

Circuit Court for Baltimore County
Case No. 03-C-10-012157

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3075

September Term, 2018

DOUGLAS C. MYERS

v.

R. MARC GOLDBERG

Berger,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 3, 2020

*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 this foreclosure case, Douglas C. Meyers, appellant, appeals from an order issued by the Circuit Court for Baltimore County striking his “Motion to Vacate Judgment and Void Deed”; granting a motion for sanctions filed by R. Marc Goldberg, appellee; ordering him to pay \$46,521.71 in attorneys’ fees; and prohibiting him from filing additional pleadings in the foreclosure case without first obtaining leave from the Administrative Judge. He raises five issues on appeal, which reduce to three: (1) whether the court erred in striking his motion to vacate judgment for lack of standing; (2) whether the motion to vacate should have been granted on the merits; and (3) whether the court abused its discretion in granting the motion for sanctions and ordering him to pay Mr. Goldberg’s attorneys’ fees. For the reasons that follow, we shall affirm the judgment of the circuit court.¹

In 2010, Mr. Goldberg, acting as trustee, filed an Order to Docket seeking to foreclose on real property owned by Allender Property I, LLC (API). Mr. Myers is the manager and sole member of API, but was not a party to the foreclosure action. The

¹ Mr. Goldberg has filed a motion to dismiss the appeal, claiming that Mr. Myers lacks standing to appeal because he lacked standing to file the motion to vacate. However, his “alleged lack of standing to have instituted the action in the trial court furnishes no ground for dismissal of the appeal.” *Dorsey v. Bethel A.M.E Church*, 375 Md. 59, 69 (2003). Mr. Myers is not filing this appeal on behalf of API. And he is individually aggrieved by the circuit court’s order because he was prevented from litigating the merits of his motion. Although we conclude that the circuit court did not err in striking the motion to vacate, that does not mean that Mr. Myers’s appeal was improper and subject to dismissal. Therefore, we shall deny the motion to dismiss.

property was ultimately sold at a foreclosure sale, the sale was ratified in April 2011, and the auditor’s report was ratified in January 2012.²

Following the ratification of the auditor’s report, Mr. Myers filed numerous motions seeking to vacate the foreclosure sale pursuant to Maryland Rule 2-535(b), claiming that the sale was held in violation of a bankruptcy stay; that he was not served with Mr. Goldberg’s motion to strike his exceptions to the foreclosure sale; and that Mr. Goldberg failed to conduct the sale so as to maximize the price received for the property. The first two motions to vacate the foreclosure sale, filed in December 2014 and May 2016 respectively, were struck by the circuit court after it determined that Mr. Myers was not a proper party to the foreclosure action. Mr. Myers did not file a timely notice of appeal from either order. Then, in September 2016, he filed a motion to intervene in the foreclosure action so that he could file a motion to vacate the judgment, claiming that he had an interest in the foreclosed property because he was the sole member of API and that API had not adequately protected that interest in the foreclosure proceedings. The circuit court denied that motion on October 12, 2016. Again, Mr. Myers did not file a timely notice of appeal.

After the motion to intervene was denied, Mr. Goldberg filed a motion for sanctions, requesting the court to enter a pre-filing order and to order Mr. Myers to pay his attorneys’

² Mr. Myers filed a notice of appeal after the auditor’s report was ratified; however, we dismissed the appeal as not allowed by law because Mr. Myers lacked standing to appeal individually and he could not file a notice of appeal on behalf of API as he was not an attorney.

fees pursuant to Maryland Rule 1-341. On October 1, 2018, while the motion for sanctions was still pending, Mr. Myers filed the “Motion to Vacate Judgment and Void Deed” that is the subject of this appeal. In that motion, Mr. Myers raised the same substantive claims that he had raised in his prior motions to vacate and again asserted that he had standing to file the motion based on his status as the manager and sole member of API. Following a hearing, the circuit court struck the motion to vacate, finding that Mr. Myers lacked standing to file the motion because he was not an interested party and that he could not file the motion on behalf of API because he was not an attorney. The court also granted the motion for sanctions, finding that Mr. Myers had “engaged in a habitual practice of obfuscation and delay”; that his “continual filings . . . display[ed] a pattern of bad faith, as he lack[ed] a substantial justification for filing”; and that he was “clearly ignoring prior court rulings and dictates of various judicial forums in which he had been involved.” In granting the motion for sanctions, the court entered a pre-filing order and ordered Mr. Myers to pay \$46,521.71 in attorney fees, which was reduced to a judgment. This appeal followed.

