

Circuit Court for Prince George's County
Case No. CAE16-36547

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2686

September Term, 2016

SAMPSON SARPONG

v.

FAIRWOOD OFFICE PARK, LLC

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

JJ.

Opinion by Beachley, J.

Filed: March 13, 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.

In 2010, appellee, Fairwood Office Park, LLC, obtained a default judgment (the “2010 Judgment”) for \$688,896 against appellant Sampson Sarpong in a related breach of contract case. In an effort to satisfy the judgment, appellee obtained a writ of execution against appellant’s residence in Bowie, Maryland (the “Sarpong Home”). In 2014, the Sheriff of Prince George’s County conducted a sheriff’s sale of the Sarpong Home, at which appellee purchased the home for \$5,000, subject to an existing deed of trust.

Approximately two years later, appellant filed a Complaint for Declaratory Judgment and Further Relief in the Circuit Court for Prince George’s County, requesting declaratory and injunctive relief, and seeking to quiet title to the Sarpong Home. In his complaint, appellant asserted that his rights in the Sarpong Home were superior to appellee’s and that, in any event, the 2010 Judgment was fully satisfied. Appellant subsequently amended his complaint, but did not materially alter the relief sought. After a hearing on appellee’s motion to dismiss the amended complaint, the circuit court dismissed appellant’s claims with prejudice. After the court denied his motion to alter or amend, appellant noted a timely appeal, and presents the following three questions for our review:

1. Whether the trial court erred in dismissing, with prejudice, Appellant’s claim of Action to Quiet Title Pursuant to Md. Real Prop. § 14-108, holding that Appellee obtained legal title to the Sarpong Home, when Appellant maintains bare legal title in trust and continues to make mortgage payments pursuant to a Refinance Deed of Trust.
2. Whether the trial court erred in dismissing, with prejudice, Appellant’s claims of Declaratory Relief without issuing a declaratory judgment and considering the offsets towards satisfaction of the default judgment that Appellee has obtained.

3. Whether the trial court erred in dismissing, with prejudice, Appellant's claim of Injunctive Relief against Appellee's efforts to sell the Sarpong Home and obtain a balance in gross excess of Appellee's judgment debt against Appellant.

For the following reasons, we affirm the circuit court's dismissal of appellant's quiet title claim (Count III) and his claim for injunctive relief (Count II), but vacate the court's dismissal of appellant's request for declaratory judgment (Count I) with instructions to the circuit court to enter a written declaratory judgment consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

Because appellant appeals the circuit court's granting of appellee's motion to dismiss, we are required to "presume the truth of all well-pleaded facts in the complaint, along with any reasonable inferences derived therefrom." *Higginbotham v. Pub. Serv. Comm'n of Md.*, 171 Md. App. 254, 264 (2006) (quoting *Britton v. Meier*, 148 Md. App. 419, 425 (2002)). Accordingly, our factual recitation presumes the truth of the facts alleged in appellant's pleadings.

This case stems from the 2010 Judgment appellee obtained against appellant in a separate civil matter. For context, we briefly summarize the circumstances of that case before proceeding to address the instant appeal.

The 2010 Default Judgment and the Sheriff's Sale of the Sarpong Home

On July 22, 2009, appellee filed a complaint against appellant in the Circuit Court for Prince George's County, alleging that appellant had breached an agreement to purchase a condominium unit from appellee. After issuing an order of default against appellant due to his failure to file a proper answer, the court held a hearing on damages. On October 15,

2010, the court entered a default judgment in appellee's favor and against appellant in the amount of \$688,896. Appellant did not appeal that judgment.

In January 2011, through a writ of garnishment on appellant's bank accounts, appellee received \$9,608.98 against the 2010 Judgment, resulting in a judgment balance of \$696,462.24 after interest. Also in January 2011, appellant conveyed his right, title, and interest in the Sarpong Home to Sarpong, LLC, a limited liability company of which appellant was the sole member.¹ On September 28, 2012, following a request from appellee, the circuit court issued a charging order against appellant's interest in Sarpong, LLC, and ordered the foreclosure of appellant's interest in Sarpong, LLC.

