

Circuit Court for Montgomery County  
Case No. 436150V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 512

September Term, 2021

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TIEMOKO COULIBALY

v.

CARRIE M. WARD, *et al.*

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Graeff,  
Friedman,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: August 4, 2022

\*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.

This appeal is the fourth to arise from an ongoing dispute between Tiemoko Coulibaly, Ph.D. (“Dr. Coulibaly”), self-represented appellant, and the substitute trustees for J.P. Morgan Chase Bank, N.A. (“Substitute Trustees”), appellees,<sup>1</sup> regarding a foreclosure sale of real property located at 2013 Grace Church Road in Silver Spring, Maryland (“Property”).<sup>2</sup> Dr. Coulibaly appeals from the ruling of the Circuit Court for Montgomery County denying his motion to dismiss and his motion for restitution on, among other things, standing grounds. For the reasons set forth below, we shall affirm the judgment of the circuit court.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The underlying facts and foreclosure proceedings have been detailed in this Court’s prior opinions. *See Coulibaly v. Ward (Coulibaly I)*, No. 809, Sept. Term, 2018 (filed June 25, 2019) (per curiam); *Coulibaly v. Ward (Coulibaly II)*, No. 819, Sept. Term, 2019 (filed Aug. 5, 2020) (per curiam). We set forth here only those facts necessary for this appeal.

In August 2017, the Substitute Trustees brought suit in the Circuit Court for Montgomery County against Dr. Coulibaly, seeking to foreclose on the Property.

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<sup>1</sup> The Substitute Trustees are Carrie M. Ward and the following other individuals: Howard N. Bierman, Jacob Geesing, Pratima Lele, Joshua Coleman, Richard R. Goldsmith, Jr., Ludeen McCartney-Green, Elizabeth C. Jones, Nicholas Derdock, Andrew J. Brenner, Angela M. Dawkins, and Wayne Anthony Holman.

<sup>2</sup> Prior cases regarding the foreclosure dispute between Dr. Coulibaly and the Substitute Trustees include: *Coulibaly v. Ward (Coulibaly I)*, No. 809, Sept. Term, 2018 (filed June 25, 2019) (per curiam); *Coulibaly v. Ward (Coulibaly II)*, No. 819, Sept. Term, 2019 (filed Aug. 5, 2020) (per curiam); and *Coulibaly v. Ward (Coulibaly III)*, No. 1127, Sept. Term, 2020 (dismissed May 10, 2021).

*Coulibaly I*, slip op. at 1. The foreclosure sale occurred in March 2018, and the Substitute Trustees sold the Property to a third party, Siavash Asgari. *Id.*<sup>3</sup> In June 2018, the circuit court granted Mr. Asgari's motion for possession of the Property and ratified the foreclosure sale. *Id.* at 2. Dr. Coulibaly subsequently was evicted from the Property. *Coulibaly II*, slip op. at 1. He appealed the court's possession and ratification orders. *Coulibaly I*, slip op. at 3. This Court affirmed. *Id.* at 7.

In February 2019, the Substitute Trustees filed a motion to resell the Property, arguing that Mr. Asgari breached the terms of the foreclosure sale when he failed to go to settlement and pay the purchase price. *Coulibaly II*, slip op. at 2. The circuit court denied the motion to resell. *Id.* In April 2019, Dr. Coulibaly filed a restitution motion, arguing that, because Mr. Asgari failed to pay the purchase price, he never acquired an ownership interest in the Property, and Dr. Coulibaly's eviction was illegal. *Id.* He requested that the court remove Mr. Asgari from the Property, reinstate his right to possession, and award him compensatory damages. *Id.* The court denied the motion. *Id.* Dr. Coulibaly appealed, and this Court affirmed. *Id.* at 3, 6.

In October 2020, a court auditor filed a report containing a statement of account (the "Auditor's Report"). The Auditor's Report noted "a deficiency in the proceeds of [the foreclosure] sale less than the amount required to pay the debt secured with interest," stating that the total debt was \$581,125.81 and the deficiency, after the amount available to pay, was \$221,991.05. The circuit court ratified the Auditor's Report in November 2020,

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<sup>3</sup> Mr. Asgari is not a party to this appeal.

but it subsequently vacated this order and gave Dr. Coulibaly ten days from December 10, 2020 to file exceptions to the Auditor's Report.<sup>4</sup>

On December 21, 2020, Dr. Coulibaly filed a motion to dismiss and a motion for restitution, arguing, among other things, that the foreclosure action was fraudulent and untimely, and the Auditor's Report was based on an illegal ratification of the foreclosure sale and must be dismissed. Dr. Coulibaly requested \$5 million in restitution for his "damaged stolen home."

