

Circuit Court for Charles County
Case No. 08-C-14-001486

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 362

September Term, 2018

STANLEY JONES

v.

CARRIE M. WARD, *et al.*

Wright,
Kehoe,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 25, 2019

*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 June 2014, appellees, acting as substitute trustees,¹ filed an Order to Docket in the Circuit Court for Charles County, seeking to foreclose on real property owned by Stanley Jones, appellant.² In April 2017, Mr. Jones’s home was sold at a foreclosure sale to MTGLQ Investors, LP (MTGLQ) by way of a credit bid. The circuit court entered an order ratifying the sale on June 9, 2017, and MTGLQ received the deed from appellees on June 21, 2017. The case was referred to an auditor and the court ratified the auditor’s report on September 5, 2017. Mr. Jones filed a notice of appeal on November 20, 2017; however, this Court dismissed the appeal as having been untimely filed.

On February 6, 2018, MTGLQ filed a motion for judgment awarding possession of the property asserting that: (1) it had purchased the property at the foreclosure sale by way of a credit bid; (2) the sale had been ratified; (3) it had received the deed from the substitute trustees; (4) the property was occupied by unknown persons who refused to vacate the premises; and (5) based on an inquiry into the occupancy status of the property, the persons in possession were not bona fide tenants. Mr. Jones did not file a response. The court entered a judgment awarding possession of the property to MTGLQ (possession order) on March 29, 2018. On April 27, 2018, Mr. Jones filed a notice of appeal, raising seven issues

¹ Appellees are Carrie M. Ward, Howard N. Bierman, Jacob Geesing, Joshua Coleman, Richard R. Goldsmith, Pratima Lele, Ludeen McCartney Green, and Tayyaba C. Monto.

² The home was also owned by Deborah Jones, appellant’s wife. However, because Ms. Jones did not sign the notice of appeal, she is not a party to this appeal.

that are reducible to one: whether the court abused its discretion in issuing the possession order.³ For the reasons that follow, we affirm.

In claiming that the court erred in issuing the possession order, Mr. Jones asserts that: (1) appellees failed to validate the mortgage debt prior to initiating foreclosure proceedings; (2) appellees committed “document fraud” by altering the note; (3) appellees failed to produce a copy of the note to the court; (4) appellees lacked standing to foreclose on the note; (5) his original mortgage lender violated the Real Estate Settlement Procedures Act; (6) he was the victim of mortgage fraud and predatory lending; and (7) the foreclosure action was barred by the statute of limitations. But, the scope of an appeal of an order granting or denying possession is quite limited. *See Manigan v. Burson*, 160 Md. App. 114, 119 (2004). “The appeal must pertain to the issue of possession . . . and may not be an attempt to re-litigate issues that were finally resolved in a prior proceeding.” *Id.* Moreover,

³ We note that on March 9, 2018, Mr. Jones filed a “Motion to Set Aside Judgment.” In that motion, he requested the court to vacate its order ratifying the foreclosure sale because he claimed to have unspecified “new evidence” demonstrating that: (1) appellees lacked standing to foreclose; (2) the sale was fraudulent; (3) the loan had been paid in full; and (4) he had been defrauded by his original lender. The court denied the motion on April 20, 2018, which was seven days before Mr. Jones filed his notice of appeal in this case. However, in his brief, Mr. Jones states that he “filed a Notice of Appeal of the Judgment of Possession.” Moreover, he does not raise any specific claims of error with respect to the April 20 order. Consequently, the issue of whether the court abused its discretion in issuing the April 20 order is not properly before us. *See Diallo v. State*, 413 Md. 679, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (citation omitted)). Moreover, we perceive no abuse of discretion in the court’s denial of the motion to vacate as the motion was filed more than 30 days after the ratification order was entered and did not sufficiently allege the existence of fraud, mistake, or irregularity within the meaning of Maryland Rule 2-535(b).

a party may not raise issues in an appeal of an order granting possession which could have been properly raised in a motion to stay or dismiss a foreclosure or in timely filed exceptions. *Id.* Here, Mr. Jones’s claims all relate to the propriety of the underlying foreclosure and were either raised or could have been raised prior to the ratification of the foreclosure sale. Consequently, we do not consider them on appeal.

Moreover, the trial court did not otherwise abuse its discretion in granting MTGLQ’s motion. Pursuant to Maryland Rule 14-102(a), “[i]f the purchaser of an interest in real property at a sale conducted pursuant to the Rules in this Title is entitled to possession and the person in actual possession fails or refuses to deliver possession, the purchaser or a successor in interest who claims the right of immediate possession may file a motion for judgment awarding possession of the property.” “To invoke [Rule 14-102], the purchaser must show that (1) the property was purchased at a foreclosure sale, (2) the purchaser is entitled to possession, and (3) the person in possession fails or refuses to relinquish possession.” *G.E. Capital Mortgage Servs., Inc.*, 144 Md. App. 449, 457 (2002). “[G]enerally, a purchaser of property at a foreclosure sale may be entitled to seek possession of that property when the sale is ratified by the Circuit Court.” *Empire Properties v. Hardy, LLC*, 386 Md. 628, 651 (2005). In the instant case, MTGLQ purchased the property at the foreclosure sale through a credit bid and the circuit court ratified that sale. It also received the deed to the property from appellees after the ratification order was entered. Also, there is no evidence in the record indicating that the

property was being occupied by bona fide tenants. Consequently, MTGLQ had the right to obtain possession of the property under Maryland Rule 14-102.

**JUDGMENT OF THE CIRCUIT
COURT FOR CHARLES COUNTY
AFFIRMED. COSTS TO BE PAID
BY APPELLANTS.**