

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0387

September Term, 2014

MARIELA VALDERRAMA,

v.

EDEN BROOK CONDOMINIUM COUNCIL
OF UNIT OWNERS

Krauser, C.J.,
Graeff,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: June 3, 2015

*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.

Appellant Mariela Valderrama appeals from the Circuit Court for Anne Arundel County's grant of appellee Eden Brook Condominium's petition for attorneys' fees. We are asked to determine whether the trial court abused its discretion in awarding attorneys' fees pursuant to the Maryland Contract Lien Act. Finding no error, we affirm.

FACTUAL AND PROCEDURAL HISTORY

Ms. Valderrama purchased a unit at the Eden Brook Condominium ("the Condominium")¹ located in Anne Arundel County on June 23, 2010. The Condominium had in place an 80/20 carpet rule that required residents to have 80% of their floors covered with carpet in an effort to reduce noise travel. Prior to purchasing her unit, Ms. Valderrama wrote to the Condominium to make its officers aware that she had purchased hardwood floors for installation in the unit that she intended to purchase. Despite the Condominium's reply explaining that Ms. Valderrama had to comply with the 80/20 carpet rule, and therefore that she could not install the hardwood floors, Ms. Valderrama explained at trial that she believed she had been given an exception to the rule. She had the hardwood floors installed throughout the unit upon moving in.

In January of 2011, the Condominium began receiving noise complaints from the residents who lived in the unit below Ms. Valderrama. The Condominium sent a letter to Ms. Valderrama in February of 2011 requesting permission to enter Ms. Valderrama's unit

¹ For ease of reference, "Condominium" will be used to refer to the Condominium building, as well as the Condominium's various entities including the Board of Directors and Council of Unit Owners.

to investigate the noise complaints and determine whether she was in compliance with the 80/20 carpet rule. Ms. Valderrama refused, and the Condominium set a hearing for April 4, 2011, to determine if Ms. Valderrama was not in compliance with the 80/20 rule. At the hearing, the Condominium determined that Ms. Valderrama was in violation of the 80/20 rule. On June 1, 2011, Ms. Valderrama permitted the Condominium to have access to her unit, and the inspection revealed that Ms. Valderrama had covered her hardwood floors to comply with the 80/20 rule. Ms. Valderrama was fined \$400 for the violation of the 80/20 rule for the period of time from the April 4, 2011 hearing to the point that she allowed the Condominium access to her unit on June 1, 2011.

Ms. Valderrama did not pay the fine. On June 24, 2011, the Condominium, through counsel, notified Ms. Valderrama of its intent to create a lien pursuant to the Maryland Contract Lien Act, Md. Code Ann., Real Prop. (“RP”) § 14-201 *et seq.*, against Ms. Valderrama’s unit. At that time, Ms. Valderrama owed an outstanding balance of \$795.00 for the unpaid fine, collection fees, and attorneys’ fees. The proposed lien damages amount was \$1,122.00. The notice from the Condominium also informed Ms. Valderrama that, under the Maryland Contract Lien Act, she had 30 days from the receipt of the notice to file a complaint in circuit court challenging the establishment of the lien. Otherwise, Ms. Valderrama was instructed to pay her outstanding balance of \$795.00.

On July 26, 2011, Ms. Valderrama filed a complaint to determine probable cause for the establishment of the lien in the Circuit Court for Anne Arundel County. The

complaint was dismissed on August 8, 2011 for improper venue.² Ms. Valderrama next filed a motion for reconsideration of the dismissal, which was denied.³

The Condominium asserted that due to the litigation, the lien was not filed in 2011. On August 8, 2012, however, the Condominium again notified Ms. Valderrama of its intent to create a lien against her unit. The notice was materially the same as the first, except that due to the passage of time, the outstanding fines and fees had increased to \$835.00, and the proposed lien damages amount had risen to \$1,162.00. Ms. Valderrama, misinterpreting the prior dismissal of her complaint, *see supra* n.3, wrote to the Condominium on August 10, 2012 stating:

The *Circuit Court* issued a *Judgment* noting that *there is not probable Cause* of the Establishment of a lien. . . . The validity of the claim has not [been] mailed to me and based on the Court Judgment; I [ask you] to withdraw the undue unfair debt allegations.

