

Circuit Court for Montgomery County
Case No. C-15-CV-24-004508

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 358

September Term, 2025

ALEX KOURMADAS

v.

BRINKWOOD COMMUNITY ASSOCIATION, INC.

Arthur,
Kehoe, S.
Beachley, Donald E.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: April 29, 2026

* 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 Rule 1-104(a)(2)(B).

A member of a homeowners association filed suit, requesting a declaratory judgment and injunction that would excuse him from the restrictive covenants in his deed. The Circuit Court for Montgomery County dismissed the complaint on the ground that he had failed to state a claim upon which relief could be granted. He appealed.

For the reasons stated herein, we affirm the dismissal of the claim for injunctive relief but vacate the judgment with directions to the circuit court to declare the parties' rights.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant Alex Kourmadas owns real property on Haviland Mill Road in Brookeville, Maryland. His property is within a residential subdivision known as “Brinkwood.” All properties in the Brinkwood subdivision, including Kourmadas’s property, are subject to a set of restrictive covenants.

Appellee Brinkwood Community Association, Inc., manages the Brinkwood subdivision. As the owner of a property within the subdivision, Kourmadas is a member of the Association.

On August 18, 2024, Kourmadas commenced this case by filing suit against the Association in the Circuit Court for Montgomery County. In his complaint, Kourmadas alleged that his property is “geographically isolated from the main Brinkwood Subdivision.” He also alleged that he lacks “direct access” to “community amenities” and the “amenities” are “practically inaccessible” to him.

Kourmadas complained that he is nonetheless obligated to pay “the same dues as other members[.]” He alleged that “[p]roperties adjacent to the subdivision, with similar access issues as [his] property, are not required to be part of” the community association and are not “subject to its fees.” He concluded that he has been “subjected to financial obligations[,] including annual dues and special assessments[,] for amenities he cannot use,” which, he says, constitutes an “unfair financial burden disproportionately placed upon him.”

By way of relief, Kourmadas requested a declaration that because of his property’s “unique geographic and physical characteristics, which,” he said, “fundamentally limit his ability to enjoy the benefits” of membership in the Association, the Association’s “restrictive covenants and bylaws . . . should not apply to his property[.]” In addition, Kourmadas requested a permanent injunction to prevent the Association “from enforcing its covenants, bylaws, restrictions, and assessments against his property.”

The Association moved to dismiss Kourmadas’s complaint or, in the alternative, for summary judgment. As exhibits to its motion, the Association attached Kourmadas’s deed, which states that his property is part of the Brinkwood subdivision and that it is subject to covenants, easements, and restrictions of record. The Association also attached the declaration of covenants for properties within the Brinkwood subdivision. The deed reflects that Kourmadas acquired the property in July 2000. The declaration, which dates from 1967, includes 12 categories of covenants that benefit Kourmadas by restricting the use of other properties within the subdivision.

In support of its motion, the Association argued that the covenants ran with the land and, hence, that they bound Kourmadas. In response to Kourmadas’s allegation that the covenants imposed a disproportionate burden on him (as compared to other members of the community), the Association cited section 11B-101(d)(1) of the Real Property Article of the Maryland Code (1974, 2015 Repl. Vol.), which envisions that a homeowners association may impose a “mandatory fee in connection with the provision of services or otherwise for the benefit of some or all of the lots.” The Association also cited section 11B-117(a)(1) of the Real Property Article, which states that, “[a]s provided in the declaration, a lot owner shall be liable for all homeowners association assessments and charges that come due during the time that the lot owner owns the lot.”

In his opposition to the motion, Kourmadas argued that a court of equity may prohibit the enforcement of covenants in “exceptional circumstances.” He disputed the validity of the covenants, asserting that they do not “touch and concern” the land. He insisted that the Real Property Article did not “explicitly preclude” a court of equity from enjoining the enforcement of a covenant “in cases of extreme unfairness.” He mentioned “equal protection concerns,” but did not specify how they would come into being. Finally, he argued that if the court were to treat the Association’s motion as a motion for summary judgment, then genuine disputes of material fact required that the court deny the motion.

