

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2217

September Term, 2015

SABIR A. RAHMAN

v.

JACOB GEESING et al.

Nazarian,
Beachley,
Davis, Arrie W.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Davis, J.

Filed: December 23, 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.

The instant appeal is the second appeal to this Court by appellant, Sabir A. Rahman, *pro se*, since we issued our unreported opinion on June 24, 2015, wherein we affirmed the decision of the Circuit Court for Montgomery County (McGann, J.) concluding that appellant's assertions of error were not properly before this Court. Appellant, on December 14, 2015, timely filed the instant appeal, in which he raises the following questions for our review:

1. Did the Trial Court err in ratifying an Audit Report which contained errors?
2. Did the Trial Court err in ignoring MD Rule 14-207.1 by failing to scrutinize the obviously erroneous statements in the Audit Report?
3. Did the Trial Court abuse its discretion by repeatedly allowing statements, motions and pleadings by the Appellee which were erroneous and violated Maryland Rules and Laws?

FACTS AND LEGAL PROCEEDINGS

In 2006, appellant and his late wife, Saeedea Rahman, refinanced the mortgage on their home at 18806 Brooke Road, Sandy Spring, Maryland, obtaining a loan in the amount of 750,000.00. On July 22, 2011, appellees, the Substitute Trustees, filed their Order to Docket after appellant defaulted on the mortgage loan. The secured party, Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust, purchased the Property at the foreclosure sale on August 28, 2013. Appellant filed Exceptions to the sale on October 11, 2013, in which he raised the following three claims: (1) that the substitute trustees erred by failing to provide to the Estate of Saeeda Rahman due notice of the foreclosure sale (2) that the Substitute Trustees abused their powers as trustees by proceeding with the foreclosure sale while the property was subject to a pending

collateral quiet title action and (3) that the pending collateral lawsuit negatively impacted on the sale price of the Property. The Circuit Court for Montgomery County (McGann, J.) held a hearing on the merits and denied the exceptions and ratified the foreclosure sale on December 4, 2013. Appellant appealed and we affirmed the circuit court's decision on June 24, 2015.¹

On January 9, 2014, the Auditor's Report was filed. Appellant filed his exceptions to the Auditor's Report on January 22, 2014, arguing that it was invalid because it utilized a "wrong interest rate" and that appellees did not have standing to pursue the foreclosure action. On March 17, 2014, the circuit court denied appellant's exceptions and ratified the Auditor's Report.

On March 28, 2014, appellant filed a Motion to Reconsider pursuant to Maryland Rule 2–534. Appellant argued that the documents provided by appellees do not qualify as business records, that the Auditor's Report should be quashed and that the case should be dismissed for appellees' failure to timely respond to his exceptions pursuant to Maryland Rule 2–311(b). On December 11, 2015, the circuit court denied appellant's Motion to Reconsider. Appellant filed the instant appeal on December 14, 2015.

STANDARD OF REVIEW

An appellate challenge to a court's ruling on a Rule 2–534 motion is typically limited in scope. In general, the denial of a motion to alter or amend a judgment is reviewed by appellate courts for abuse of discretion. The relevance of an asserted legal error, of substantive law, procedural requirements, or fact-finding unsupported by substantial evidence, lies in whether there has been such an abuse.

¹ *Rahman v. Jacob Geesing, et al.*, No. 2109 SEPT. TERM 2013, 2015 WL 6111833 (Md. Ct. Spec. App. June 24, 2015).

Schlottzauer v. Morton, 224 Md. App. 72, 84 *cert. granted*, 445 Md. 487 (2015), *aff'd*, 449 Md. 217 (2016) (internal quotation marks and citations omitted).

DISCUSSION

Appellant contends that the Auditor’s Report used the wrong interest rate and that the Substitute Trustees, *i.e.*, *Jacob Geesing et al.*, did not have authority or standing to proceed with the foreclosure on behalf of the servicer or lender. According to appellant, the Auditor’s Report must be “quashed.”

Appellees respond that the circuit court did not err in overruling appellant’s Exceptions to the Auditor’s Report and ratifying it. Appellees acknowledge that appellant proffers two points as to why the Auditor’s Report should not have been ratified, *i.e.*, incorrect interest rate and appellees’ lack of authority to proceed with foreclosure action. Appellees, however, argue that appellant failed to provide any justification as to why the Auditor’s Report should be set aside. Furthermore, appellees assert that appellant now proffers, for the first time, evidence for review that was not filed with his Motion or presented at the hearing on the Motion.

