

Circuit Court for Prince George's County
Case No. CAEF15-00622

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1290

September Term, 2016

CARGYLE SOLOMON

v.

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

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

JJ.

PER CURIAM

Filed: November 7, 2017

*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 January 29, 2015, appellees, substitute trustees for Bayview Loan Servicing, LLC (“Bayview”), filed an order to docket foreclosure for 126 Iroquois Way, Oxon Hill, Maryland 20745 (“the property”), in the Circuit Court for Prince George’s County. Appellees notified the borrowers, James Solomon and Cargyle Solomon, appellant, of the foreclosure sale that would occur on February 23, 2016.¹ The foreclosure sale proceeded accordingly, and at that sale, a report of which was filed on March 1, 2016, Bayview purchased the property for \$143,000.

On July 28, 2016, Solomon filed a “Motion for an Emergency Order of Stay of Bayview Loan Servicing, Bank of America, and it’s [sic] Attorney’s McCabe, Weisberg, & Conway, LLC; Rachel Kiefer, Esq. to Cease from Taking any Action on the Property at 126 Iroquois Way, Oxon Hill, MD 20745,” which the court treated as Solomon’s exceptions to the foreclosure sale. On August 1st, the court overruled her exceptions and subsequently denied a motion for reconsideration concerning them. On August 8th, Solomon filed another motion seeking an injunction, which the court treated as a second motion for exceptions, along with a motion demanding a jury trial. On August 12th, the court denied Solomon’s demand for a jury trial and overruled the second motion for exceptions. On August 26th, Solomon filed a third motion for exceptions, along with a notice of appeal. The court subsequently overruled Solomon’s third motion for exceptions. At the time Solomon noted her appeal, the sale had not been ratified.

¹ James Solomon has not filed an appeal in this case and is not a party to the appeal. Accordingly, when we refer to “Solomon,” we mean Cargyle Solomon. From materials in the record extract, we discern that James was ordered to leave the property in 2012.

On appeal, Solomon presents seven questions for our review, from which we discern an overarching challenge to the foreclosure proceedings.² She alleges that the foreclosure sale never actually occurred on February 23rd and that she was not properly served. She also contends that she was entitled to a jury trial, pursuant to Rule 2-325.³ Essentially, she maintains that she lost her house without due process.

Solomon’s claims have no merit. First, as a foreclosure is an equitable proceeding, there is no right to a jury trial. *See Hill v. Cross Country Settlements, LLC*, 402 Md. 281, 309-10 (2007) (noting that foreclosures are proceedings in equity); *Mattingly v. Mattingly*, 92 Md. App. 248, 254-55 (1992) (holding that there is no right to a jury in an equitable proceeding). The circuit court, therefore, properly denied Solomon’s demand for a jury trial.

Turning to Solomon’s exceptions to the foreclosure sale, the Court of Appeals has remarked upon the limited nature of exceptions as follows: “[A]fter a foreclosure sale, ‘the debtor’s later filing of exceptions . . . may challenge only procedural irregularities at the

² Additionally, Solomon contends that Judge Herman Dawson acted illegally by ordering her imprisoned in 2012 for her failure to attend a hearing. From the materials included in the record extract, it appears that Solomon was a party to a children in need of assistance (“CINA”) proceeding before Judge Dawson in June 2012. Judge Dawson took no part in the foreclosure proceedings. Whatever occurred in 2012 is not properly before us, however. *See* Rule 8-202(a) (noting that with exceptions inapplicable to this case, “the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken”); *Hartford Fire Ins. Co. v. Estate of Sanders*, 232 Md. App. 24, 60 (2017) (stating that appellate courts will dismiss appeals that are not timely filed).

³ Rule 2-325(a) provides: “Any party may elect a trial by jury **of any issue triable of right by a jury** by filing a demand therefor in writing either as a separate paper or separately titled at the conclusion of a pleading and immediately preceding any required certificate of service.” (Emphasis added).

sale or . . . the statement of indebtedness.” *Bates v. Cohn*, 417 Md. 309, 327 (2010) (quoting *Greenbriar Condo., Phase I Council of Unit Owners, Inc. v. Brooks*, 387 Md. 683, 688 (2005)). Solomon’s arguments concerning lack of notice or lack of due process in the foreclosure proceeding are, therefore, not cognizable as exceptions to the sale. Furthermore, Solomon’s exceptions suffer from a far more fatal flaw. Rule 14-305(d)(1) provides that a party filing exceptions to a foreclosure sale must file them “within 30 days after the date of a notice issued pursuant to section (c) of this Rule or the filing of the report of sale if no notice is issued.” The rule also provides that “[a]ny matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise.” Rule 14-305(d)(1). In this case, the report of sale was filed on March 1, 2016. Accordingly, Solomon’s motion, which the court treated as a first motion for exceptions, filed on July 28, 2016, was untimely, as were her subsequent motions for exceptions. The court, therefore, properly overruled her exceptions.

To the extent that Solomon argues that the court ruled on her motions without a hearing in violation of Rule 2-311(f), we discern nothing amiss. Rule 2-311(f) states: “A party desiring a hearing on a motion . . . shall request the hearing in the motion or response under the heading ‘Request for Hearing.’ The title of the motion or response shall state that a hearing is requested.” Solomon failed to properly request a hearing in any of her motions, and the court, therefore, was not required to hold one.

To the extent that Solomon alleges due process insufficiencies in Maryland’s foreclosure proceedings, the Court of Appeals has previously determined that there are no constitutional deficiencies therein. *See Griffin v. Bierman*, 403 Md. 186, 196-200 (2008).

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