(Emphasis in original). Ms. Valderrama did not file a challenge to the lien after receiving the second notice, and the lien was recorded on October 5, 2012.

² We note that the Maryland Contract Lien Act gives the circuit court jurisdiction over disputes arising under the Act. RP § 14-203 (“A party to whom notice is given under subsection (a) of this section may, within 30 days after the notice is served on the party, file a complaint in the circuit court for the county in which any part of the property is located to determine whether probable cause exists for the establishment of a lien”). The issue of venue, however, is not before this Court on appeal.

³ Ms. Valderrama places great weight on the importance of this denial, believing erroneously for it to mean that “[t]he Circuit Court found [it] unnecessary to ask Defendant to secure [the] lien.”

On April 17, 2013, over 7 months after receipt of the second notice of intent to create a lien, and around 5 months after the recordation of the lien, Ms. Valderrama filed a complaint in the Circuit Court for Anne Arundel County alleging that the Condominium had recorded the lien in bad faith. The Condominium filed a motion to dismiss, or in the alternative for summary judgment regarding Ms. Valderrama's complaint. On September 9, 2013, at the hearing on the motion, Judge Silkworth advised Ms. Valderrama that he was treating Ms. Valderrama's complaint as a challenge to the underlying lien subject to the Maryland Contract Lien Act, and a reopening of the initial matter originating from Ms. Valderrama's 2011 complaint. He further stated:

[THE COURT]: [I]f you are not successful and you don't prevail here, then you could be paying more and more counsel fees.

* * *

You probably think you haven't been fairly treated but if you wind up at the end of the day having to pay \$10,000 instead of \$800, you'll really think you've been unfairly treated and I'm not sure that that is a good result so, again, you're early in this process and you have an ability to stop it.

* * *

If [Ms. Valderrama] is suggesting that [the Condominium] can't get a lien on counsel fees, that may not necessarily mean they can't get counsel fees[.] ... But I'm not sure in the end that if you have a judgment against [Ms. Valderrama] or whatever the amount is on the attorney[] fees and it turns out to be much higher than [the] \$800 or \$1,000 what currently exists, I mean, at some point in time there has to be an economic analysis of what you're doing here in court.

Judge Silkworth ultimately granted the Condominium’s motion to dismiss on September 13, 2013, because Ms. Valderrama failed to timely file the challenge to the lien within 30 days of receiving the notice of intent to create the lien, as required by the Maryland Contract Lien Act. The Order granting the Condominium’s motion to dismiss mandated the following:

ORDERED, that the action is DISMISSED; and it is further;

ORDERED, that any open costs are to be shared by both parties; and it is further,

ORDERED, that any and all other relief is DENIED.

On September 20, 2013, Ms. Valderrama filed a motion to revise the judgment and requested a hearing on the matter.⁴ On November 15, 2013, the trial court denied Ms. Valderrama’s motion without a hearing, and again mandated that “[a]ny and all other relief [also be] denied.”

Ms. Valderrama then filed a motion to reconsider the Order denying her motion to revise the judgment, and she requested a hearing. On January 14, 2014, Ms. Valderrama’s motion was denied without a hearing. Judge Silkworth also issued an Order that instructed counsel for the Condominium to file “a fee application detailing attorneys’ fees and costs incurred by [the Condominium] in this action for review and further award by this Court.”

⁴ It is clear from her appeal to this Court that Ms. Valderrama believes the trial court’s September 13, 2013 Order granting the Condominium’s motion to dismiss foreclosed the possibility of the Condominium association collecting attorneys’ fees.