On January 6, 2014, the circuit court issued a writ of execution against the Sarpong Home, and instructed the Sheriff of Prince George's County to levy upon the Sarpong Home to satisfy the 2010 Judgment. On July 29, 2014, the Sheriff of Prince George's County sold the Sarpong Home at a sheriff's sale. Appellee submitted the winning bid of \$5,000.00, and by sheriff's deed dated October 30, 2014, the sheriff transferred "all the right and title of Sampson Sarpong and Sarpong, LLC" in the Sarpong Home to appellee. Notably, the Sarpong Home was subject to an existing lien.²

¹ The Sarpong Home was the only asset or property owned by Sarpong, LLC. On October 1, 2013, the State Department of Assessments and Taxation forfeited Sarpong, LLC's charter. On September 23, 2016, the entity Sarpong, LLC was revived.

² Appellant purchased the Sarpong Home in January 1992, borrowing \$219,600.00 secured by a deed of trust for the property. In December 1995, appellant refinanced his loan through a Refinance Deed of Trust. At the time of the refinance, the balance of appellant's mortgage was \$203,150.00. Appellant acknowledges that there is an existing

Appellant's 2016 Complaint

On October 28, 2016—nearly two years after receiving the sheriff's deed—appellee entered into a contract to sell the Sarpong Home to a third party for \$459,900.00. Appellant became aware that appellee was attempting to sell the Sarpong Home, and on September 16, 2016, appellant filed a Complaint for Declaratory Judgment and Further Relief in the Circuit Court for Prince George's County. On November 23, 2016, appellant filed an amended complaint. Appellant's amended complaint contained three counts: (1) declaratory relief, (2) injunctive relief, and (3) action to quiet title. Appellant asserted that his rights in the Sarpong Home were superior to any rights held by appellee, and that, in any event, the 2010 Judgment was fully satisfied.

We shall discuss appellant's legal theory in more detail *infra*, but appellant's core argument is that his execution of a Refinance Deed of Trust in 1995 (the "1995 Refinance Deed of Trust") conveyed equitable title to the Sarpong Home to the lender while reserving "bare legal title" to himself, thereby precluding the attachment of appellee's judgment lien against the Sarpong Home. Accordingly, appellant sought to enjoin appellee's attempt to sell the Sarpong Home.

The circuit court held a hearing on appellee's motion to dismiss appellant's amended complaint and on January 11, 2017, the court dismissed the amended complaint

lien on the Sarpong Home and that the mortgage is not yet paid off, but does not provide the current balance. Appellee proffers that as of December 21, 2016, the balance of the lien on the Sarpong Home was \$210,601.27. The existing balance due on the 1995 Refinance Deed of Trust is immaterial to our resolution of this appeal.

with prejudice. Appellant subsequently filed a motion to alter or amend pursuant to Maryland Rule 2-534, which the court denied on February 2, 2017. Appellant noted a timely appeal.

STANDARD OF REVIEW

We review the circuit court’s grant of a motion to dismiss *de novo*, and apply the same standard as the circuit court to determine whether dismissal was appropriate. *Margolis v. Sandy Spring Bank*, 221 Md. App. 703, 713 (2015). The Court of Appeals has stated that when

[c]onsidering a motion to dismiss a complaint for failure to state a claim upon which relief may be granted, a court must assume the truth of, and view in a light most favorable to the non-moving party, all well-pleaded facts and allegations contained in the complaint, as well as all inferences that may reasonably be drawn from them, and order dismissal only if the allegations and permissible inferences, if true, would not afford relief to the plaintiff, *i.e.*, the allegations do not state a cause of action for which relief may be granted.