Kourmadas attached an affidavit to his opposition. In the affidavit Kourmadas reiterated many of the allegations in the complaint. In addition, he disclosed that the

“amenities” consist of the “Brinkwood Pond.” He explained that he can reach the pond only by trespassing on utility-owned property or by walking a considerable distance on a country road without a shoulder. He claimed that he cannot drive to the pond because there is no place to park. He complained of “escalating” dues, which seem to be due, at least in part, to “fix[ing]” a “problem” with the pond.

After a hearing on the Association’s motion, the circuit court announced that it would dismiss the complaint. In reaching its decision, the court cited section 11B-101(d)(1) of the Real Property Article, which envisions that an association may impose restrictions that benefit only some of its members. The court saw no indication of a change of circumstances that would cause the restrictions to outlive their usefulness.¹ Nor did the court see any indication of the kind of unfairness or exceptional circumstances that might justify relieving a homeowner from the obligations of a covenant.

“The bottom line,” the court said, is that “when [Kourmadas] bought the property in 2000, he agreed to be bound by [the covenants], and he is bound by them.” The court also said that Kourmadas’s “positions don’t really have a basis in the law.”

¹ “The inquiry . . . is whether there has been a complete or radical change in the neighborhood causing the restrictions to outlive their usefulness.” *Chevy Chase Village v. Jagers*, 261 Md. 309, 316 (1971); *accord Dumbarton Improvement Ass’n, Inc. v. Druid Ridge Cemetery Co.*, 434 Md. 37, 62 (2013).

In an order docketed on April 8, 2025, the circuit court granted the Association’s motion and dismissed the complaint with prejudice. The court did not declare the parties’ rights.

Kourmadas noted a timely appeal.

QUESTIONS PRESENTED

Kourmadas raises three questions, which we have consolidated into one for purposes of concision: Did the circuit court err in granting the motion to dismiss?²

For the following reasons, we affirm the dismissal of the claim for injunctive relief but vacate the judgment and remand the case with instructions to declare the parties’ rights in accordance with the request for declaratory relief in the complaint.

² Kourmadas formulated the questions as follows:

1. Did the trial court err by resolving factual disputes at the motion to dismiss stage rather than accepting all well-pleaded allegations as true and drawing all reasonable inferences in Appellant’s favor as required under Maryland Rule 2-322(b)(2)?
2. Did the trial court misapply Maryland law on equitable relief from restrictive covenants by failing to recognize that exceptional circumstances of complete geographic isolation and disparate treatment may warrant equitable intervention under the “public policy” exception recognized in *City of Bowie v. MIE Properties, Inc.*, 398 Md. 657, 922 A.2d 509 (2007)?
3. Did the trial court err by dismissing Appellant’s claims without allowing factual development on material issues of reasonableness, changed circumstances, and the practical impossibility of accessing association amenities?

STANDARD OF REVIEW

“When deciding a motion to dismiss a complaint, the court assumes the truth of the complaint’s factual allegations and of any reasonable inferences that can be drawn therefrom.” *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. 638, 649 (2022). “A court, however, need not accept the truth of pure legal conclusions.” *Id.* “A court should dismiss a complaint for failure to state a claim only if the alleged facts and reasonable inferences would fail to afford relief to the plaintiff.” *Id.* “We conduct a *de novo* review of the circuit court’s decision to grant a motion to dismiss.” *Id.*³

“A court cannot dismiss a claim for a declaratory judgment unless the plaintiffs are not entitled to a declaration of their rights, as, for example, when the case is not justiciable, when the case is unripe or moot, or when the plaintiff lacks standing.” *Id.* at 649-50 (citation omitted). “A court may not dismiss a claim for a declaratory judgment simply because the court disagrees with the declaration that the plaintiffs have requested.” *Id.* at 650.

