

Circuit Court for Prince George's County
Case No. C-16-CV-23-002067

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 126

September Term, 2024

SANKA KAMARA

v.

DIANA THEOLOGOU, ET AL.

Shaw,
Zic,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: May 16, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This case arises from a residential foreclosure action filed in the Circuit Court for Prince George’s County. Appellant Sanka Kamara, a defendant in the underlying proceedings, contests the circuit court’s ratification of the foreclosure sale (“Ratification”). Ms. Kamara presents one question for our review, which we have rephrased as follows:¹ Whether the circuit court erred in ratifying the report of sale. For the following reasons, we remand to the circuit court to clarify the record.

BACKGROUND

In August of 2014, Ifeoma Onyia² executed a deed of trust secured by a residential property (“Property”) in Bowie, Maryland. In July of 2020, Ms. Kamara was conveyed a deed in interest in the Property. Ms. Kamara’s interest was recorded in the land records of Prince George’s County on March 9, 2021.

On or about May 3, 2023, a foreclosure action was docketed against the Property. Notices of the foreclosure action were sent to Ms. Onyia and Ms. Kamara at the Property’s address, and an affidavit of personal service was filed on May 11, 2023. The

¹ Ms. Kamara phrases the question as follows:

Whether the [c]ircuit [c]ourt Committed Reversible Error
When the [c]ourt Executed an Order Submitted by a
Foreclosure Magistrate Without the Magistrate First Issuing a
Formal Report and Recommendations Detailing the Proposed
Actions, and Without Providing the Homeowner a
Reasonable Opportunity to Review the Proposed
Recommendations, File Exceptions to Those
Recommendations, Present Testimony in Support of the
Exceptions, and Argue Them Before the [circuit c]ourt.

² Ms. Onyia, who was a defendant in the foreclosure action before the circuit court, is not a party in the present appeal.

record reflects a July 14, 2023 filing rejection for failure to attach the filing fee required by Maryland Rule 20-201(k).

On September 12, 2023, Diana Theologou (“Substitute Trustee”), the named appellee, caused to be mailed a first-class, pre-paid “NOTICE . . . OF FORECLOSURE SALE DATE” to “ALL OCCUPANTS” of the Property. The Property sold for \$763,000 at the foreclosure auction on October 3, 2023.

The circuit court docketed Ms. Kamara’s request for mediation on October 6, 2023. On October 10, 2023, the court provisionally ratified the Substitute Trustee’s report of sale, allowing exceptions to be filed on or before November 10, 2023. A remote mediation between Ms. Kamara and the Substitute Trustee was scheduled for November 16, 2023—and later, extended for an additional 30 days—but was ultimately unsuccessful.

On November 10, 2023, prior to the beginning of mediation, Ms. Kamara filed exceptions to the report of sale (“Exceptions”). Ms. Kamara claimed she was not served and that the court erroneously failed to schedule the foreclosure mediation prior to the foreclosure sale. In her response, the Substitute Trustee argued that Ms. Kamara did not raise improper service of process prior to the Property’s sale at the foreclosure auction. The Substitute Trustee also noted that Ms. Kamara did not timely request mediation despite admitting that she was aware of the foreclosure proceedings prior to the deadline to request mediation.

The court overruled the Exceptions in a February 20, 2024 order (“2024 Order”), explaining that post-foreclosure sale challenges are limited to irregularities concerning

the integrity of the foreclosure sale. Therefore, because the Exceptions did not allege “any irregularity with particularly as to the procedure of the foreclosure sale pursuant to Rule 14.305(e)(1)[,]” and did not “state a meritorious factual or legal basis for [the circuit court] to set aside the foreclosure sale pursuant to [Maryland] Rule 14-305(e)(2)[,]” the court determined that the foreclosure sale on the Property was “fairly and properly made and conducted.” The final page of the 2024 Order contains signatures of both the presiding circuit court judge and the foreclosure magistrate. The foreclosure magistrate’s signature is dated February 16, 2024, while the court’s signature is dated February 20, 2024. On March 7, 2024, the court ratified the report of sale (previously, “Ratification”). Ms. Kamara noted a timely appeal on March 19, 2024.