The Substitute Trustees subsequently filed a memorandum in opposition to the motion to dismiss and the motion for restitution, arguing that the only issue before the court was ratification of the Auditor's Report, and in his motions, Dr. Coulibaly did not challenge the total debt or deficiency amounts set forth in the Auditor's Report. They also argued that, as a matter of law, Dr. Coulibaly's fraud and timeliness claims were waived, and it would be inappropriate for the court to consider such claims after the foreclosure sale had been ratified. In any event, the Substitute Trustees argued that, because no statute of limitations applies to foreclosure proceedings, Dr. Coulibaly's fraud and timeliness claims lacked merit, and such claims were otherwise barred by the doctrine of *res judicata* and the law of the case doctrine.

On May 10, 2021, the circuit court held a virtual hearing on Dr. Coulibaly's motion to dismiss and his motion for restitution. The court stated that, after it had reviewed the

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<sup>4</sup> Dr. Coulibaly appealed the circuit court's November 2020 ratification order in *Coulibaly III*. After the order was vacated, however, this Court dismissed *Coulibaly III* as moot. See Md. Rule 8-602(b)(1).

motions, “it seemed like the argument continually went back to” the timeliness claim, i.e., “the foreclosure was filed after the statute of limitations had run.” Dr. Coulibaly responded that the “key issue [was] the mortgage fraud,” not the timeliness of the foreclosure proceedings, noting that his motions “also raised the issue of [] fraud.”

The court then asked Dr. Coulibaly whether the Property had been foreclosed upon and sold. He advised that he was not in possession of the Property, but he was still the legal owner of the house. Counsel for the Substitute Trustees advised: “The property was sold on March 23rd, 2018. It was ratified on June 6th, 2018. There [was] an appeal taken from the order ratifying the sale, and the Court of Special Appeals [affirmed] the order ratifying the sale.” *See Coulibaly I*, slip op. at 3–7.

The court advised Dr. Coulibaly that, once the foreclosure sale was ratified, he lost standing, and he could not bring the claims that he was raising; such claims “should have been brought prior to the sale.” At the end of the hearing, the court made an oral ruling from the bench, denying Dr. Coulibaly’s motion to dismiss and his motion for restitution.

On May 13, 2021, the circuit court issued a written order denying Dr. Coulibaly’s motion to dismiss and his motion for restitution. On June 10, 2021, Dr. Coulibaly filed a notice of appeal. Approximately one month later, on July 15, 2021, the court ratified the Auditor’s Report. Dr. Coulibaly filed a second notice of appeal on August 12, 2021.<sup>5</sup>

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<sup>5</sup> In a letter to the parties dated August 16, 2021, the Clerk of the Court of Special Appeals stated that Dr. Coulibaly’s second notice of appeal “has been made a part of the file previously established for the appeal noted on June 10, 2021,” and the second appeal “will be assigned case number CSA-REG-0512-2021.”

## STANDARD OF REVIEW

In reviewing an action that has been tried without a jury, the standard of review for this Court is as follows:

An appellate court reviews a trial court's factual findings for clear error, and reviews the trial court's legal conclusions *de novo*. See Md. [Rule] 8-131(c) (An appellate court "will not set aside the judgment of [a] trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses."); *Ramlall v. MobilePro Corp.*, 202 Md. App. 20 (2011) ("The clearly erroneous standard does not apply to [a trial] court's legal conclusions, however, to which [an appellate court] accord[s] no deference and which [the appellate court] review[s] to determine whether [or not] they are legally correct."). The appellate court views the evidence in the light most favorable to the prevailing party, *City of Bowie v. MIE Props., Inc.*, 398 Md. 657, 676 (2007), and resolves all evidentiary conflicts in the prevailing party's favor. *First Union Nat'l Bank v. Steele Software Sys. Corp.*, 154 Md. App. 97, 107 n.1 (2003), *cert. denied*, 380 Md. 619 (2004).

*Brault Graham, LLC v. Law Offs. of Peter G. Angelos, P.C.*, 211 Md. App. 638, 659–60 (parallel citations omitted) (quoting *Dynacorp Ltd. v. Aramtel Ltd.*, 208 Md. App. 403, 451 (2012)), *cert. denied*, 434 Md. 312 (2013).

