

Circuit Court for Prince George's County
Case No. CAEF16-04391

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2212

September Term, 2019

COMFORT BOATENG, *et al.*

v.

KRISTINE D. BROWN, *et al.*

Graeff,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 9, 2021

*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 2016, appellees, acting as substitute trustees,¹ filed an Order to Docket in the Circuit Court for Prince George’s County, seeking to foreclose on real property owned by Comfort and Kofi Boateng, appellants. Deutsche Bank National Trust Company, as Trustee on Behalf of HSI Asset Securitization Corporation Trust 2006-HE2 (Deutsche Bank) purchased the Boatengs’ home at a foreclosure sale. The Boatengs then filed a “Motion to Dismiss the Foreclosure Sale,” claiming that the substitute trustees had lacked standing to foreclose because they had not been appointed by the noteholder. The circuit court denied the motion without a hearing, finding that it was untimely, failed to comply with the requirements of Md. Rule 14-211(b)(1), and did “not on its face state a valid defense to the validity of the lien or the lien instrument or the right of the plaintiff to foreclose[.]” The same day the court entered an order ratifying the foreclosure sale.

Following the ratification of the sale, Deutsche Bank filed a motion for judgment awarding possession of the property. The Boatengs filed a response, wherein they again claimed that appellees had lacked standing to initiate the foreclosure action. The court entered an order awarding possession of the property to Deutsche Bank on January 14, 2020. This appeal followed.

On appeal, the Boatengs assert that the circuit court erred in not dismissing the foreclosure action because it was “filed by an entity who has no legal standing.” However, the scope of an appeal of an order granting or denying possession is quite limited. *Manigan*

¹ Appellees are Kristine D. Brown, Gregory N. Britto, William M. Savage, and Lila Stitely.

v. Burson, 160 Md. App. 114, 119 (2004). “The appeal must pertain to the issue of possession . . . and may not be an attempt to re-litigate issues that were finally resolved in a prior proceeding.” *Id.* Here, the only claim raised by the Boatengs relates to the propriety of the underlying foreclosure. Consequently, we will not consider that claim on appeal.²

Moreover, although the Boatengs do not raise the issue, we note that the trial court did not abuse its discretion in granting Deutsche Bank’s motion for judgment of possession. Pursuant to Maryland Rule 14-102(a), “[i]f the purchaser of an interest in real property at a sale conducted pursuant to the Rules in this Title is entitled to possession and the person in actual possession fails or refuses to deliver possession, the purchaser or a successor in interest who claims the right of immediate possession may file a motion for judgment awarding possession of the property.” “To invoke [Rule 14-102], the purchaser must show that (1) the property was purchased at a foreclosure sale, (2) the purchaser is entitled to possession, and (3) the person in possession fails or refuses to relinquish possession.” *G.E. Capital Mortgage Servs., Inc.*, 144 Md. App. 449, 457 (2002). “[G]enerally, a purchaser of property at a foreclosure sale may be entitled to seek possession of that property when the sale is ratified by the Circuit Court.” *Empire Properties v. Hardy, LLC*, 386 Md. 628, 651 (2005). In the instant case, Deutsche Bank purchased the property at the foreclosure

² In any event, appellants would not be entitled to relief. The Boatengs filed a separate notice of appeal from the court’s orders denying their motion to dismiss and ratifying the foreclosure sale and we affirmed, holding that their motion to dismiss raising the same standing claim had been untimely filed. *See Boateng v. Brown*, No. 1065, Sept. Term 2019 (filed Oct. 5, 2020). Therefore, their claim that appellees lacked standing is barred by the law of the case doctrine.

sale and the circuit court ratified that sale. And there is no evidence in the record indicating that the property was being occupied by bona fide tenants. Consequently, Deutsche Bank had the right to seek immediate possession of the property under Maryland Rule 14-102.

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