In January of 2025, months after the parties submitted their respective briefs in the instant appeal, the circuit court entered an order (“2025 Order”), which states:

The [c]ourt, having received from the Office of Administrative Hearings a report stating that the foreclosure mediation it held on the borrower’s request did not result in an agreement, pursuant to Maryland Rule 14-209.1(f)(2) and Real Property Article §[]7-105.1(k).

It is on this 27th day of January, 2025, ORDERED that the secured party may schedule the foreclosure sale, subject to the right of the borrower to file a motion pursuant to Rule 14-211 to stay the sale and dismiss the action.

At oral argument on April 2, 2025, neither parties’ counsel was familiar with the 2025 Order or could explain its effect on the current appeal.³ There are no other record entries

³ Counsel arguing on behalf of Ms. Kamara stated that she was not aware of the 2025 Order. The Substitute Trustee also stated that she was unaware of the 2025 Order
(continued)

reflected in the Maryland Electronic Courts case management system that clarify or otherwise contextualize the 2025 Order.

STANDARD OF REVIEW

When “ruling on exceptions to a foreclosure sale and whether to ratify the sale, trial courts may consider both questions of fact and law.” *Jones v. Rosenberg*, 178 Md. App. 54, 68 (2008). Accordingly, this Court applies “a *de novo* standard of review as to questions of law[.]” *Hood v. Driscoll*, 227 Md. App. 689, 697 (2016), and will “disturb the circuit court’s findings of fact only when they are clearly erroneous.” *Fagnani v. Fisher*, 190 Md. App. 463, 470 (2010), *aff’d*, 418 Md. 371, 377 (2011) (citation omitted).

DISCUSSION

I. THE RECORD REQUIRES CLARIFICATION BY THE CIRCUIT COURT.

A. The Parties’ Contentions

Ms. Kamara’s question presented challenges two aspects of the Ratification: first, she alleges that the Ratification was issued without a “Magistrate First Issuing a Formal Report and Recommendations Detailing the Proposed Actions[.]” and second, Ms.

but that, regardless, it should not have any effect on the instant appeal because “there is no appeal of the Ratification.”

We note that, contrary to the Substitute Trustee’s statement, the Ratification is precisely what is being challenged before this Court. Orders denying exceptions to foreclosure sales are not final judgments for appealability purposes. *McLaughlin v. Ward*, 240 Md. App. 76, 83 (2019) (holding that a trial court “may not enter a final judgment until it has adjudicated any exceptions to [an] auditor’s report” of a foreclosure sale). Here, Ms. Kamara contends that the circuit court erred in overruling the Exceptions, and, therefore, erred in ratifying the foreclosure sale. Thus, the Ratification, and not the order overruling the Exceptions, is the final judgment from which Ms. Kamara presently appeals. *Id.*

Kamara contends that the Ratification was issued in error because no hearing was held. In support, Ms. Kamara insists that the foreclosure magistrate’s signature on the 2024 Order shows that the case was referred by the court to the foreclosure magistrate. Therefore, Ms. Kamara reasons, Maryland Rule 2-541 required the magistrate to hold a hearing and issue a report and recommendations prior to the court overruling the Exceptions and ratifying the report of sale.

The Substitute Trustee, representing herself and the listed appellees, argues that “[t]here is nothing in the record evidencing that the [foreclosure action] was referred to a magistrate judge[,]” and that, therefore, the foreclosure magistrate’s signature on the 2024 Order is merely “superfluous and irrelevant.”⁴ The Substitute Trustee also contends that because Ms. Kamara did not request a hearing, the court was not required to hold one to decide the Exceptions to the report of sale. We address the magistrate’s signature on the 2024 Order and the 2025 Order separately below.

