Circuit Court for Prince George's County
Case No. CAE21-05902
Case No. CAEF22-15559

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2086

September Term, 2023

IVERSON PAK DEVELOPMENT, LLC

v.

BLACK DOG RECEIVER, LLC

Friedman,
Zic,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.
Concurring Opinion by Friedman, J.

Filed: May 5, 2025

* 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 Maryland Rule 1-104(a)(2)(B).

This case arises from a foreclosure on, and subsequent purchase of, a commercial property ("Property") in Prince George's County, Maryland. In June 2021, Black Dog Receiver, LLC ("Black Dog"), appellee, was appointed as receiver of the Property. In July 2022, Iverson PAK Development, LLC ("Iverson"), appellant, purchased the Property from Patricia Jefferson ("Substitute Trustee") at a foreclosure auction. After Iverson's purchase of the Property closed, Iverson filed a motion to intervene in Black Dog's receivership. The circuit court denied this motion in July 2023, finding that Iverson lacked standing to intervene. Iverson did not appeal the court's denial of its motion to intervene.

In July 2023, Iverson filed objections to Black Dog's final report and accounting ("Final Accounting"). The circuit court overruled Iverson's objections in December 2023, explaining that, based on its prior denial of Iverson's motion to intervene, Iverson was not a party to the receivership action. Iverson appealed the court's order overruling its objections and presents two questions for our review, which we have recast as one and rephrased as follows:[1] Did the trial court err in finding that Iverson did not have standing?

[1] Iverson phrases the questions as follows:

1. Whether the trial court incorrectly found that [Iverson] did not have standing to oppose the Receiver's Final Report?
2. Whether the trial court incorrectly found that, even if [Iverson] had standing, its opposition would be moot because all of the Receivership Estate's funds were paid to secured creditors and [Iverson] would be an unsecured creditor?

For the following reasons, we do not reach the merits of this question and dismiss Iverson's appeal.

BACKGROUND

In June 2021, the Circuit Court for Prince George's County appointed Black Dog as the receiver of a distressed commercial property (previously, "Property"), located in Temple Hills, Maryland. The Substitute Trustee held a foreclosure auction to sell the Property in July 2022, and Iverson purchased the Property for $20 million. The sale of the Property closed on January 20, 2023, and the court ratified the sale in March 2023.

On February 21, 2023, Iverson filed a motion to intervene in Black Dog's ongoing receivership of the Property, alleging that it had a right to intervene as the Property's owner. Iverson specifically sought to "protect [its] interest" in the Property and to "discuss and address any accounting issues associated with the [Property]." At the June 1, 2023 hearing on Iverson's motion to intervene, the circuit court explained that intervention "is not really the appropriate action to take" because "there doesn't seem to be anything that's really prohibiting [Iverson] from . . . filing a claim, and [Iverson] has another avenue." The court denied Iverson's motion to intervene in a written order issued on July 13, 2023, explaining that Iverson did "not establish[] the requirements" to intervene.

On June 22, 2023, Black Dog submitted the Final Accounting for approval by the circuit court and moved to terminate its receivership of the Property. Pursuant to the Final Accounting, Iverson would receive all rents collected after January 20, 2023—the

date of closing—as well as a portion of the partial refund of an insurance premium.[2] In total, Iverson would receive approximately $150,000 under the Final Accounting. The Property's secured creditors, SAI Iverson Holdings, LLC,[3] and Prince George's County, Maryland, would receive all remaining funds. The remaining funds, however, would be insufficient to satisfy all debt. As the second-priority creditor, Prince George's County would only receive $232,873.36 of the over three million dollars it was owed.

Believing that the Final Accounting lacked supporting documentation and other information, Iverson filed objections on July 7, 2023. After the hearing on Iverson's objections in November 2023, the circuit court denied Iverson's objections and granted Black Dog's motion to terminate the receivership, referencing its earlier denial of Iverson's motion to intervene, and emphasizing that Iverson did not have "standing." The court also opined that, in any event, Iverson's objections were "a moot point because no unsecured creditors are going to get any funds." On December 1, 2023, the court issued a written order overruling Iverson's objections to, and ultimately approving, the Final Accounting.

On or around December 19, 2023, Iverson sent wiring instructions to Black Dog and accepted funds dispersed in accordance with the Final Accounting. On December 28, 2023, Iverson noted an appeal of the circuit court's December 1, 2023 order

[2] Iverson's receipt of a portion of the partial insurance premium was in accordance with a separate agreement between Iverson and Black Dog.

[3] Based on this Court's review of the record, it appears that Iverson and SAI Iverson Holdings, LLC, are unaffiliated with each other.

overruling its objections to the Final Accounting.[4] We supplement with additional facts below as appropriate.