DISCUSSION

³ When a motion to dismiss includes uncontroverted documents that merely supplement the allegations of the complaint, the court’s consideration of those documents does not convert the motion to dismiss into a motion for summary judgment. *Advance Telecom Process LLC v. DSFederal, Inc.*, 224 Md. App. 164, 175 (2015); *Margolis v. Sandy Spring Bank*, 221 Md. App. 703, 710 n.4 (2015).

Kourmadas argues, first, that the circuit court erred because, he says, it resolved factual disputes against him and did not assume the truth of the allegations in his complaint. He is incorrect.

As the sole support for Kourmadas’s contention, he points to two questions that the court asked at argument. The questions, however, do not represent the court’s conclusion. The court expressed its conclusion at the end of the hearing, when it stated that Kourmadas’s positions have no basis in law. The court made no factual findings and resolved no factual disputes. Rather, the court focused on the inadequacy of the complaint.⁴

Citing *City of Bowie v. MIE Properties, Inc.*, 398 Md. 657, 682 (2007),

Kourmadas argues, next, that Maryland courts will enforce unambiguous covenants “unless prevented from doing so by public policy or some established principle of law.”

Kourmadas claims that Maryland’s highest court “has consistently recognized that equity

⁴ Under the rubric of his argument that the court erred in resolving factual disputes against him, Kourmadas includes an analytically unrelated argument to the effect that the covenants are invalid because of a failure of consideration. His complaint, however, contains no such allegation. We cannot fault the circuit court for failing to consider an allegation that Kourmadas did not make. In any event, Kourmadas cites no authority in support of his contention, so we need not consider it at all. *See, e.g., HNS Dev., LLC v. People’s Counsel for Baltimore County*, 425 Md. 436, 459 (2012). And even if we were to consider it, we would reject it, because Kourmadas obviously receives substantial consideration through the reciprocal restrictions that prohibit other members of the Association from using their properties in ways that might impair the value of his property.

may intervene in exceptional circumstances to prevent unjust results[,]” but he cites no authority for that proposition.

After invoking those vague principles, Kourmadas asserts that he “receives no practical benefit” but that he bears “the same financial obligations as members with direct access[.]” to the pond. “This situation,” he complains, “is further compounded by the arbitrary treatment of similarly situated properties, as neighboring lots with identical access limitations are exempt from association obligations.”

The court did not err in rejecting arguments like these. Kourmadas cites no point of “public policy” and no “established principle of law” to support his contention that a court of equity could exempt him from the unambiguous covenants in his deed simply because he had less access to one community amenity than other community members. Nor is the “treatment” of the neighboring lot owners “arbitrary”: Unlike Kourmadas, the owners of the neighboring lots are not members of the Association. Unlike Kourmadas, they never agreed to be bound by the covenants. And unlike Kourmadas, they cannot enforce the reciprocal covenants that benefit Kourmadas’s property.⁵

⁵ Kourmadas mentions the general rule that a restrictive covenant will run with the land and bind the parties’ successors and assigns only if it touches and concerns the land. *See, e.g., County Comm’rs of Charles County v. St. Charles Assocs., L.P.*, 366 Md. 426, 450 (2001). Kourmadas then proceeds to assert that a covenant “no longer touches and concerns the land in any meaningful way” if it “imposes financial obligations for benefits that are physically impossible to access.” He cites no authority for that assertion, and we are aware of none. Consequently, we need not consider it. *See, e.g., HNS Dev., LLC v. People’s Counsel for Baltimore County*, 425 Md. 436, 459 (2012). Even if Kourmadas had cited authority for his assertion, we would reject it, because he does not allege that it is “physically impossible,” as opposed to difficult or burdensome, to access the pond.

Kourmadas claims that the circuit court erred in dismissing his complaint without allowing for discovery and allowing for the development of the record. Kourmadas’s argument reflects a misunderstanding of the relationship between pleading and discovery. A party is not entitled to discovery unless it alleges a viable claim for relief in its complaint. Kourmadas did not allege a viable claim for equitable relief. Therefore he was not entitled to discovery.

