

Circuit Court for Anne Arundel County  
Case No. C-02-CV-16-002041

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 479

September Term, 2019

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FLAVIA E. MAKUNDI

v.

LAURA H.G. O’SULLIVAN, *et al.*

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Nazarian,  
Gould,  
Moylan, Charles E., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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PER CURIAM

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Filed: August 6, 2020

\*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 2016, appellees, acting as substitute trustees,<sup>1</sup> filed an Order to Docket in the Circuit Court for Anne Arundel County, seeking to foreclose on real property owned by Flavia Makundi, appellant. Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset Backed Pass-Through Certificates, Series 200-QS3 (“Deutsche Bank”) purchased Ms. Makundi’s home at a foreclosure auction and the circuit court ratified the sale in January 2018. Deutsche Bank subsequently filed a motion for judgment awarding it possession of the property, and the court granted that motion on January 9, 2019. Ms. Makundi did not appeal.

After obtaining the judgment awarding possession, Deutsche Bank sent an eviction notice to Ms. Makundi and filed a “Request for Writ of Possession,” which the clerk of court issued on January 24, 2019. On April 8, 2019, Ms. Makundi filed a “Motion to Reconsider Stay/Delay Eviction,” (motion to stay eviction) wherein she requested the court to stay or delay the eviction because: (1) her daughter was finishing her last year of high school and would have to transfer to a different school if they were evicted, and (2) she was in negotiations with the “Bank/mortgage lender to rent th[e] property month to month.” The court denied the motion without a hearing on May 8, 2019. On appeal, Ms. Makundi raises six issues. However, for the reasons set forth herein, only one of those issues is properly before us: whether the circuit court erred in denying Ms. Makundi’s motion without a hearing. Because no hearing was required, we shall affirm the judgment of the circuit court.

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<sup>1</sup> Appellees are Laura H.G. O’Sullivan, Chastity Brown, and Lauren Bush.

As an initial matter, we note that Ms. Makundi does not advance the same arguments in her brief that she did in her motion to stay eviction, specifically that she should have been allowed to stay in her home because her daughter was finishing high school and she was attempting to negotiate a lease with Deutsche Bank. Therefore, we do not consider those contentions on appeal. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (stating that “arguments not presented in a brief . . . will not be considered on appeal” (citation omitted)).<sup>2</sup> Instead, Ms. Makundi raises numerous claims challenging the propriety of the foreclosure sale and the judgment awarding possession, including that: (1) the court erred in ratifying the foreclosure sale because it occurred during the pendency of a bankruptcy stay; (2) she was not properly notified about the foreclosure sale; (3) the judgment awarding possession harmed a tenant who is renting part of her home; (4) her mortgage company “committed a breach of contract, breach of the implied covenant of fair dealing, wrongful foreclosure, and intentional infliction of emotional distress”; and (5) appellees lacked standing to foreclose.

However, the circuit court’s order denying the motion to stay eviction is the only order that was timely appealed. *See* Rule 8-202(a) (requiring notice of appeal to be filed within thirty days of the judgment from which the appeal is taken). And these claims were not raised by Ms. Makundi in her motion to stay eviction. Consequently, they are not preserved, and we decline to address them for the first time on appeal. *See* Maryland Rule

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<sup>2</sup> In any event, there was no legal basis for the court to have stayed the eviction for these reasons, such that the court’s refusal to do so would not have constituted an abuse of discretion.

8-131(a) (noting that an appellate court will ordinarily not decide any issue “unless it plainly appears by the record to have been raised in or decided by the trial court”).

The only remaining contention raised by Ms. Makundi is that the court erred in denying the motion without a hearing. However, although that issue is properly before us, no hearing was required as Ms. Makundi did not request one in her motion. *See* Maryland Rule 2-311(f) (“A party desiring a hearing on a motion . . . shall request the hearing in the motion or response under the heading “Request for Hearing.”).

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