DISCUSSION

I. IVERSON'S APPEAL IS NOT PROPERLY BEFORE THIS COURT BECAUSE IVERSON DID NOT APPEAL THE JULY 2023 ORDER DENYING ITS MOTION TO INTERVENE.

On appeal, Iverson contends that it had standing to challenge Black Dog's Final Accounting before the circuit court because it is the third-party purchaser and owner of the Property.[5] Relying on *Simard v. White*, 383 Md. 257 (2004), Iverson argues that it held equitable title in the Property from the date of the foreclosure sale on July 19, 2022, even though Black Dog maintained complete control of the Property until January 20, 2023. Therefore, Iverson contends, the circuit court erred in overruling its objections for lack of standing because Iverson had a legal stake in the matter as the Property's equitable owner. In support, Iverson states that it has been harmed by Black Dog's alleged failure to pay tenant improvement funds and faces imminent and foreseeable harms in not receiving tenants' security deposits. Additionally, Iverson argues that the

[4] On January 11, 2024, Black Dog filed a motion to dismiss Iverson's appeal. Black Dog argued that Iverson's appeal was moot because Iverson acquiesced to the disbursement of funds provided for by the Final Accounting and had not sought to pause the circuit court's order to terminate the receivership. Iverson opposed. We denied the motion to dismiss and granted Black Dog leave to re-raise the arguments in its appellate brief.

[5] We observe that final accountings, and separately, orders overruling objections thereto, are not final judgments. As such, we understand Iverson to mean that it is appealing the court's December 1, 2023 order only insofar as the order approves the Final Accounting.

appeal is not moot because it is challenging the circuit court's conclusion that Iverson lacks standing, not Black Dog's disbursement of funds, and that it has "an actual stake in this litigation" based on its status as the Property's "owner" despite the court's denial of its motion to intervene.

In response, Black Dog argues that the circuit court did not err in determining that Iverson lacks standing, because Iverson has suffered no injury-in-fact regarding tenants' security deposits, the condition of the Property, or rent payments by purchasing the Property "as-is[.]" Black Dog also contends that Iverson's challenge is moot because Iverson accepted the disbursements provided for in the Final Accounting. Alternatively, Black Dog asserts that the appeal should be dismissed because Iverson is not a party to the case due to the circuit court's denial of the motion to intervene.

A. Analysis

Pursuant to Maryland Rule 2-214(a),

> [u]pon timely motion, a person shall be permitted to intervene in an action: (1) when the person has an unconditional right to intervene as a matter of law; or (2) when the person claims an interest relating to the property or transaction that is the subject of the action, and the person is so situated that the disposition of the action may as a practical matter impair or impede the ability to protect that interest unless it is adequately represented by existing parties.[6]

[6] The Maryland Commercial Receivership Act ("MCRA") provides statutory rules to guide courts in establishing, empowering, and terminating receiverships. Md. Code Ann., Comm. Law ("CL") (1975, 2013 Repl. Vol., 2019 Supp.) §§ 24-101–801. Relevant here, the MCRA states that "[a] person shall receive approval from the court that appointed the receiver before taking . . . an action against the receiver personally based on an act or omission in administering receivership property[.]"

(continued)

When a motion to intervene is denied, the person may appeal the court's decision for a review on the merits. *See Env't Integrity Project v. Mirant Ash Mgmt., LLC*, 197 Md. App. 179, 185 (2010) ("A circuit court's denial of a motion to intervene is an appealable final order." (citations omitted)). This Court has held that:

> [W]hen a request to intervene is denied, that ruling concludes any interest of that person in the case, and the appeal must be noted within 30 days of the denial of the motion to intervene. A person whose motion to intervene is denied does not become a party to the case. Because that person is not a party, he or she is not entitled to appeal from the final judgment disposing of the claims of the parties.

HIYAB, Inc. v. Ocean Petroleum, LLC, 183 Md. App. 1, 11 (2008) (citations omitted); *see also* Md. Code Ann., Cts. & Jud. Proc. ("CJP") (1974, 2020 Repl. Vol.) § 12-301 ("a *party* may appeal from a final judgment entered in a civil . . . case by a circuit court").

