

Circuit Court for Montgomery County
Case No. 414926V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2251

September Term, 2018

NENAD MARKOVIC

v.

JEREMY K. FISHMAN, *et al.*

Beachley,
Wells,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 26, 2019

*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.

This appeal arises from an order issued by the Circuit Court for Montgomery County that prohibited Nenad Markovic, appellant, from filing as a self-represented litigant, any new pleadings in a closed foreclosure action involving his property without first obtaining written leave of the Administrative Judge (pre-filing order). Mr. Markovic raises six issues on appeal which reduce to one: whether the trial court erred in issuing the pre-filing order.¹ Finding no error, we shall affirm.

In February 2016, appellees, acting as substitute trustees,² filed an Order to Docket seeking to foreclose on real property owned by Mr. Markovic and his wife Olivera Markovic.³ Mr. Markovic's home was ultimately sold at a foreclosure auction. The circuit court ratified the sale on December 9, 2016 and ratified the auditor's report on February 23, 2017. Mr. Markovic then filed a timely motion for reconsideration, which was denied. Mr. Markovic did not appeal from either ratification order or the order denying his motion for reconsideration. Rather, over the next year he filed eight more motions seeking reconsideration or similar relief, all of which raised issues that had been previously rejected by the circuit court. All those motions were denied.

¹ Mr. Markovic's brief mostly addresses the merits of the underlying foreclosure action. However, he did not appeal from the order denying his motion to stay the foreclosure sale or the final order ratifying the auditor's report. Consequently, those issues are not properly before the Court.

² Appellees are Jeremy K. Fishman, Samuel D. Williamowsky, and Erica T. Davis.

³ Ms. Markovic is a not a party to this appeal.

On June 26, 2018, the court issued an order directing Mr. Markovic to show cause why he should not be found a vexatious litigant and subject to a pre-filing order based on the number of “largely incomprehensible and procedurally improper” motions that he had filed following the entry of the ratification order.⁴ On August 7, 2018, the court held a hearing and discussed on the record its concerns regarding the volume and repetitiveness of Mr. Markovic’s filings. The court specifically noted that Mr. Markovic had not appealed any of the prior orders and that the time for “reconsideration was long past and that [it couldn’t] continually have [its] staff filing and docketing [the same motions] that are going to be denied into the future.”

Mr. Markovic was then provided an opportunity to discuss why he believed he should be permitted to file additional motions without court approval. However, he did not directly address the question and instead reiterated his belief that he was a “victim” and that somebody was “trying to prevent [him from] presenting the evidence.” Moreover, he did not provide any assurances to the court that any motions he might file in the future would be substantively different from the motions that he had previously filed. Rather, he continued to press his claim that he was entitled to a hearing in the foreclosure action so that he could present evidence. The court ultimately determined that the claims Mr. Markovic continued to raise in his motions to reconsider the ratification of the foreclosure sale were “frivolous” and that, because he refused to stop filing those motions, he was a

⁴ The order also directed Mr. Markovic to show cause why he should not be subject to a pre-filing order in two other civil cases. The court ultimately entered a pre-filing order in all three cases. Mr. Markovic has filed a separate notice of appeal from the pre-filing order that was issued in Case No. 415167V.

vexatious litigant. The court specifically noted that Mr. Markovic had provided “[n]o explanation . . . as to why no appeal was taken from the decisions adverse to him.” It therefore entered a pre-filing order that prohibited Mr. Markovic from filing *pro se* motions in the foreclosure action without first obtaining permission from the administrative judge.

The authority to grant an injunction under Maryland Rule 15-502(b) includes the power to issue pre-filing orders “to control the actions of a vexatious or frivolous litigant.” *Riffin v. Circuit Court for Baltimore City*, 190 Md. App. 11, 28-29 (2010). In order to impose a pre-filing order, the circuit court “must document a record that justifies a pre-filing order.” *Id.* at 33. Then, the court “should make substantive findings as to the frivolous or harassing nature of the litigant’s actions.” *Id.* at 34. Finally, “the court must narrowly tailor a pre-filing order.” *Id.*

Here, Mr. Markovic did not appeal from the final judgment ratifying the auditor’s report. He also did not appeal from the order denying his first motion for reconsideration, which was filed within 30 days of the entry of the final judgment and therefore timely under Maryland Rule 2-534. Having failed to appeal from those orders, the effect of the final ratification of the foreclosure sale was *res judicata* as to the validity of the sale, absent the existence of fraud, mistake or irregularity within the meaning of Maryland Rule 2-535(b). *See Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008). Mr. Markovic’s subsequent motions for reconsideration did not demonstrate the existence of fraud, mistake or irregularity. And even if they had, he did not appeal the denial of those motions but instead continued to file additional motions raising substantially similar claims. Moreover, during the hearing on the show cause order, he did not acknowledge that his motions were procedurally improper

in light of a final judgment having been entered or indicate that he would not file similar motions in the future. Consequently, we are persuaded that the circuit court did not err in determining that Mr. Markovic's repetitive motions were frivolous and therefore, that he was a vexatious litigant. Finally, we note that because Mr. Markovic was not prohibited from filing pleadings in unrelated matters, the pre-filing order is not overly broad. Therefore, the circuit court did not err in entering the pre-filing order in this case.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**