

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1484

September Term, 2015

EDWARD B. FRASIER, *ET UX.*

V.

LAURA H.G. O'SULLIVAN, *ET. AL,*
SUBSTITUTE TRUSTEES

Krauser, C.J.,
Nazarian,
Moylan, Charles E. Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 31, 2016

*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.

On October 15, 2013, substitute trustees filed, in the Circuit Court for Prince George’s County, an action to foreclose on residential property owned by Edward B. Frasier and Cressie M. Frasier, appellants. Appellants did not file a response to the foreclosure action. On March 17, 2015, substitute trustees sold the property at a foreclosure sale. Three months after the sale, appellants filed a motion for leave to file a counterclaim. The circuit court denied that motion and subsequently ratified the foreclosure sale.

In this appeal, appellants, proceeding *pro se*, as they did in the circuit court, contend that the circuit court erred in denying their motion for leave to file a counterclaim. Appellants concede that their proposed counterclaim was “filed late,” but argue that the circuit court erred in denying their motion for leave to file a counterclaim because their counterclaim was effectively an “exception” to the foreclosure sale, and the trustees lacked standing to bring the foreclosure action.¹

We need not reach the merits of appellants’ claim because the order, denying the motion for leave to file a counterclaim, was not an appealable final judgment. *See* Md. Rule 2-602 (a). The order pertained only to the proposed counterclaim and left for further

¹ There are three means by which a borrower may challenge a foreclosure in the circuit court: 1) obtain a pre-sale injunction pursuant to Maryland Rule [14-211]; 2) file post-sale exceptions to the ratification of the sale under Maryland Rule 14-305(d); and 3) file exceptions to the auditor’s statement of account pursuant to Maryland Rule 2-543(g), (h). *Wells Fargo Home Mortg., Inc. v. Neal*, 398 Md. 705, 726 (2007). Appellants failed to avail themselves of any of the foregoing opportunities to challenge the foreclosure in the circuit court. Appellants also failed to file a notice of appeal following the circuit court’s ratification of the sale on November 5, 2015, which was the final judgment in the case. *See Hughes v. Beltway Homes, Inc.*, 276 Md. 382, 384 (1975) (an order ratifying a foreclosure sale is a judgment, as it is a final order of the court).

adjudication the substitute trustees’ request to foreclose on the property. *See id.* Indeed, the order denying appellants’ motion for leave to file a counterclaim contemplated further proceedings, as it stated: “ORDERED that this case shall continue in due course.” Moreover, the order denying appellants’ motion for leave to file a counterclaim was not an appealable interlocutory order because it did not fall within one of the three categories of permissible interlocutory appeals: “appeals from interlocutory orders specifically allowed by statute [CJP § 12–303; § 12–304]; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory orders allowed under the common law collateral order doctrine.” *Falik v. Hornage*, 413 Md. 163, 175–76 (2010) (citations and internal quotations omitted).

**APPEAL DISMISSED. COSTS TO BE PAID
BY APPELLANT.**