

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2620

September Term, 2015

WILLIAM L. ROBINSON, JR.

v.

THOMAS P. DORE,
SUBSTITUTE TRUSTEE

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

JJ.

PER CURIAM

Filed: April 6, 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.

In 2012, appellees, Thomas P. Dore, et al., Substitute Trustees,¹ initiated foreclosure proceedings as to a residential property owned by William L. Robinson, Jr., appellant, in the Circuit Court for Baltimore City. On March 27, 2015, after receiving notice that appellant had filed for bankruptcy once again and the United States Bankruptcy Court for the District of Maryland had issued an automatic stay, the Baltimore City circuit court entered an order staying the foreclosure proceedings. After the bankruptcy court, on May 22, 2015, dismissed appellant’s case and terminated the automatic stay, the appellees filed copies of those orders in the foreclosure action. Then, on August 4, 2015, appellees published the first of three successive weekly notices advertising the sale of appellant’s property. Three days later, on August 7, 2015, the circuit court entered an order terminating its stay of the foreclosure proceedings and the property was sold at auction twelve days later.

On September 10, 2015, appellant filed a request for “non-ratification” of the sale, citing “irregularities” in the conduct of the foreclosure sale. He asserted that the circuit court’s stay, pending the outcome of his bankruptcy case, was still effective when the first notice advertising the sale was published and, therefore, the sale should be set aside. The circuit court treated appellant’s motion as a post-sale exception to the sale pursuant to Rule 14-305, denied the motion, and then ratified the sale. Appellant filed a request for reconsideration, which the court then denied.

¹ The Substitute Trustees are: Thomas P. Dore, Mark S. Devan, and Christine Drexel.

Robinson noted this appeal and contends that the circuit court erred in ratifying the sale. For the reasons that follow, we affirm.

In *Devan v. Bomar*, 225 Md. App. 258 (2015), this Court examined the nature and timing of challenges to foreclosure actions. Noting that Rule 14-211 provides for the timely challenge to an impending foreclosure sale after foreclosure proceedings have been filed, but before the sale has been conducted, *id.* at 264, this Court stated that Rule 14-211 places the onus squarely upon the movant to raise knowable challenges to the legitimacy of a foreclosure proceeding “before a foreclosure sale takes place.” *Id.* at 266 (citing *Bates v. Cohn*, 417 Md. 309, 318-19 (2010)). Consequently, a “known and ripe” defense, we asserted, is waived if not timely made, and it may not be raised later in post-sale exceptions. *Id.* at 268.

With respect to post-sale exceptions, we emphasized the limited nature of such challenges, which are appropriately raised when contesting procedural flaws in the foreclosure sale process. *Id.* at 267. Rule 14-305(d)(1) provides that within 30 days after the filing of the report documenting the sale of the foreclosed property, an aggrieved party “may file exceptions to the sale” and must “set forth [any] alleged irregularity with particularity.” If, following a hearing, the court “is satisfied that the sale was fairly and properly made,” the court will ratify the sale. Rule 14-305(e).

In the instant case, on August 4, 2015, appellees published the first notice advertising the sale of the property. Appellant does not cite a particular deficiency as to the form or content of that notice, but, instead, asserts that the timing of the notice was irregular because it violated the circuit court’s stay, which was still in place on that date.

Even if we assume that advertising the sale of the property, before the circuit court had lifted its stay, constitutes an “irregularity” in the proceedings, Robinson waived his challenge by failing to raise the matter in a Rule 14-211 motion filed before the sale occurred. But, even if not waived, any such irregularity was harmless because the circuit court concluded that the bankruptcy stay had been lifted at the time the foreclosure sale was first advertised.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**