

Circuit Court for Montgomery County  
Case No. 382445V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2314

September Term, 2017

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FATIMA MUSTAFA, *et al.*

v.

CARRIE M. WARD, *et al.*

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Fader, C.J.,  
Graeff,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: April 30, 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.

Kamal and Fatima Mustafa, appellants, appeal from an order issued by the Circuit Court for Montgomery County awarding possession of their home to JPMorgan Chase Bank Association (Chase) following a foreclosure sale. They raise two issues on appeal: (1) whether the court had subject matter jurisdiction over Chase’s request for possession of the property, and (2) whether the substitute trustees had standing to file the foreclosure action. Because the court had subject matter jurisdiction and the Mustafas’ claim regarding standing is not preserved for appeal, we shall affirm.

In 2013, appellees, acting as substitute trustees,<sup>1</sup> filed an Order to Docket seeking to foreclose on the Mustafas’ home. The home was eventually sold to Chase at a foreclosure sale, and the circuit court ratified the sale on May 14, 2015.<sup>2</sup> The substitute trustees then issued a deed to Chase, who recorded the deed in the Montgomery County Land Records on June 9, 2015.

Thereafter, the foreclosure action was stayed after Mr. and Mrs. Mustafa filed separate bankruptcy petitions. During the bankruptcy proceedings, Mr. Mustafa filed a proof of claim on behalf of Chase, who, at that point, had already received the deed from the substitute trustees and recorded it in the Montgomery County Land Records. Mr. Mustafa then filed an objection to the proof of claim that *he filed*, arguing that the filing was insufficient. Chase consented to the relief sought by Mr. Mustafa, which was disallowing the proof of claim he had previously filed *on behalf of Chase*. Chase indicated

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<sup>1</sup> Appellees are Carrie M. Ward, Howard N. Bierman, and Jacob Geesing.

<sup>2</sup> The Mustafas filed a notice of appeal from the ratification order and this Court affirmed. *See Mustafa v. Ward*, No. 474, Sept. Term 2015 (filed February 15, 2019).

that it was only consenting because it had foreclosed on the property and was not seeking a deficiency judgment against the Mustafas. Thereafter, the Bankruptcy Court entered a consent order sustaining Mr. Mustafa’s objection and disallowing the claim (the consent order).

In October 2017, the Bankruptcy Court granted Chase relief from the automatic stay. Thereafter, Chase filed a motion for judgment awarding possession of the property. The Mustafas did not file an opposition and the court entered a judgment awarding Chase possession of the property on January 16, 2018. This appeal followed.

On appeal, the Mustafas contend that the consent order rendered the Note and the Deed of Trust “null and void.” They therefore claim that: (1) the court lacked subject matter jurisdiction to enter the order awarding possession of the property to Chase, and (2) the substitute trustees lacked standing to bring the foreclosure action. However, the Mustafas did not raise these claims in the circuit court. In fact, they did not file an objection to Chase’s motion for judgment awarding possession. Consequently, only the Mustafas’ claim that the court lacked subject matter jurisdiction is properly before us. *See* Maryland Rule 8-131(a)(stating that the “issue[ ] of jurisdiction of the trial court over the subject matter” may be raised for the first time in the appellate court but that “[o]rdinarily the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court”).<sup>3</sup>

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<sup>3</sup> Although this Court may exercise its discretion to review unpreserved errors, we decline to do so in the instant case.

That claim, however, lacks merit. The Maryland Rules of Procedure, which govern the courts of this state, provide that the circuit courts in Maryland have general equity jurisdiction over foreclosures. *See* Md. Rule 14-203; *see also* *Voge v. Olin*, 69 Md. App. 508, 514 (1986) (“[T]he circuit court has authority to exercise general equity jurisdiction over mortgage foreclosure proceedings and it may invoke all the equitable powers with which it is imbued.”). And because the subject property is located in Montgomery County, the Montgomery County circuit court had *in rem* jurisdiction over the foreclosure once the Order to Docket was filed. *See* Md. Rule 14-203. The Mustafas’ arguments regarding the validity of the Deed of Trust or the standing of the substitute trustees to initiate the foreclosure action do not concern the court’s power to decide the case, but rather whether it was appropriate to grant the relief requested by Chase. *See generally* *Preissman v. Mayor & City Council of Balt.*, 64 Md. App. 552, 559 (1985). Consequently, we hold that the circuit court had subject matter jurisdiction over the foreclosure proceedings, including Chase’s motion for judgment awarding possession of the property.

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