In this case, Iverson filed a motion to intervene in Black Dog's receivership on February 21, 2023, and the court denied the motion on July 13, 2023. Iverson did not note an appeal of the circuit court's July 13, 2023 denial of its motion to intervene. Instead, on December 28, 2023, Iverson appealed the circuit court's December 1, 2023 order overruling its objections to, and approving, the Final Accounting, which terminated

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CL § 24-702(b)(1). The MCRA does not provide alternative routes for filing an action against a receiver for its action (or inaction) during the receivership. *See id.*

Here, we recognize that CL § 24-702(b)(1) was the appropriate mechanism to hold Black Dog accountable during the receivership. Instead, Iverson filed a motion to intervene, and after the motion was denied, objected to the Final Accounting. At no point did Iverson request approval from the court to take action against Black Dog as required by CL § 24-701(b)(1). Therefore, we treat Iverson's motion to intervene as just that, and do not consider whether Iverson should have been permitted to take action against Black Dog under the MCRA.

Black Dog's receivership of the Property. Because Iverson is not a party in the receivership action, it cannot appeal the final judgment in the receivership action. *See* CJP § 12-301; *see also HIYAB, Inc.*, 183 Md. App. at 11. Therefore, to reach the question of whether Iverson had standing, as Iverson requests we do, would be to review a final judgment not properly before this Court.[7]

CONCLUSION

We hold that whether Iverson had standing in Black Dog's receivership is not properly before us because Iverson is not a party to the receivership action and is not entitled to appeal the final judgment. We, therefore, do not reach the merits of the question presented, and dismiss.

APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.

[7] In dismissing this appeal, we express no opinion on the merits of Iverson's motion to intervene.

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The MCRA is a relatively new statute in Maryland and around the country.[1] Given this, it is my view that, while I agree with my brothers as to the result, I would make a few additional points not only for the benefit of these parties, but also for future parties and future courts working diligently to apply this statute.

I would begin by observing that it is not likely to be a rare occurrence where, as happened here, the debts of an owner of commercial real estate overwhelm it and thus subject it to both receivership and foreclosure at the same time. A purchaser of the property at foreclosure becomes the "owner" of the property in the receivership by the terms of the MCRA. As a result, I don't think there can be any doubt that, upon its purchase of the mall at foreclosure, Iverson, became the "owner" of "property" for whom a "receiver" had been appointed as each of those terms is defined both in statute, MD. CODE, COMMERCIAL LAW ("CL") § 24-101(m), (p)(1), (q), and in Rule. MD. R. 13-101 (h), (j)(1)(A), (k). In my view, Iverson was the owner of the property subject to the receivership and therefore had a mandatory right to intervene. Thus, the circuit court erred as a matter of law by not allowing Iverson to intervene. I join the majority's opinion, however, because under Maryland law,

[1] In 2015, the Uniform Laws Institute promulgated a draft uniform receivership law. NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAW (2015), https://perma.cc/8426-G3VR**.** The MSBA convened a receivership subcommittee of the business law section. That group proposed legislation, which was soon thereafter adopted by the Maryland General Assembly. Because it is patterned on the uniform receivership law, Maryland's law bears significant similarities to similar statutes in Missouri, Michigan, Washington, Nevada, Tennessee, Utah, and Minnesota. S. EXEC. SUMMARY, THE MARYLAND COMMERCIAL RECEIVERSHIP ACT (March 7, 2019) (S.B. 695 and H.B. 1065).

the decision to deny intervention is a final judgment, is immediately appealable, and failure to appeal from that judgment terminated Iverson's possibility of intervening.

Iverson then sought to object to the receiver's final accounting. The circuit court refused to entertain Iverson's objection because it found that Iverson lacked standing because of the prior denial of intervention. This too, it seems to me, was wrong as a matter of law. The question wasn't, in my view, really one of standing at all. Rather, I think the appropriate question was about the nature of Iverson's remaining claim. Procedurally, I think that there were only two species of claims that it could have asserted: (1) a claim that arose *before* the receivership, known as a creditor's claim, *see* CL § 24-302; MD. R. 13-401;[2] or (2) a claim that arose *during* the receivership, which, by necessity needed to be framed as a claim against the receiver. CL § 24-702(b). Here, as my brothers point out, Iverson's claim arose during the receivership, and Iverson did not seek or obtain permission of the circuit court to take an action against the receiver. Slip Op. at 5-6 n.6. As a result, neither of the two species of claims were available to Iverson. This was not a failure of standing but rather, one of waiver.

[2] It is my view that a creditor, who files a proof of claim has a right to appeal not from the denial of that claim, but from the final order terminating the receivership, which failed to pay that creditor's claim. The Missouri intermediate appellate court apparently agrees. *Glick Finley LLC v. Glick*, 310 S.W.3d 713, 715-16 (Mo. Co. App. 2010) (applying Missouri Commercial Receivership Act, holding that creditor's appeal from denial of claim was premature and creditor may appeal from final order).

Thus, although I would answer the questions differently and perhaps with greater elaboration, I come to the same outcome as do my brothers. I, therefore, respectfully concur.