The Condominium then filed a petition for attorneys' fees on February 18, 2014, which was opposed by Ms. Valderrama. At the same time, Ms. Valderrama also filed another motion to reopen, revise, or reconsider the September 13, 2013 order. On April 29, 2014, the trial court held a hearing on both the Condominium's petition for attorneys' fees, and Ms. Valderrama's motion to reopen, revise, or reconsider. Ms. Valderrama's motion was denied, and the trial court, Judge Caroom presiding, awarded the Condominium \$6,792.50 in attorneys' fees. In response to Ms. Valderrama's assertion that the September 13, 2013 order denying future relief prohibited the award of attorneys' fees to the Condominium, the Judge Caroom responded:

[THE COURT]: [T]hat provision of the Order is as to the substantive relief, but there is case law that says if someone is requesting counsel fees, that may be a subsequent collateral matter. And in this case, you yourself ... revived or continued the action ... after the date of that Order you referred to so that the Motion for Counsel fees, I think, was reasonably responding to that.

The award for attorneys' fees was reduced to a judgment against Ms. Valderrama and this appeal followed.

DISCUSSION

Ms. Valderrama's appeal to this court demonstrates substantial confusion regarding the proceedings in the trial court and the applicable law. Essentially, Ms. Valderrama believes that (1) the circuit court erroneously awarded attorneys' fees pursuant to Md. Rule 1-341; (2) that the award of attorneys' fees in this matter was not permitted under the Maryland Contract Lien Act; (3) that the award of attorneys' fees was contrary to the trial

court's prior grant of the Condominium's motion to dismiss that ordered that all further relief be denied; and (4) that the award of attorneys' fees should have been limited to fees incurred after Ms. Valderrama filed the December 12, 2013 motion to reconsider. Each of these theories is wrong. To the extent that Ms. Valderrama appears to challenge the validity of the underlying lien for unpaid Condominium fines, that matter is not currently before this Court and we will not consider it.

I. Grounds for the Award of Attorneys' fees

Ms. Valderrama appears to argue that Judge Caroom abused his discretion when finding that Ms. Valderrama's repeated filing of motions to reopen, reconsider, or revise the circuit court's dismissal of her complaint for a lien recorded in bad faith lacked substantial justification under Md. Rule 1-341.⁵ While Judge Caroom discussed the

⁵ Md. Rule 1-341 provides the following:

(a) Remedial Authority of Court. In any civil action, if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification, the court, on motion by an adverse party, may require the offending party or the attorney advising the conduct or both of them to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys' fees, incurred by the adverse party in opposing it.

potential applicability of Md. Rule 1-341, the actual award of attorneys' fees was pursuant to the Maryland Contract Lien Act, RP § 14-203⁶ as evidenced by the transcript:

On the [Md. Rule]1-341 question I do not find bad faith on Ms. Valderrama's part. ...

* * *

I find that in the present case, there is not substantial justification for the last Motion to Reconsider when Ms. Valderrama had already had the matter ruled on twice before. But beyond that, under the Maryland Code, Real Property Article Section 14-203, the Court finds that it's a much lower standard there. There's not even a requirement that the Court should find lack of substantial justification or bad faith. It simply says the Court may award costs and reasonable attorneys' fees under the section[.] *Having found that it is permitted by that statute*, the Court then needs to weigh factors under the Maryland Rules of Professional Conduct[.]

(Emphasis supplied). Judge Caroom then found that the proposed fee of \$6,792.50 was reasonable. Therefore, Judge Caroom concluded that:

[F]or all of these reasons, the Court does think, particularly pursuant to [§] 14-203 (i)(2) [of the Maryland Contract Lien Act] that [it] is reasonable and appropriate to grant the Request for Counsel Fees[.]

Because Judge Caroom clearly awarded attorneys' fees pursuant to the Maryland Contract Lien Act rather than Md. Rule 1-341, Ms. Valderrama's contention that Judge Caroom abused his discretion in how it analyzed the attorneys' fees petition pursuant to Md. Rule

⁶ RP § 14-203 provides that: "(2) The court may award costs and reasonable attorneys' fees to any party under this subtitle."

