Circuit Court for Prince George's County
Case No. CAE13-08222

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

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No. 1951

September Term, 2016

BRENDA L. MOYE, *et al*.

v.

PENTAGON FEDERAL CREDIT UNION, *et al*.

Woodward, C.J.,
Kehoe,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 27, 2017

*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 2013, William R. Feldman, Esquire and Adrian A. Curtis, Esquire, acting as substitute trustees for Pentagon Federal Credit Union (PenFed), filed a foreclosure action in the Circuit Court for Prince George's County alleging that Harvey Ross and Brenda Moye, appellants, had defaulted on a deed of trust loan on their home. Appellants filed multiple motions to dismiss the foreclosure action, claiming that they had paid the loan in full, that PenFed did not own the note, that PenFed had committed fraud when appraising their property, and that the substitute trustees had not been lawfully appointed. All of those motions were denied and appellants' home was sold at a foreclosure sale. The sale was ratified on April 8, 2015, and the case was referred to an auditor. The circuit court awarded PenFed a judgment of possession in August 24, 2015.

Appellants did not file a notice of appeal from either the order ratifying the foreclosure sale or the order awarding appellee a judgment of possession. Instead, over the next year, they filed numerous motions seeking to dismiss the foreclosure action and set aside the sale. Those motions, although captioned differently, all challenged the underlying validity of the foreclosure sale and raised the same claims that appellants had raised in their pre-sale motions to dismiss. On October 14, 2016, the circuit court entered an omnibus order denying five of those motions: "Defendants Reply to this Court's Meaningless and Void Memorandum and Order of Court," filed May 9, 2016; "Defendant's Motion for Leave of Court to Amend Petition for Dismissal," filed June 10, 2016; "Motion for Temporary Restraining Order," filed August 17, 2016; "Motion for Temporary Restraining Order, filed October 3, 2016; and "Emergency Motion for Temporary Restraining Order,"

filed October 13, 2016 (collectively "appellants' motions"). In its order, the court noted that the claims raised in appellants' motions were "the same claims [appellants] made in previous motions that have been found to be without merit by this Court." The same day the court also entered an order ratifying the auditor's report and closing the foreclosure case. Appellants noted this appeal thirty days later and present six questions for our review; however, for the reasons set forth below, the only issue that is properly before this Court is whether the trial court erred in denying appellants' motions in its October 14, 2016, omnibus order. Finding no error, we affirm.

On appeal, appellants raise numerous claims attacking the validity of the underlying foreclosure action. However, the circuit court's April 8, 2015, order ratifying the foreclosure sale constituted a final judgment on the merits as to the validity of the foreclosure sale. *See Hughes v. Beltway Homes, Inc*., 276 Md. 382, 384 (1975) ("An order ratifying a sale is a judgment . . . because it is an order of court final in its nature." (internal quotation marks omitted)). Because appellants did not file a timely appeal from that order, *see* Maryland Rule 8-202 (c), their arguments challenging the validity of the foreclosure sale are not properly before this Court.

Moreover, "the law is firmly established in Maryland that the final ratification of the sale of property in foreclosure proceedings is *res judicata* as to the validity of such sale, except in the case of fraud or illegality, and hence its regularity cannot be attacked in collateral proceedings." *Ed Jacobsen, Jr., Inc. v. Barrick*, 252 Md. 507, 511 (1969) (citations omitted)). Therefore, having not appealed from the ratification order, appellants only vehicle to challenge the sale after it was ratified was to file a Maryland Rule 2-535(b)

motion. However, even if we construe appellants' motions as having been filed pursuant to Rule 2-535(b), none of the claims raised therein demonstrated the existence of any fraud, mistake or irregularity, as those terms are used in Rule 2-535(b), that would have warranted the circuit court setting aside the final judgment ratifying the foreclosure sale. *See generally Thacker v. Hale*, 146 Md. App. 203, 217 (2002) ("Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments."). Consequently, the circuit court did not err in denying appellants' motions in its October 14, 2016, omnibus order.

Finally, because appellants do not contend that the trial court erred in ratifying the auditor's report, the only other order that was timely appealed, we do not consider that issue 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.