UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2702

September Term, 2015

LINDA J. PELLUM

v.

JEFFREY B. FISHER, ET AL.
SUBSTITUTE TRUSTEES

Berger,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 7, 2017

In this appeal from a foreclosure proceeding in the Circuit Court for Prince George's County, Linda J. Pellum, appellant, challenges the court's final order of ratification of the sale of her former residential property. For the reasons that follow, we shall affirm.

In July 2014, appellees[1] initiated the foreclosure proceeding. In December 2014, a foreclosure specialist "authorized to act on behalf of the secured party" filed a Final Loss Mitigation Affidavit. On March 3, 2015, the parties participated in mediation. On March 9, 2015, the foreclosure mediator filed with the court a notification of status, in which she certified that "no agreement was reached." On March 25, 2015, the court entered an order in which it authorized appellees to schedule a foreclosure sale.

On April 23, 2015, Pellum filed a "Motion to Stay the Sale and/or Dismiss the Action" (hereinafter "motion to stay and dismiss"). The court subsequently denied the motion on three grounds: the motion was "not timely filed" and "not excused for good cause," the motion "[d]oes not state a valid defense or present meritorious argument," and the motion "[f]ails to state [a] factual and legal basis." On May 15, 2015, the property was sold at a foreclosure sale.

In January 2016, the court issued the final order of ratification. On February 18, 2016, Pellum filed a notice of appeal. On February 25, 2016, Pellum filed a motion for reconsideration of the order and "Exceptions to Ratification and Confirmation of Foreclosure Sale." Appellees subsequently filed a motion to strike the motion for reconsideration, contending that the court "has no jurisdiction to consider the . . . [m]otion

[1]Appellees are Jeffrey B. Fisher, Doreen A. Strothman, Virginia S. Inzer, William K. Smart, and Kris Terrell.

for [r]econsideration, given the filing of a [n]otice of [a]ppeal." In April 2016, the court issued an order in which it stated that it was treating the motion for reconsideration "as exceptions to the sale," and overruled the exceptions on the ground that they "fail to identify any legitimate procedural irregularity regarding the . . . sale."

On appeal, Pellum contends that the court erred in issuing the final order of ratification for three reasons. She first contends that, because the motion to stay and dismiss was "not untimely filed and good cause existed to excuse any alleged untimely filing," "states a valid defense and presents a meritorious argument," and "states a factual and legal basis," the court erred in denying the motion. (Boldface and capitalization omitted.) We disagree. Rule 14-211(a)(2) states that, if postfile mediation is held, a motion to stay and dismiss "shall be filed no later than 15 days after the last to occur" of "the date the final loss mitigation affidavit is filed" or "the date the postfile mediation was held." The Rule further states: "For good cause, the court may extend the time for filing the motion or excuse non-compliance."

Here, the final loss mitigation affidavit was filed in December 2014, and mediation was held on March 3, 2015. Pellum was required to file the motion to stay and dismiss by March 18, 2015. She did not file it until April 23, 2015. Also, Pellum did not contend in the motion that good cause existed to extend the time for filing the motion or excuse non-compliance. Hence, the court did not err in denying the motion for untimeliness.

Pellum next contends that, because appellees committed "several mistakes, irregularities[,] and extrinsic fraud . . . in their handling of the foreclosure sale," the court erred in overruling the exceptions to the sale. We are precluded from addressing the

contention. We have stated that "when [an] appeal [is] noted, the circuit court los[es] jurisdiction to take evidence," and "we have no power to consider documents not considered by the trial court in reaching its decision when we review its decision." *Douglas v. First Security*, 101 Md. App. 170, 177 (1994) (citation omitted), *cert. denied*, 514 U.S. 1128 (1995). Here, Pellum did not file the pleading that the court subsequently treated as exceptions to the sale until after the court entered the order from which she appeals. The court did not have jurisdiction to review the exceptions, and we have no power to consider them. Hence, we cannot reach Pellum's contention.

Finally, Pellum contends that "appellees are guilty of dual tracking" (boldface and capitalization omitted), which "occurs when a lender pursues foreclosure against a borrower while simultaneously considering him or her for a loan modification." We conclude that the contention is waived. Rule 8-131(a) states that "[o]rdinarily, the appellate court will not decide any . . . issue" other than subject matter or personal jurisdiction "unless it plainly appears by the record to have been raised in or decided by the trial court." Here, Pellum did not raise the issue of "dual tracking" in the trial court before it issued the final order of ratification. Even if the argument presented in the motion to stay and dismiss was interpreted as raising the issue, the motion, for the reasons cited previously, was filed in an untimely manner. Hence, we cannot reach Pellum's contention.

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