Gomez v. Jackson Hewitt, Inc., 427 Md. 128, 142 (2012) (quoting *RRC Northeast, LLC v. BAA Md., Inc.*, 413 Md. 638, 643 (2010)). We may affirm a dismissal on “any ground adequately shown by the record, whether or not relied upon by the trial court.” *Id.* (quoting *Parks v. AlphaPharma, Inc.*, 421 Md. 59, 65 n.4 (2011)).

DISCUSSION

I.

The foundation of appellant’s argument is built upon his incorrect interpretation of the legal effect of the 1995 Refinance Deed of Trust. In appellant’s view, “[u]pon the borrower’s execution of a mortgage or deed of trust, equitable title in the property passes

to the lender, and bare legal title remains with the borrower.” Under appellant’s theory, because the lender had equitable title to the Sarpong Home and appellant only had “bare” legal title, appellee’s judgment did not attach to the property, and therefore the “Sheriff’s Deed could not have, and did not, convey legal and equitable title to the Sarpong Home to [a]ppellee.” According to appellant, because he retained bare legal title to the Sarpong Home, he possessed “color of title” to maintain a quiet title action.

Our case law unequivocally disavows appellant’s legal theory. In Maryland,

the mortgagor of real estate is regarded as the beneficial owner of the mortgaged property but the mortgage conveys the whole legal estate to the mortgagee, subject generally to the condition subsequent that upon due payment of the mortgage debt and on performance of all the covenants by the mortgagor, the mortgage deed is avoided.

IA Const. Corp. v. Carney, 104 Md. App. 378, 390 (1995) (quoting *Hebron Sav. Bank v. City of Salisbury*, 259 Md. 294, 299 (1970)). “In other words, *the mortgagor, while retaining equitable title in the mortgaged property*, grants to the mortgagee legal title in that property. If the mortgagee forecloses on the mortgaged property and purchases the mortgaged property at the foreclosure sale, legal and equitable title are thereby joined in the mortgagee.” *Id.* (emphasis added).

Similarly, in *Darnestown Valley-WHM Ltd. P’ship v. McDonald’s Corp.*, we stated that, “[A]lthough a mortgage technically conveys legal title to the property to the mortgagee, such title is not absolute, being merely security for payment.” 102 Md. App. 577, 586 (1994). “[P]ermission by a mortgagee to remain in possession until default constitutes a redemise to the mortgagor.” *Id.* “When the mortgage provides for a redemise

of the property, the mortgagor ‘is regarded, both at law and in equity, as the substantial owner of the property.’ In effect, the mortgagor is regarded as the *real and beneficial owner* of the redemised premises as to all persons except the mortgagee.” *Id.* at 587 (emphasis added) (quoting *Richardson v. Baltimore & D.B.R. Co.*, 89 Md. 126, 129-130 (1899)).

Under Md. Code (1974, 2015 Repl. Vol.), § 7-101(a) of the Real Property Article, “Every deed which by any other writing appears to have been intended only as security for payment of an indebtedness or performance of an obligation, though expressed as an absolute grant is considered a mortgage.” Here, the 1995 Refinance Deed of Trust executed by appellant expressly identifies itself as a security instrument, and permits appellant to occupy the Sarpong Home unless he defaults on his loan obligations. Therefore, appellant retained equitable title to the Sarpong Home when he executed the 1995 Refinance Deed of Trust. Moreover, under *Darnestown Valley*, appellant remained the “real and beneficial owner” of the property “as to all persons except the mortgagee.” 102 Md. App. at 587. We therefore hold that the 2010 Judgment attached as a lien against appellant’s interest in the Sarpong Home.³

³ Appellant cites several cases that invoke the doctrine of equitable conversion as it pertains to contracts for the sale of land. Under that doctrine, the buyer identified in an unrecorded real estate sales contract “has a claim superior to that of a creditor obtaining judgment [against the seller] subsequent to the execution of the contract.” *Himmighoefer v. Medallion Industries, Inc.*, 302 Md. 270, 279 (1985) (quoting *Stebbins-Anderson Co. v. Bolton*, 208 Md. 183, 187 (1955)). Those cases involving the rights of a creditor vis á vis parties to an executory contract of sale are inapposite.