Mr. Myers first contends that he had standing to file the motion to vacate and therefore, that the court erred in striking that motion. We disagree. Mr. Myers was not a party to the foreclosure action and he could not file a motion on behalf of API because he is not an attorney. And, although he claims to be an interested party, he did not file a motion to intervene prior to filing the October 1 motion to vacate. *See* Maryland Rule 2-214(c) (“A person desiring to intervene shall file and serve a motion to intervene.”). Moreover, even if we construe the motion to vacate as a motion to intervene it was properly

denied. Mr. Myers has previously filed a motion to intervene in the foreclosure action, that motion raised the same claims regarding his alleged personal interest in the foreclosed property, that motion was denied on the merits, and he did not file a timely appeal. Therefore, any claim by Mr. Myers that he should be allowed to intervene in the foreclosure action to file another motion to vacate is barred by the doctrine of res judicata. *See Colandrea v. Wilde Lak Comm. Ass’n.*, 361 Md. 371, 292 (2000) (noting that the elements of res judicata are: (1) that the parties in the present litigation are the same or in privity with the parties in the earlier dispute; (2) that the claim presented in the current action was raised or could have been raised in the prior adjudication; and (3) that there has been a final judgment on the merits).³ Consequently, the court did not err in striking his motion to vacate the foreclosure sale. Because of our holding on the issue of standing, we do not address Mr. Myers’s claims regarding the merits of the motion to vacate. *See generally Citizens Planning and Housing Ass’n v. County Executive of Baltimore County*, 20 Md. App. 430, *rev’d on other grounds*, 273 Md. 333 (1974) (“If the plaintiff lacks standing to bring a suit, then the controversy is not justiciable.”).

Finally, we note that Mr. Myers also sets forth the following “questions presented” in his brief: “(4) Did the Circuit Court abuse its discretion, when it Granted the Appellee’s Motion for Sanctions?” and “(5) Did the Circuit Court abuse its discretion, when it ORDERED, that [he] will pay [appellee’s] counsel the sum of \$46,521.71 in attorney fees,

³ Although the motion to strike was not granted on res judicata grounds, an appellate court may *sua sponte* raise the issue of res judicata. *See Anne Arundel County Bd. of Educ. v. Norville*, 390 Md. 93, 105 (2005); *Holloway v. State*, 232 Md. App. 272, 282-83 (2017).

and reduced said amount to a judgment against [him]?” However, he does not discuss these issues at any other point in his brief, even in a conclusory fashion. Maryland Rule 8-504(a) requires a party’s brief to contain a “clear concise statement of the facts material to a determination of the questions presented,” a “concise statement of the applicable standard of review for each issue,” and “[a]rgument in support of the party’s position on each issue.” And, although we are mindful that Mr. Myers is proceeding *pro se*, it is not this Court’s responsibility to “attempt to fashion coherent legal theories to support [his] . . . claims” of error. *See Konover Property Trust, Inc. v. WHE Assocs., Inc.*, 142 Md. App. 476, 494 (2002). Because these claims are not presented with particularity, we will not consider them on appeal. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments “not presented with particularity will not be considered on appeal” (citation omitted)).

**MOTION TO DISMISS APPEAL
DENIED. JUDGMENT OF THE
CIRCUIT COURT FOR BALTIMORE
COUNTY AFFIRMED. COSTS TO BE
PAID BY APPELLANT.**