1-341 must fail. Instead, we must analyze the propriety of the award under the Maryland Contract Lien Act.

II. Award of Attorneys' fees Pursuant to the Maryland Contract Lien Act

Next, Ms. Valderrama seems to argue that there was no justification under the Maryland Contract Lien Act for the award of attorneys' fees. She claims that "it is clearly erroneous to sanction for a proceeding without substantial justification pursuant to [RP] § 14-203." We review an award of attorneys' fees under the Maryland Contract Lien Act for abuse of discretion. *Bright v. Lake Linganore Ass'n, Inc.*, 104 Md. App. 394, 435 (1995) (applying the abuse of discretion standard to a trial court's refusal to award fees under RP § 14-203 to a homeowners' association when the homeowners' association lost the underlying case). As we explain below, Judge Caroom did not abuse his discretion by awarding attorneys' fees to the Condominium pursuant to the Maryland Contract Lien Act.

Ms. Valderrama's contentions are difficult to decipher, but essentially it seems that she believes that a lien under the Maryland Contract Lien Act may only be recorded when a unit owner has failed to pay the required condominium assessments, as opposed to failure to pay condominium fines, such as those levied against Ms. Valderrama. Ms. Valderrama's primary argument appears to be that the recordation of the lien was in error, therefore the award of attorneys' fees must also be in error. Ms. Valderrama also appears to argue and that a lien for attorneys' fees can only be awarded pursuant to RP § 14-202. As we explain below, however, the only issue before this court is whether Judge Caroom properly awarded attorneys' fees to the Condominium.

The Condominium recorded a lien as a result of Ms. Valderrama's breach of the governing documents regarding the 80/20 carpet rule, and her failure to pay the resulting fine levied by the Condominium. All of Ms. Valderrama's challenges to the validity of the underlying lien were dismissed by the circuit court, and are not properly before us on appeal because Ms. Valderrama failed to timely appeal the denial of her challenges to the lien's recordation. Rather, Ms. Valderrama has timely appealed from the award of attorney's fees, and therefore we are only presented with the limited question of whether the award of attorneys' fees was proper. Thus, our analysis regarding the Maryland Contract Lien Act pertains only to whether Judge Caroom property award attorneys' fees under RP § 14-203.

The Maryland Contract Lien Act provides that, if a lien is challenged and the matter proceeds to trial, the court has the authority to award attorneys' fees to any party:

Actions proceeding to trial

(i)(1) Until an order is entered by the court either establishing or denying a lien, the action shall proceed to trial on any matter at issue.

(2) The court may award costs and reasonable attorneys' fees to any party under this subtitle.

RP § 14-203. Contrastingly, RP § 14-202 provides that:

Damages, collection costs, late charges, and attorneys' fees

(b) A lien may only secure the payment of:

- (1) Damages;
- (2) Costs of collection;
- (3) Late charges permitted by law; and

(4) Attorney[s'] fees provided for in a contract or awarded by a court for breach of a contract.

Ms. Valderrama argues that RP § 14-202 precludes the award of attorneys' fees to the Condominium without a court determination that Ms. Valderrama was in breach of a contract, unless the attorneys' fees were expressly provided for in a contract. Ms. Valderrama's argument to this point is misplaced, however, as the Condominium was not asking the circuit court for a lien against Ms. Valderrama's property for the amount of attorneys' fees. Rather, the Condominium sought the award of attorneys' fees based on Ms. Valderrama's challenge to the underlying lien. A lien for attorneys' fees for breach of a contract provision and an award for attorneys' fees when a party challenges a lien in court are treated differently under the Maryland Contract Lien Act. The latter is specifically authorized by RP § 14-203. Therefore, Ms. Valderrama's argument that the award of attorneys' fees was improper under RP § 14-202 is mistaken.