In a similar vein, Kourmadas criticizes the court for what he calls its “premature resolution” of the case. He complains that he asked to “present evidence, including maps, photographs, and expert testimony,” but that the court prohibited him from doing so.

The court did not err in acting as it did. The issue before the court was the legal sufficiency of the allegations in the complaints. Information absent from the complaint, such as maps, photographs, and expert testimony, would have no bearing on the court’s decision.

In summary, the circuit court did not err in dismissing Kourmadas’s claim for equitable relief.

The court, however, did err in dismissing the claim for declaratory relief and in not declaring the parties’ rights. “In an action properly brought under the Declaratory Judgments Act, the court ordinarily must declare the rights of the parties in light of the issues raised.” *Jennings v. Government Emps. Ins. Co.*, 302 Md. 352, 355 (1985); *accord GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. 638, 663 (2022).

“[D]ismissal ‘is rarely appropriate in a declaratory judgment action.’” *Christ ex rel. Christ v. Maryland Dep’t of Nat. Res.*, 335 Md. 427, 435 (1994) (quoting *Popham v. State Farm Mut. Ins. Co.*, 333 Md. 136, 140 n.2 (1993)); *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663.

“In general, a circuit court should dismiss a complaint for a declaratory judgment only if the plaintiffs are not entitled to a declaration of their rights.” *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663. A motion to dismiss a complaint for a declaratory judgment may be appropriate when, for example, there is no justiciable controversy (*Broadwater v. State*, 303 Md. 461, 467 (1985)), when the case is moot (*id.* at 468), when the plaintiff has no standing (*Christ ex rel. Christ v. Maryland Dep’t of Nat. Res.*, 335 Md. at 435), when the plaintiffs have failed to join a necessary party (*Broadwater v. State*, 303 Md. at 469), or when the same issues are awaiting decision in another common-law proceeding. *Haynie v. Gold Bond Bldg. Prods.*, 306 Md. 644, 650-54 (1986); accord *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663.

In summary, a court ordinarily should dismiss a complaint for a declaratory judgment only when the plaintiffs have no right to a declaration at all—even a declaration that they are wrong. *Allied Inv. Corp. v. Jasen*, 354 Md. 547, 556 (1999); accord *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663. “The test of the sufficiency of the bill is not whether it shows that the plaintiff[s] [are] entitled to the declaration of rights or interest in accordance with [their] theory, but whether [they are]

entitled to a declaration at all; so, even though the plaintiff[s] may be on the losing side of the dispute, if [they] state[] the existence of a controversy which should be settled, [they] state[] a cause of suit for a declaratory decree.” *Shapiro v. Board of Cty. Comm’rs for Prince George’s Cty.*, 219 Md. 298, 302-03 (1959); accord *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663.

In this case, Kourmadas did not have the right to the declaration that he requested, but he still had right to a declaration of his rights. Consequently, the court should not have dismissed the claim for a declaratory judgment. *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663. Instead, it should have embodied its resolution of the merits in a written declaration to the effect that the covenants and by-laws continue to apply to Kourmadas’s property. *Id.* at 663-64. The circuit court erred by not declaring the rights of the parties to this case. *Id.* at 664.

This error, however, is not jurisdictional. See, e.g., *Baltimore Cty. v. Baltimore Cty. Fraternal Order of Police Lodge No. 4*, 439 Md. 547, 566, (2014); *GPL Enterprise, LLC v. Certain Underwriters at Lloyd’s*, 254 Md. App. at 663-64. We remand the case to the circuit court for the entry of a declaratory judgment consistent with this opinion.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED IN PART AND VACATED IN
PART. CASE REMANDED TO THE
CIRCUIT COURT FOR MONTGOMERY
COUNTY FOR THE PURPOSE OF
ENTERING A DECLARATORY
JUDGMENT CONSISTENT WITH THIS**

**OPINION. COSTS TO BE DIVIDED
EQUALLY.**