B. The Foreclosure Magistrate’s Signature

“On motion of any party or on its own initiative, the court, by order, may refer to a magistrate any [non-domestic relations] matter or issue not triable of right before a jury.” Md. Rule 2-541(b)(2). “Subject to the provisions of any order of reference, a magistrate

⁴ Counsel arguing on behalf of Ms. Kamara noted at oral argument that there “may be some sort of standing order that all foreclosure matters are sent to a magistrate . . . under certain circumstances.” Counsel did not cite to any standing order—or, much less, definitively state that such an order exists—and this Court has been unable to locate any standing order that permits magistrates to review foreclosure proceedings without a case-specific court order.

has the power to regulate all proceedings *in the hearing[.]*” Md. Rule 2-541(c) (emphasis added). Pursuant to Rule 2-541(e)(1):

The magistrate *shall* notify each party of the recommendations and contents of the proposed order, either (A) on the record *at the conclusion of the hearing* or (B) *thereafter in writing* filed with the clerk, who shall serve the recommendation and proposed order on each party as provided by Rule 20-205.

(Emphases added.) “Within five days from notice of the recommendations[.]” a party intending to file exceptions to a magistrate’s recommendations must file a notice of intent to do so. Md. Rule 2-541(e)(2). A party must file exceptions, if at all, with the clerk within ten days after the filing of the magistrate’s written report. Md. Rule 2-541(f)(1).

The Circuit Court for Prince George’s County’s Civil Differentiated Case Management Plan (“DCM Plan”), which was developed and approved according to Maryland Rule 16-302(b), describes the court’s post-sale exceptions procedure:

Post-sale exceptions to the sale must be timely filed, in writing, and set forth the alleged irregularity with particularity. The motion and any response are reviewed by the Foreclosure Magistrate and hearings, if scheduled, are held by the Foreclosure Magistrate. Within 10 days after the hearing, a Notice of Foreclosure Magistrate’s Recommendation, accompanied with the Foreclosure Magistrate’s findings of fact and law and a proposed order, is sent to the parties. The notice also explains that any exceptions to the proposed order must be filed within 10 days. Exceptions to the proposed order are reviewed by the Foreclosure Coordinating Judge. If the [circuit court] declines to set aside the sale or the exception period lapses, the [court] issues an Order of Ratification of Sale and Referral to Auditor.

(Rev. April 2022) at p. 21. The DCM Plan does not clarify the magistrate’s role or duties to the parties when a hearing is *not* held, as is the case in the instant appeal. Therefore, because it remains unclear why the magistrate’s signature is on the 2024 Order, we are unable to determine to what extent the magistrate was involved in the underlying proceedings and whether, as alleged by Ms. Kamara, the magistrate’s involvement violated Rule 2-541.

C. The 2025 Order

We now turn to the second record issue: the 2025 Order. Neither party discussed—or was aware of—the 2025 Order at oral argument. Although this Court cannot be expected to seek out law or facts in favor of either party, *Rollins v. Capital Plaza Assoc., L.P.*, 181 Md. App. 188, 201-02 (2008), we shall discuss the 2025 Order because it raises a threshold issue concerning mootness.⁵

i. Legal Framework

Pursuant to § 7-105.1(j)(1) of the Real Property (“RP”) Article of the Maryland Code Ann., (1974, 2023 Repl. Vol.), and Maryland Rule 14-209.1(c)(2)(A), a homeowner may request mediation after the filing of a foreclosure action, but must, if at

⁵ While not raised by either party, we observe that Ms. Kamara has not posted a supersedeas bond pursuant to Maryland Rule 8-423. Generally, “an appeal becomes moot if the [foreclosed-upon] property is sold to a bona fide purchaser in the absence of a supersedeas bond because a reversal on appeal would have no effect.” *Mirjafari v. Cohn*, 412 Md. 475, 484 (2010) (quoting *Baltrotsky v. Kugler*, 395 Md. 468, 474 (2006)). As we explain below, however, because the 2025 Order makes it unclear whether the Property has indeed sold, we do not address whether Ms. Kamara’s appeal is moot for failure to post a supersedeas bond.