III. Import of the September 13, 2013 Order as it Pertains to Attorneys' Fees.

Ms. Valderrama next argues that Judge Silkworth's September 13, 2013 Order dismissing her complaint and denying "any and all other relief" prohibited the award of attorneys' fees to the Condominium. After independently reviewing the Order and the transcript of the hearing, however, we conclude that Judge Silkworth was denying Ms.

Valderrama any additional substantive relief related to her underlying complaint of a lien recorded in bad faith.⁷

It is clear from the transcript that Judge Silkworth not only was not prohibiting, but specifically contemplated the possibility of a future award of attorneys' fees. Judge Silkworth cautioned Ms. Valderrama that if she continued to file motions, the potential attorneys' fees would only increase. Notably, it was Judge Silkworth who later ordered "that counsel for Defendant shall file a fee application detailing attorneys' fees and costs incurred by Defendant." It is abundantly clear that Judge Silkworth did not intend his previous Order dismissing Ms. Valderrama's complaint and denying all future relief to also apply to the Condominium's application for attorneys' fees.

Moreover, even if the Order granting any and all future relief also applied to the Condominium, (which it did not), it could only have applied in the context of the substantive relief pertaining to the underlying motion filed by Ms. Valderrama. As Judge Caroom suggested, requests for attorneys' fees can be a separate and collateral issue, and therefore would not be subject to the prior Order. *Worsham v. Greenfield*, 187 Md. App

⁷ The order granting the Condominium's motion to dismiss mandated the following:

ORDERED, that the action is DISMISSED; and it is further;

ORDERED, that any open costs are to be shared by both parties; and it is further,

ORDERED, that any and all other relief is DENIED.

323, 341 (2009) (“[A] motion for costs pursuant to Rule 1-341 is an “independent proceeding supplemental to the original proceeding” that it may be filed and considered by the trial court after the appeal has been concluded”) (quoting *Maus v. State*, 311 Md. 85 (1987)). Accordingly, we hold that the previous Order granting the Condominium’s motion to dismiss and denying Ms. Valderrama all future forms of relief did not preclude the award of attorneys’ fees to the Condominium. Even if the Order applied against the Condominium as well, the award of attorneys’ fees was a separate matter, and therefore not constrained by the September 13, 2013 Order.

IV. Relevant Time Period for Award of Attorneys’ fees

Finally, Ms. Valderrama asserts that the circuit court erred by awarding attorneys’ fees “beyond the [December 12, 2013] post judgment motion to reconsider.” Essentially, Ms. Valderrama seems to argue that the award of attorneys’ fees could only include attorneys’ fees accrued after Ms. Valderrama filed the motion to reconsider on December 12, 2013. She alleges that was all Judge Silkworth referred to in the January 14, 2014 Order when he stated that the Condominium “shall” file a petition for attorneys’ fees for costs incurred in “this matter.” Ms. Valderrama’s assertion is in error.

The January 14, 2014 Order was in response to Ms. Valderrama’s December 12, 2013 motion to reconsider the underlying dismissal of her complaint. Her underlying complaint of a lien recorded in bad faith, filed April 18, 2013, had reopened the initial matter dating back to August 26, 2011—when Ms. Valderrama first filed a complaint to determine probable cause for the establishment of a lien. Therefore, “this matter,” as

referred to by Judge Silkworth, referred back to the entirety of the proceedings beginning in August 2011.

On April 29, 2014, Judge Caroom heard argument on, and awarded, the Condominium's application for attorneys' fees incurred since Ms. Valderrama initially filed her complaint to determine probable cause for the establishment of a lien in 2011. Therefore, the award of attorneys' fees properly included all fees incurred since the inception of the litigation in 2011. There is no error and we affirm the award of attorneys' fees to the Condominium.

CONCLUSION

In sum, Ms. Valderrama caused the Condominium to incur a considerable amount of attorneys' fees by requiring it to defend itself over and over again at the trial court level over a three-year period. The trial court did not abuse its discretion in awarding the Condominium the costs of attorneys' fees incurred in this matter. For all the foregoing reasons, the judgment of the Circuit Court for Anne Arundel County is affirmed.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**