UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0091

September Term, 2015

CHERI HOUCK, et al.

v.

JEFFREY NADEL, et al.
SUBSTITUTE TRUSTEES

Eyler, Deborah S.,
Berger,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: January 21, 2016

The appellant, Cheri Houck, is challenging a foreclosure on her former home at 8315 New Cut Road in Severn ordered by Judge Paul G. Goetzke in the Circuit Court for Anne Arundel County. The appellant and her late mother, Emma Elizabeth Kreamer, were the owners of the property when, on March 22, 2007, they obtained a mortgage loan in the amount of $303,000 from Equifirst Corporation. The promissory note to Equifirst was secured by a deed of trust on the property. Following the death of Emma Kreamer in 2013, the case challenging the foreclosure was restyled with the action being brought by Cheri Houck in her own name and as the personal representative of her mother's estate.

After several earlier defaults and several stops and starts in the foreclosure process, not here pertinent, the present foreclosure proceeding was filed by the appellees, the substitute trustees Jeffrey Nadel and Scott Nadel, on May 22, 2013. The appellant was properly served with the Order to Docket but failed to file a timely motion to stay or to dismiss pursuant to Maryland Rule 14-211. The foreclosure sale took place on June 12, 2014.

On July 18, 2014, the appellant filed a motion to dismiss the foreclosure sale. Following an evidentiary hearing, Judge Goetzke denied the motion and ratified the foreclosure sale on November 18, 2014.

On December 3, 2014, the appellant filed a Motion to Revise Judgment pursuant to Maryland Rule 2-534. Judge Goetzke denied the motion on February 27, 2015. The present appeal was filed on March 21, 2015.

The convoluted merits of the case are not properly before us. In the Table of Contents of her appellate brief as well as in her Argument, the appellant sets out a single contention:

> "**THE LOWER COURT ERRED IN DENYING APPELLANT'S MOTION PURSUANT TO MD. RULE 2-506(c)."**

In her listing of the Questions Presented, however, the appellant may have succeeded in adding a challenge to the denial of her Motion for Reconsideration as a second appellate contention:

> **"DID THE LOWER COURT ERR BY DENYING APPELLANT'S MOTION TO DISMISS THE FORECLOSURE ACTION, AND MOTION FOR RECONSIDERATION?**"

We will indulge the appellant by considering both contentions as having been raised.

Denial of Motion to Dismiss

With no necessity to inquire into the merits of the appellant's Motion to Dismiss the Foreclosure Action because of what the appellant alleges to have been a violation of the so-called "two previous voluntary dismissals" rule pursuant to Rule 2-506(c), it is a contention that goes quite obviously to the merits of the foreclosure action. If the Rule 2-506(c) motion had merit, the entire foreclosure action would have been dismissed. Those merits had been thoroughly litigated at the hearing before Judge Goetzke on November 18, 2014. At the end of that hearing, Judge Goetzke denied the appellant's Motion to Dismiss the foreclosure action and ratified the foreclosure sale. That was the final judgment in the case.

Because the appellant's Motion for Reconsideration pursuant to Rule 2-534 was not filed within 10 days of the November 18, 2014 final order, the deadline for filing a notice of appeal from that order was not tolled. Unnamed Attorney v. Attorney Grievance Commission, 303 Md. 473, 486, 494 A.2d 9430 (1985). The appellant, therefore, had 30 days to appeal from the order of November 18, 2014, to wit, until December 18, 2014. That appeal, however, was not filed until March 21, 2015. The appeal was not timely taken and the merits of the foreclosure proceeding are not properly before us.

Denial of the Motion to Reconsider

The appellant's appeal of March 21, 2015, may have been a timely appeal of the denial of the motion to reconsider of February 27, 2015. A limited appeal from the denial of a minor procedural request, however, is by no means an appeal from a decision on the basic merits of the case. In Steinhoff v. Sommerfelt, 144 Md. App. 463, 484, 798 A.2d 1195 (2002), this Court noted the inability of such a post-trial motion to outflank the basic filing deadline for an appeal:

> "With respect to the denial of a Motion to Alter or Amend, if that should be what is before us, the discretion of the trial judge is more than broad; it is virtually without limit. What is, in effect, a post-trial motion to reconsider is not a time machine in which to travel back to a recently concluded trial in order to try the case better with hindsight. The trial judge has boundless discretion not to indulge this all-too-natural desire to raise issues after the fact that could have been raised earlier but were not or to make objections after the fact that could have been made earlier but were not.

> Losers to not enjoy carte blanche, through post-trial motions, to replay the game as a matter of right."

(Emphasis supplied).

Timely appellate review of the basic merits of a case may involve significant issues of law which are examined de novo by the appellate reviewing court. The denial of a motion to reconsider or to revise, on the other hand, is entrusted to the wide discretion of the trial judge and will only be reversed in cases of clear abuse. When a trial judge denies a motion to reconsider, the basic merits of the case are not a part of that decision not to reconsider and cannot, therefore, become a basis for the limited appeal from that decision. The judge who denies the reconsideration is not saying, "Upon reconsideration, I am making the same decision again today that I already made four months ago." What the judge is saying is, "I already decided this case months ago and you have given me no good reason why I should even put the subject back on the table. I am not ruling against you on the merits of the case. I am denying your request that I even think about those merits again." A denial of reconsideration is far more limited in its subject matter than is a decision on the merits. As the Court explained in Steinhoff v. Sommerfelt, 144 Md. App. at 484:

> "Even assuming, arguendo, the appealability of the denial of a post-trial motion, the appellant would carry a far heavier appellate burden on that issue than he would carry in challenging the denial of a more timely motion for relief made during the course of trial. Appellate consideration of a denial of a motion to reconsider, or some similar post-trial revisiting of already decided issues, does not subsume the merits of a timely motion made during the trial."

(Emphasis supplied).

The argument made in pursuit of a motion for reconsideration, moreover, must be significantly different than an argument on the merits of the case. The movant must persuade the judge why, having once considered the case, the judge would wish to consider it all over again. Steinhoff v. Sommerfelt, 144 Md. App. at 484-85, again explains:

> "That a party, arguendo, should have prevailed on the merits at trial by no means implies that he should similarly prevail on a post-trial motion to reconsider the merits. A decision on the merits, for instance, might be clearly right or wrong. A decision not to revisit the merits is broadly discretionary. The appellant's burden in the latter case is overlaid with an additional layer of persuasion. Above and beyond arguing the intrinsic merits of an issue, he must also make a strong case for why a judge, having once decided the merits, should in his broad discretion deign to revisit them."

(Emphasis supplied).

After having, in her "Questions Presented," raised the question of "Did the lower court err by denying appellant's ... motion for reconsideration?", the appellant never again mentions the subject. In seven pages of "Argument," not a single word, let alone a full sentence, even refers to what must be shown to justify the granting of a motion to reconsider. Under these circumstances, we would be hard pressed to hold that Judge Goetzke had abused his discretion by denying the appellant's motion to reconsider the case.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY APPELLANT.