Regarding appellate review of a motion for reconsideration, the Court of Appeals has held:

When a party requests that a court reconsider a ruling solely because of new arguments that the party could have raised before the court ruled, the court has almost limitless discretion not to consider those argument. By contrast, when a party makes a prompt and timely request that a court reconsider a ruling because of a development that the party could not have raised before the court ruled, the court can and should reconsider its decision.

Schlottzauer, 224 Md. App. at 85.

“[A] debtor may challenge the statement of indebtedness *as to amounts* by filing exceptions to the auditor’s statement of account.” *Greenbriar Condo. v. Brooks*, 387 Md. 683, 747 (2005) (Emphasis supplied).² *See Pac. Mortg. & Inv. Grp., Ltd. v. LaGuerre*, 81 Md. App. 28, 33–34 (1989) (noting that the auditor determines “the amount that is due and owing under the mortgage in stating the account” and, if that “amount due is disputed, exceptions may be filed pursuant to Rule 2–543(g)”). Maryland Rule 2–543(g)(1) requires that exceptions to an auditor’s report be filed within ten days of the report’s filing with the court and that “[e]xceptions shall be in writing and shall set forth the asserted error with particularity.”

In the instant case, appellant’s Exceptions to the Auditor’s Report improperly focus upon the validity of the foreclosure action, not the amount due as determined by the report. Appellant’s Motion is entitled “Motion of Exception to the Auditor Report and Wrongful Foreclosure and Request for Hearing.” The first paragraph of his motion does not mention the amount; rather it states that the “foreclosure proceedings in the subject case are wrongful and without any validity.” Although appellant does mention an error as to the amount due in the second paragraph, he fails to set forth the asserted error in any particularity. Appellant states that the amount is “greatly inflated,” not valid and is contrary to “contract limitations,” but offers no further explanation or support for these assertions. Appellant does, however, offer eight points of consideration as to why the foreclosure action is invalid and expounds his theory in the next six pages of his Motion. Exceptions

² Superseded by Rule, on other grounds, as stated in *Thomas v. Nadel*, 427 Md. 441 (2012).

to an auditor’s report is not the proper venue for disputing the foreclosure action and, therefore, we hold that the circuit court did not abuse its discretion in denying appellant’s exceptions.

Furthermore, to the limited extent that appellant did assert error as to the amount due as determined by the Auditor’s Report, appellant submitted no evidence with his Motion or at the hearing on his Motion. On appeal, appellant offers a letter illustrating the “correct” interest rate that was not used by the auditor to determine the amount due. However, citing *Douglas v. First Sec. Fed. Sav. Bank*, 101 Md. App. 170, 177 (1995) (quoting *Burke v. Burke*, 204 Md. 637, 646 (1954)), appellees note that “this Court . . . has ‘no power to inspect documents or consider evidence which was not offered below to determine whether the findings were correct.’” It is incumbent upon this Court to

[d]eal with cases as they are brought before [it] by the record transmitted from the court below, and [we have] no power, whilst reviewing a particular order from which an appeal may be taken, to receive evidence or to remand the record to the court below to hear testimony on totally different questions that in no way reflect the only issue brought to this Court for review.

Id. (quoting *Burke*, 204 Md. at 646).

Finally, we note that, at the March 17, 2014 hearing on appellant’s Exceptions to the Auditor’s Report, counsel for the Substitute Trustees indicated that “the default on the loan occurred prior to the change date,” and that, in November 2010 when the default occurred, the interest rate was 7.25 percent. Counsel further explained that the “interest rate at the time is the interest rate going forward for the calculation” in the Auditor’s Report. Counsel for the court auditor’s office testified that the Auditor’s Report used “the

interest rate that was on the note in supply by the trustee[.]” When prompted by the court for response, appellant offered that he was still receiving letters from the servicer and that the current interest rate is 3.35 percent. Appellant also responded that he believes the people who are suing him “do not represent the partying [sic] interest” and that he has “never been given an opportunity to come before the judge and talk about it.”

In sum, appellant failed to except to the amount due as determined by the Report, any asserted error was stated without the requisite particularity and appellant failed to adequately support his contention as it pertained to the amount due. For the foregoing reasons, we hold that the trial court did not abuse its discretion in denying appellant’s Exceptions to the Auditor’s Report.

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