Md. Code (1973, 2013 Repl. Vol.) § 11-501 of the Courts and Judicial Proceedings Article (“CJP”) provides that “A sheriff or constable to whom any writ of execution is directed may seize and sell the legal or equitable interest of the defendant named in the writ in real or personal property.” Similarly, Maryland Rule 2-644(a) provides, relevant to this case, that the sheriff may sell the debtor’s interest in the property under levy and that “[t]he debtor’s interest includes all legal and equitable interests of the debtor in the property at the time the judgment became a lien on the property.” Under this authority, the Sheriff of Prince George’s County sold the Sarpong Home in an attempt to satisfy all or part of the 2010 Judgment. Appellee submitted the highest bid for the Sarpong Home at the sheriff’s sale and, after judicial ratification of the sale, the sheriff transferred “all the right and title of Sampson Sarpong and Sarpong, LLC” in the Sarpong Home to appellee by a deed dated October 30, 2014.⁴ *See* Md. Rule 2-644(d).

Appellee correctly notes that its purchase of the Sarpong Home for \$5,000 was “subject to an existing deed of trust,” *i.e.* the 1995 Refinance Deed of Trust. In his amended complaint, appellant likewise correctly acknowledges that, “The Sheriff’s sale did not affect the legal force and effect of the 1995 Refinance Deed of Trust.” In summary, the sheriff’s deed conveyed “all legal and equitable interests” of appellant in the Sarpong Home to appellee pursuant to CJP § 11-501 and Rule 2-644(a), but that sale had no effect on the 1995 Refinance Deed of Trust, which maintained its priority lien status against the

⁴ Appellant did not except to the sheriff’s sale and took no action to challenge the sheriff’s deed to appellee.

property. *See Chicago Title Ins. Co. v. Mary B.*, 190 Md. App. 305, 316 (2010) (“[A] recorded deed of trust is effective against any creditor of the person who granted the deed of trust as of the date the deed of trust was delivered (not the date it was recorded) regardless of whether the creditor did or did not have notice of the deed of trust at any time.”). That the lender maintains its priority lien against the Sarpong Home is unavailing to appellant.

Because any right or interest appellant had in the Sarpong Home was extinguished by the sheriff’s deed, we conclude that the circuit court correctly dismissed with prejudice appellant’s quiet title claim (Count III).

II.

Appellant’s amended complaint for declaratory judgment sought a declaration that (1) the 2010 Judgment was satisfied and that appellee obtained property in excess of the judgment amount, and (2) appellant’s rights in the Sarpong Home were superior to appellee’s rights in the Sarpong Home. Regarding the latter requested declaration, we have already held that the sheriff’s sale of the Sarpong Home transferred all of appellant’s legal and equitable interests in the property to appellee. In short, appellant has no right—legal or equitable—in the Sarpong Home.

As to appellant’s claim that the 2010 Judgment was satisfied, even assuming the truth of all well-pleaded allegations in appellant’s amended complaint, it is clear that the 2010 Judgment was not satisfied. In his amended complaint, appellant asserted that when the Sarpong Home was sold at the sheriff’s sale in 2014, the assessed value of the property

should have been applied to the 2010 Judgment. By appellant's calculations, applying the assessed value of the property to the 2010 Judgment reduced the judgment balance to \$580,365.24. Appellant further asserted that when appellee sold the condominium unit in 2015 (the property which was the basis for the 2010 Judgment),⁵ the sale price should have also been applied to reduce the 2010 Judgment. According to appellant, application of these credits reduced the judgment balance to \$67,261.51.

We note that, as to the 2010 Judgment, appellant only sought a judicial declaration that the judgment was satisfied. We need not, and do not, express any opinion whether appellant's theory of credits against the 2010 Judgment are correct or whether his calculations are accurate. Moreover, because the trial court did not decide those matters, we decline to do so. Md. Rule 8-131(a). We simply hold that, even assuming the correctness of appellant's alleged credits against the 2010 Judgment, the Judgment has not been fully satisfied.

