hearing, the trial court determines that Ms. Darby stated “a defense to the validity of the lien or the lien instrument or to the right of the plaintiff to foreclose.” Rule 14-211(e).

(Continued...)

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

(...continued)

Maryland Rule 14-211(b)(1) provides that the circuit court is not required to hold a hearing if it determines from the record that the motion to dismiss fails to state a valid defense to the validity of the lien or the lien instrument, or to the right of the plaintiff to foreclose. Darby's argument that the failure to hold a hearing would be a violation of due process ignores the procedure set out by Rule 14-211. Rule 14-211 allows Darby to present defenses but requires that she meet a standard that is a minimal obstacle, and is, therefore, constitutional.