

Circuit Court for Prince George's County  
Case No. CAE09-38954

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 249

September Term, 2017

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STARSHA M. SEWELL

v.

THOMAS P. DORE, *et. al.*,  
Substitute Trustees

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Woodward, C.J.,  
Kehoe,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: June 8, 2018

\*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.

Starsha M. Sewell, appellant, appeals from the denial, by the Circuit Court for Prince George’s County, of her “Request for a Judicial Audit,” which we construe as a motion to vacate the judgment in her foreclosure case pursuant to Maryland Rule 2-535(b). Sewell raises seven issues on appeal, which reduce to one: whether the court erred in denying her Rule 2-535(b) motion. For the reasons that follow, we affirm.

Sewell purchased real property in Capitol Heights, Maryland in 2008. After she defaulted on her deed of trust loan, appellees, the substitute trustees, initiated a foreclosure action.<sup>1</sup> The property was sold at a foreclosure auction and the sale was ratified on August 31, 2010. The auditor’s report was ratified on January 7, 2011, and the case was closed statistically. Although Sewell filed several motions to vacate the foreclosure sale both before and after the sale was ratified, she did not appeal from either the order ratifying the foreclosure sale or the order ratifying the auditor’s report.

In 2015, Sewell filed a motion to vacate the judgment in the foreclosure case pursuant to Maryland Rule 2-535(b). The circuit court denied that motion, following a hearing, and this Court affirmed. *See Sewell v. Dore*, No. 867, Sept. Term 2015 (filed July 8, 2016). Three days after the Court of Appeals denied her petition for writ of certiorari, appellant filed a “Request for Judicial Audit” in the circuit court, which is the subject of this appeal. In that motion she claimed that: (1) First Home Mortgage was her lender but that its “legal standing was forfeited by the State of Maryland on July 14, 2009;” (2) First Home Mortgage continued to do business in Maryland after its license was forfeited under

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<sup>1</sup> Appellees are Thomas Dore, Mark Devan, Shannon Menapace, Kristen Haskins, Gerard F. Miles, and Erin Gloth.

false pretenses “utiliz[ing] the identity of First Home Mortgage, Inc.,” (3) she had only “conducted business” with First Home Mortgage and had “never done business with First Home Mortgage Corporation; (4) one of the substitute trustees filed a fraudulent affidavit asserting that she was in default on a loan to First Home Mortgage Corporation; (5) one of the substitute trustees had “willfully violated the Maryland Personal Information Protection Act and used [her] name as the Seller of her property to conceal their violation of the RICO Act;” (6) “all of the financials [in the auditor’s report] [were] listed as **SUGGESTED ACCOUNTING** rather than [the] actual credit and debits that were actually exchanged [in the foreclosure sale]”; and (7) her property was taken in violation of the Fourteenth Amendment. On March 22, 2017, the circuit court entered an order treating Sewell’s motion as exceptions to the previously ratified foreclosure sale and denying them on the merits and as untimely. Appellant filed a motion to reconsider that was also denied.

“[T]he law is firmly established in Maryland that the final ratification of the sale of property in foreclosure proceedings is *res judicata* as to the validity of such sale, except in the case of fraud or illegality, and hence its regularity cannot be attacked in collateral proceedings.” *Ed Jacobsen, Jr., Inc. v. Barrick*, 252 Md. 507, 511 (1969) (citations omitted)). Because, the foreclosure sale and auditor’s report were ratified in 2010 and 2011 respectively, and Sewell did not appeal from either order, the only way that she can challenge those judgments is to file a Rule 2-535(b) motion. Therefore, giving Sewell the

benefit of the doubt, we construe her “Request for Judicial Audit” as having been filed pursuant to that rule.<sup>2</sup>

However, none of the claims raised in Sewell’s motion demonstrate the existence of fraud, mistake or irregularity, as those terms are used in Rule 2-535(b), that would have warranted the circuit court vacating its orders ratifying the foreclosure sale and the auditor’s report. *See generally Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (“Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments.”). To be sure, Sewell claims that various parties to the foreclosure sale engaged in fraudulent behavior. But “to establish fraud under Rule 2-535(b), a movant must show extrinsic fraud, not intrinsic fraud.” *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (internal citations omitted). “Fraud is extrinsic when it actually prevents an adversarial trial but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, the truth was distorted by the complained of fraud.” *Id.* at 290-91. Here, the fraud alleged by Sewell was not extrinsic because it had no bearing on her ability to fully present her case. In other words, she had every opportunity to raise these challenges

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<sup>2</sup> If Sewell actually intended to file exceptions to the foreclosure sale report, as found by the circuit court, they were untimely. *See* Maryland Rule 14-305(d)(1) (requiring exceptions to the foreclosure sale to be filed within 30 days after the report of sale).

during the foreclosure process. Consequently, the circuit court did not err in denying appellant’s “Request for Judicial Audit.”

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