We nevertheless hold that the circuit court erred by dismissing appellant's claim for declaratory relief. As the Court of Appeals has repeatedly emphasized, dismissal "is rarely appropriate in a declaratory judgment action." *Christ ex rel. Christ v. Md. Dep't of Nat. Res.*, 335 Md. 427, 435 (1994)) (quoting *Popham v. State Farm*, 333 Md. 136, 140 n.2 (1993)).

It is proper to dismiss a declaratory judgment action only where there is a lack of jurisdiction or where a declaratory judgment is not an available

⁵ Appellee obtained the 2010 Judgment against appellant after appellant breached a contract to purchase this same condominium unit.

or appropriate type of remedy. *See, e.g., Popham v. State Farm, supra*, 333 Md. at 140-141 n.2, 634 A.2d at 30 n.2 (declaratory judgment ordinarily is not available when the issue has become moot); *Turnpike Farm v. Curran, supra*, 316 Md. at 49, 557 A.2d at 226 (declaratory judgment action is not available, and should be dismissed, where there is a pending action between the parties presenting the same issue); *Boyd's Civic Ass'n v. Montgomery County, supra*, 309 Md. at 688-700, 526 A.2d at 600-607 (declaratory judgment action, to be entertained by the court, must present a justiciable controversy); *State v. Burning Tree Club, supra*, 301 Md. at 18, 481 A.2d at 789 (declaratory judgment action should be dismissed where the plaintiff lacks standing); *Koontz v. Ass'n of Classified Emp., supra*, 297 Md. at 529-530, 467 A.2d at 758 (declaratory judgment action was properly dismissed where the dispute had become moot).

Where a controversy is appropriate for resolution by declaratory judgment, however, the trial court must render a declaratory judgment.

Id.

If the controversy may be appropriately resolved by declaratory judgment, “the court must enter a declaratory judgment, defining the rights and obligations of the parties or the status of the thing in controversy,” and that judgment must be in writing and in a separate document.” *Lovell Land, Inc. v. State Highway Admin.*, 408 Md. 242, 256 (2009) (quoting *Allstate v. State Farm*, 363 Md. 106, 117 n.1 (2001)).

Even when the Court of Appeals agrees with the circuit court that the plaintiff's claims for declaratory relief fail as a matter of law, the Court has held, with few exceptions, that dismissal is inappropriate. *See, e.g., Christ*, 335 Md. at 434-36 (agreeing with the circuit court that a contested regulation was invalid, but remanding the case for the entry of declaratory judgment); *see also Lovell Land*, 408 Md. at 246 (agreeing with the circuit court that the plaintiff had no right to the declaratory relief requested, but vacating grant of summary judgment and remanding for the entry of a proper declaratory judgment).

Where a bill of complaint shows a subject matter that is within the contemplation of the relief afforded by the declaratory decree statute, and it states sufficient facts to show the existence of the subject matter and the dispute with reference thereto, upon which the court may exercise its declaratory power, it is immaterial that the ultimate ruling may be unfavorable to the plaintiff.

Shapiro v. Bd. of Cty. Comm'rs for Prince George's Cty., 219 Md. 298, 302 (1959).

Under the Maryland Uniform Declaratory Judgments Act, CJP §§ 3-401 to -415:

[A] court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:

- (1) An actual controversy exists between contending parties;
- (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or
- (3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.

CJP § 3-409(a). We have noted that the Declaratory Judgments Act is remedial and “shall be liberally construed and administered.” *Oyarzo v. Md. Dep’t of Health and Mental Hygiene*, 187 Md. App. 264, 272 (2009) (quoting *Boyd’s Civic Ass’n v. Montgomery Cty. Council*, 309 Md. 683, 688 (1987)).