## DISCUSSION

Dr. Coulibaly filed a handwritten informal brief that is difficult to follow. We will do our best to address his contentions.

### I.

#### **Denial of the Motion to Dismiss and the Motion for Restitution**

Dr. Coulibaly contends that the circuit court erred in finding that he did not raise fraud in his "motion on stolen home." He alleges that there was fraud in the foreclosure proceedings and his eviction.

The Substitute Trustees contend that the circuit court properly denied Dr. Coulibaly's motion to dismiss and his motion for restitution. They argue that, to the extent that Dr. Coulibaly challenges "the validity of the underlying foreclosure sale and the foreclosure purchaser's right of possession of the Property," this Court resolved such issues against him in *Coulibaly I* and *Coulibaly II*, and therefore, the law of the case doctrine bars Dr. Coulibaly from relitigating those issues here. The Substitute Trustees also argue that, even assuming that Dr. Coulibaly's challenges to the validity of the foreclosure sale are not barred by the law of the case doctrine, he "fails to raise a valid challenge to the foreclosure action." In this regard, the Substitute Trustees assert that Dr. Coulibaly's claims regarding the foreclosure action, i.e., fraud and timeliness, needed to be raised prior to the foreclosure sale, and such claims cannot be raised at this time. They also assert that Dr. Coulibaly's fraud allegations are unclear, and he does not "identify anywhere in the record below where he alleged with particularity, or proved by clear and convincing evidence, facts that establish the five elements of fraud."

As indicated, in denying Dr. Coulibaly's motions, the circuit court ruled that, because the Property had been sold at the foreclosure sale and the sale of the Property had been ratified, Dr. Coulibaly lacked standing to bring the fraud and timeliness claims that he was asserting at that time. Whether a party has standing to assert a claim for relief is a question of law that we review de novo. *See Paula v. Mayor & City Council of Balt.*, 253 Md. App. 566, 580 (2022) (noting that "standing is a question of law"). "Standing concerns whether a 'plaintiff has shown that he or she is entitled to invoke the judicial process in a

particular instance[.]” *Bank of New York Mellon v. Georg*, 456 Md. 616, 660 (2017) (quoting *State Ctr., LLC v. Lexington Charles Ltd. P’ship*, 438 Md. 451, 502 (2014)).

We addressed the issue of standing in *Coulibaly II*, slip op. at 5–6, where we determined that Dr. Coulibaly lacked standing to challenge Mr. Asgari’s possession of the Property and the legality of his prior eviction. We explained:

Upon completion of the foreclosure sale, Mr. Asgari, as purchaser, acquired an inchoate, equitable title to the [P]roperty. *Merryman v. Bremmer*, 250 Md. 1, 8 (1968). Upon ratification of the foreclosure sale by the circuit court, his “inchoate equitable title, acquired at the time of the acceptance of his offer by the trustee, [became] complete.” *Id.* Indeed, Mr. Asgari did not acquire full legal title upon the ratification because a “purchaser obtains full legal title only after the purchase price is paid and the deed delivered to him or her.” *Empire Properties, LLC v. Hardy*, 386 Md. 628, 650 (2005). Nonetheless, he acquired an inchoate equitable title to the [P]roperty by virtue of the circuit court’s ratification of the foreclosure sale.

More importantly, upon ratification of the foreclosure sale by the circuit court, [Dr.] Coulibaly was “divested of the equitable right of redemption” which would have enabled him to “reacquire clear title to the property mortgaged to secure a debt, upon repayment of the debt.” *Greenbriar Condo., Phase 1 Council of Unit Owners, Inc. v. Brooks*, 387 Md. 683, 735 (2005). Not only did the “[f]oreclosure, sale, and ratification operate to cut off the [Dr. Coulibaly’s] right of redemption,” it also “terminate[d] [his] interest in the [P]roperty” and his “right of possession in the [P]roperty.” *Laney v. State*, 379 Md. 522, 539 (2004). Therefore, at the time [Dr.] Coulibaly filed the [r]estitution [m]otion, he had been divested of any interest he once held in the [P]roperty and no longer held any right to possess it. . . . His interest in the [P]roperty extinguished, [Dr.] Coulibaly lacked standing to challenge Mr. Asgari’s possession of the [P]roperty and the legality of his prior eviction. *See Adams v. Manown*, 328 Md. 463, 480 (1992) (Standing “rests on a legal interest such as one of property” and “a litigant must have standing to invoke the judicial process in a particular instance.”). For the foregoing reasons, the court did not err in denying the [r]estitution [m]otion.