all, file a “completed request” within 25 days of receiving service of the complaint and the final loss mitigation affidavit. *See* RP §§ 7-105.1(j)(1)(ii)(1), (iii)(1). Once mediation has concluded, the Office of Administrative Hearings will file a report with the appropriate circuit court indicating the results of the mediation. Md. Rule 14-209.1(d)(2). If the mediation does not yield an agreement, then the foreclosure sale may be advertised as ordered by the court. Md. Rule 14-209.1(f)(2). After a sale, “the person authorized to make the sale shall file with the court a complete report of the sale and an affidavit of the fairness of the sale and the truth of the report.” Md. Rule 14-305(a). The circuit court “shall” then ratify the sale unless the court is “not satisfied that the sale was fairly and properly made.” Md. Rule 14-305(f)(2).

We note that “[t]his Court’s role is to review judgments, not decide moot or academic questions.” *Estate of Brown v. Ward*, 261 Md. App. 385, 458 (2024) (declining to review a canceled foreclosure sale because doing so would be an “academic exercise”). Therefore, when a foreclosure sale has been canceled, any challenge to the sale is moot, and we will not review it.

ii. Analysis

Here, the foreclosure mediation, which was held after the foreclosure sale due to Ms. Kamara’s untimely post-filing mediation request, was ultimately unsuccessful. *See* RP §§ 7-105.1(j)(1)(ii)(1), (iii)(1). After determining that the sale was fairly and properly made, the circuit court issued the Ratification in March 2024, finalizing the sale of the Property. Ms. Kamara then timely appealed. On January 27, 2025, the court entered the 2025 Order.

The record lacks any detail explaining why, approximately ten months after the Ratification was filed and more than one year after mediation ended, the Property subject to the appealed Ratification was, once again, ordered to be sold. Neither party has been able to explain the rationale behind the 2025 Order or describe its effect on the appeal before us. Accordingly, because the 2025 Order appears to render the Ratification moot, we will not review it. *See Estate of Brown*, 261 Md. App. at 458. Instead, we remand to the circuit court for clarification with the specifications explained below.

CONCLUSION

Based on the limited record before this Court, we are unable to discern why the foreclosure magistrate's signature is present on the 2024 Order. We are further unable to discern the effect of the 2025 Order, which orders a sale of the Property. For these reasons, we exercise our discretion under Maryland Rule 8-604(d) and remand for the circuit court to clarify or modify as appropriate the 2025 Order and to clarify the magistrate's involvement in the underlying proceedings. In doing so, the court must explain on the record why it issued the 2025 Order and the seemingly incongruous timing of the 2025 Order. The court must also explain on the record why the magistrate's signature is present on the 2024 Order. In its explanation, the court should answer whether the matter was referred to the foreclosure magistrate, and if so, by what mechanism (i.e., whether pursuant to an order in this case, a standing order, or some other mechanism).

This Court shall retain jurisdiction to review the merits of this appeal following the circuit court's clarification on remand. The circuit court, accordingly, shall transmit

its on-the-record explanations, and any modifications or clarification to the 2025 Order, to this Court. If, in its review, the circuit court determines that the record requires any correction, the court shall explain the need for the correction and shall direct the clerk of that court to make any corrections prior to the return of the record to this Court. This appeal shall be stayed pending remand to the circuit court. We hold the assessment of costs in abeyance to be determined in this Court's subsequent opinion following the return of this case from remand.

**PURSUANT TO MARYLAND RULE
8-604(d), CASE REMANDED, WITHOUT
AFFIRMANCE OR REVERSAL, TO THE
CIRCUIT COURT FOR PRINCE
GEORGE'S COUNTY FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION; APPEAL STAYED;
ASSESSMENT OF COSTS HELD IN
ABEYANCE.**