Relevant case law from the Court of Appeals suggests that complaints seeking declaratory relief regarding parties’ rights to land are appropriately decided by a declaratory judgment action. In *Shapiro*, the plaintiffs filed a complaint for declaratory relief, seeking a declaration that they were the sole owners of a certain tract of land. 219 Md. at 300. The circuit court dismissed the complaint, apparently finding that the plaintiffs had failed to allege title or possession, and that they were estopped from denying the

dedication of the land to public use. *Id.* at 301. On appeal, the Court of Appeals did not rule on the merits of the controversy, but held that the plaintiffs had alleged a justiciable controversy, noting that “there is nothing novel in bringing a declaratory action for the purpose of quieting title.” *Id.* at 302-03.

In *Lovell Land*, a parcel of unimproved land belonging to a limited partnership was acquired by the State Highway Administration (“SHA”) for use in constructing a highway extension. 408 Md. at 245. After the plans changed and the parcel was no longer needed for that purpose, SHA deeded it to Howard County for public use. *Id.* The plaintiff, the successor-in-interest to the limited partnership, filed a complaint for declaratory relief, seeking a declaration that the land had reverted back to SHA and that SHA was required to offer the land to the plaintiff. *Id.* at 246. SHA and the county filed motions for summary judgment, and the circuit court granted summary judgment against the plaintiff. *Id.* On appeal, we affirmed, holding that the circuit court correctly granted summary judgment. *Id.* The Court of Appeals, however, held that while the plaintiff had no right to the relief requested, the proper procedure required the entry of an appropriate declaratory judgment, not the grant of summary judgment. *Id.* at 267. The Court’s mandate remanded the case for “such further proceedings as may be necessary and entry of a declaratory judgment.” *Id.*

Here, as stated *supra*, appellant’s claims regarding his rights to the Sarpong Home and satisfaction of the 2010 Judgment lack merit. That determination, however, does not obviate the need for entry of a declaratory judgment. “That requirement is applicable even

if the action is not decided in favor of the party seeking declaratory judgment.” *Id.* at 256.

We therefore remand appellant’s declaratory relief claim (Count I) to the circuit court for entry of a proper declaratory judgment in conformance with this opinion.

III.

Finally, in his amended complaint, appellant requested that appellee be enjoined from further collection on the 2010 Judgment, that the circuit court enjoin appellee from selling the Sarpong Home, and that the court transfer title of the Sarpong Home to appellant. Appellant argues that the circuit court erred by dismissing his claim for injunctive relief without a hearing. We disagree.

“Injunctive relief normally will not be granted unless the petitioner demonstrates that it will sustain substantial and irreparable injury as a result of the alleged wrongful conduct.” *El Bey v. Moorish Sci. Temple of Am., Inc.*, 362 Md. 339, 355–56 (2001).

As ordinarily understood, an injury is irreparable, within the law of injunctions, where it is of such a character that a fair and reasonable redress may not be had in a court of law, so that to refuse the injunction would be a denial of justice—in other words, where, from the nature of the act, or from the circumstances surrounding the person injured, or from the financial condition of the person committing it, it cannot be readily, adequately, and completely compensated for with money.

Id. at 356 (quoting *Coster v. Dep’t of Pers.*, 36 Md. App. 523, 526 (1977)). “[M]ere allegations or arguments by a petitioner that it will suffer irreparable damage are not sufficient foundation upon which to base injunctive relief; facts must be adduced to prove that a petitioner’s apprehensions are well-founded.” *Id.*

Because we have already established that: 1) appellant has no right or interest in the Sarpong Home; and 2) the 2010 Judgment is not fully satisfied even assuming the correctness of appellant's well-pleaded facts, it is clear that appellant could not demonstrate a "substantial and irreparable injury" entitling him to injunctive relief. The circuit court therefore properly dismissed appellant's claim for an injunction.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED IN PART AND VACATED IN PART; CASE REMANDED TO THE CIRCUIT COURT FOR ENTRY OF A DECLARATORY JUDGMENT IN ACCORDANCE WITH THIS OPINION. COSTS TO BE PAID BY APPELLANT.