*Coulibaly II*, slip op. at 5–6.



This analysis applies to Dr. Coulibaly’s claims here, which challenge the validity of the foreclosure action and the lawfulness of his eviction. Moreover, because his claims have already been decided, *see Coulibaly I*, slip op. at 4–7; *Coulibaly II*, slip op. at 4–6, they are additionally barred under the law of the case doctrine. *See MAS Assocs., LLC v. Korotki*, 475 Md. 325, 382 (2021) (The law of the case doctrine provides that, “[o]nce an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case.”) (quoting *Garner v. Archers Glen Partners, Inc.*, 405 Md. 43, 55 (2008)); *Dabbs v. Anne Arundel County*, 458 Md. 331, 346 n.15 (The law of the case doctrine is designed to prevent piecemeal litigation, and it “operates to bar litigants from raising arguments on questions that have been decided previously or could have been decided in that case.”), *cert. denied*, 139 S. Ct. 230 (2018). The circuit court properly denied Dr. Coulibaly’s motion to dismiss and his motion for restitution.

## II.

### **Ratification of the Auditor’s Report**

Md. Rule 14-305(g) provides that, “[u]pon ratification of a [foreclosure] sale, the court, pursuant to Rule 2-543, may refer the matter to an auditor to state an account.” *Accord* Md. Rule 2-543(b). “The function of an auditor is that of a calculator and accountant for the court.” *Walker v. Ward*, 65 Md. App. 443, 448 (1985). “The auditor must, of necessity, determine the amount that is due and owing under the mortgage in stating the account. If the auditor’s determination of the amount due is disputed, exceptions

may be filed pursuant to Rule 2-543(g).” *Pac. Mortg. & Inv. Grp., Ltd. v. LaGuerre*, 81 Md. App. 28, 33–34 (1989). *Accord* Md. Rule 2-543(g). “Exceptions to the auditor’s report are ‘directed not at the right to sell the property or to the conduct of the sale itself, but to the allowance or disallowance of expenses of the sale or the distribution of net proceeds.’” *Huertas v. Ward*, 248 Md. App. 187, 206 (2020) (quoting *Hood v. Driscoll*, 227 Md. App. 689, 694 n.1 (2016)).

As indicated, Dr. Coulibaly also appealed the circuit court’s July 15, 2021 order ratifying the Auditor’s Report. As best we can discern, however, Dr. Coulibaly makes no argument in his informal brief challenging the calculations in the Auditor’s Report.

It is the obligation of every appellant “to articulate and adequately argue all issues the appellant desires the appellate court to consider in the appellant’s initial brief.” *Oak Crest Vill., Inc. v. Murphy*, 379 Md. 229, 241 (2004). *Accord* *Assateague Coastkeeper v. Md. Dep’t of the Env’t*, 200 Md. App. 665, 670 n.4 (2011) (“Appellants failed, however, to present any argument on this issue. Therefore, we will not address it.”), *cert. denied*, 424 Md. 291 (2012); *Honeycutt v. Honeycutt*, 150 Md. App. 604, 618 (refusing to address argument because appellants failed to adequately brief the argument), *cert. denied*, 376 Md. 544 (2003); *Dep’t of Lab., Licensing & Regul. v. Woodie*, 128 Md. App. 398, 411 (1999) (“It is a well-established principle of Maryland law that *pro se* parties must adhere to procedural rules in the same manner as those represented by counsel.”).

The Court of Appeals has made clear that “a question not presented or argued in an appellant’s brief is waived or abandoned and is, therefore, not properly preserved for

review.” *Health Servs. Cost Rev. Comm’n v. Lutheran Hosp. of Md., Inc.*, 298 Md. 651, 664 (1984). *Accord Pack Shack, Inc. v. Howard County*, 377 Md. 55, 88 n.14 (2003) (Harrell, J., concurring in part and dissenting in part) (“Failure to discuss or specifically argue an issue in briefs . . . properly is viewed as a waiver of that issue.”). Because Dr. Coulibaly failed to present any argument in his informal brief explaining why the circuit court’s ratification of the Auditor’s Report was error, we will not address that issue.

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