

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0527

September Term, 2017

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PALLITTIA ANN DAVIS

v.

MEHARRY MEDICAL COLLEGE

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Meredith,  
Wright,\*  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Meredith, J.

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Filed: November 18, 2019

\* Wright, J., participated in the hearing and conference of this case while an active member of this Court; he participated in the adoption of this opinion as a specially assigned member of this Court.

\*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.

On September 10, 2014, Meharry Medical College (“Meharry”), appellee, obtained a money judgment against Pallittia Ann Davis, appellant, in the Circuit Court for Howard County, for monies owed on student loans she incurred while attending Meharry. But the case that gave rise to this appeal was filed in 2016, when appellant sought to preclude Meharry’s judgment from having any impact upon property that she and her sister had inherited from their intestate father. Between those two dates, appellant, acting as the personal representative of her father’s estate, executed a personal representative’s deed on April 27, 2015, conveying her late father’s residential real property from his estate to herself and her sister, Valarie Davis, as tenants in common. Meharry’s judgment became a lien against appellant’s interest in the property. In an effort to preclude Meharry from enforcing its lien against the property, appellant signed a disclaimer of her inheritance rights on March 23, 2016, and also executed and recorded a “confirmatory deed” purporting to convey her father’s home to Valarie alone.

Appellant then filed a new civil action against Meharry in the Circuit Court for Howard County, seeking declaratory and other relief. In this new action that is the subject of this appeal, appellant asked the court to declare that Meharry’s judgment was not a lien against the real property that had purportedly been conveyed to Valarie alone by way of the confirmatory deed. Following a bench trial, the Circuit Court for Howard County denied all relief to appellant, and, on April 5, 2017, declared that Meharry’s judgment was a valid lien that had attached to appellant’s interest at the time appellant accepted her

share in the property by executing and recording the personal representative's deed conveying the property to herself and her sister.

On May 4, 2017, appellant filed a motion to alter judgment, which was denied by the court on May 16, 2017. Appellant then noted this appeal. Because the notice of appeal was timely only with respect to the trial court's order denying the motion to alter judgment pursuant to Maryland Rule 2-535(a), we ordered that the issues appellant could raise in this appeal are limited to "whether the circuit court abused its discretion when it denied Appellant's Motion to Alter Judgment[.]"<sup>1</sup>

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<sup>1</sup> Notwithstanding that order, appellant's brief lists the following four assertions as her "Questions Presented":

- I. The Circuit Court abused its discretion when it denied appellant's motion to alter judgment, because the court misapplied the law regarding the effect of the confirmatory deed.
- II. The Circuit Court erred in finding that the disclaimer of inheritance was invalid even after a confirmatory deed had been recorded.
- III. The Circuit Court erred in finding that the original deed was without error.
- IV. The Circuit Court erred in finding that this case rises and falls on the issue of credibility because the Court found the relevant testimony to be credible.

As noted above, however, our review is limited to whether the trial court abused its discretion in denying the motion to alter judgment pursuant to Maryland Rule 2-535(a).

For the reasons that follow, we conclude that the circuit court did not abuse its discretion in denying appellant's motion to alter judgment, and we shall affirm the judgment of the circuit court.

### **FACTS AND PROCEDURAL HISTORY**

On March 12, 2012, Gladstone Davis died intestate. His daughter Pallittia Ann Davis, appellant, was appointed personal representative of his estate. The "List of Interested Persons" filed when appellant opened the estate contained only two names: appellant and her sister, Valarie Davis. The last known address for both was listed as 5502 Harvest Scene Court, Columbia, Maryland 21044 ("the Property") on a form appellant signed and filed with the register of wills. The Property, which Gladstone Davis had purchased in 1972, was the sole asset of Gladstone Davis's estate.

In 2013, Meharry sued appellant in the Circuit Court for Howard County for unpaid student loans, and obtained a money judgment against her in the amount of \$164,834.67 on September 10, 2014. Appellant's address of record in that case was listed as the Property, and appellant did not contest the jurisdiction of the Circuit Court for Howard County to adjudicate that case.

According to appellant's testimony in the present case, she had resided at the Property while growing up, but, by the time of Meharry's suit, she resided in Baltimore County with her family. Valarie Davis, on the other hand, had resided at the Property during her father's final illness, and appellant testified that it was the sisters' intention

that Valarie would take over the Property after Mr. Davis's death. Valarie, however, had difficulty obtaining a mortgage to refinance her father's outstanding mortgage debt.

On April 27, 2015, a deed was executed by appellant, as personal representative, conveying the Property from the Estate of Gladstone Davis, grantor, to appellant and Valarie, grantees. The deed made no reference to the grantees receiving their interests as joint tenants or with right of survivorship, and therefore, conveyed ownership to the sisters as tenants in common. *See* Maryland Code (1974, 2015 Repl. Vol.), Real Property Article, § 2-117 (“No deed . . . which affects land . . . creates an estate in joint tenancy, unless the deed . . . expressly provides that the property granted is to be held in joint tenancy.”). The deed was filed for recording on May 5, 2015. By operation of law, Meharry's judgment attached as a lien against appellant's interest in the Property when the April 27 deed was recorded. *See* Rule 2-621(a), which provides: “Except as otherwise provided by law, *a money judgment that is recorded and indexed in the county of entry constitutes a lien* from the date of entry in the amount of the judgment and post-judgment interest *on the defendant's interest in land located in that county.*” (Emphasis added.)

Approximately eleven months later, on March 24, 2016, appellant filed a document in the land records of Howard County labelled “Confirmatory Deed,” purporting to correct the misspelling of Valarie's first name on the previously-recorded personal representative's deed, and also purporting to “correct” the grantees by eliminating appellant as a grantee. The Confirmatory Deed stated in part: “The Grantor

and the Grantee have [ ] discovered that the deed erroneously included PALLITTIA ANN DAVIS as a Grantee[.]” On the same day the Confirmatory Deed was executed, appellant also executed a “Disclaimer of Inheritance Rights,” disavowing her right to receive any property from the estate of Gladstone Davis. Appellant then filed her declaratory judgment action seeking to have the circuit court declare that Meharry’s claim of a lien against the Property was invalid.

At the conclusion of a bench trial, the circuit court held the case *sub curia*, and then issued its judgment, denying appellant’s requested relief and declaring that Meharry’s lien against appellant’s interest in the Property was valid. The court’s written opinion provided the following explanation:

It is un-contradicted that a money judgment against [appellant] and in favor of Meharry was entered and recorded in Howard County on September 10, 2014, and then recorded in Baltimore County on June 12, 2015. The judgment is a valid money judgment against [appellant]. Pursuant to Maryland Rule 2-601(b)(2) & (3) the clerk is required to enter the judgment by making an entry of it on the docket and making it available to the public. Rule 2-601(c) requires the clerk to promptly record and index the judgment. [Appellant] asserts that the judgment is invalid because it lists an address that is not hers, and property that she has no ownership interest in. [Appellant] testified that when she applied to Meharry she listed the [Property] residence as her residence, and that when she was handling her father’s affairs, she also used th[e Property] address as her address. Even though she may not have had an ownership interest in the property, she knowingly used the [Property] address at various times as her residence. Additionally, whether the address listed on the recorded judgment is accurate or not, that fact does not invalidate the judgment. The purpose of recording a judgment is to put the public on notice that a judgment has been entered resolving the controversy.

There is no evidence that prior to April 27, 2015 that a judgment lien was entered against the [ ] [P]roperty. The only evidence was that the judgment against [appellant] listed the [Property] residence as her address

and potential lenders saw that a person listed at that residence had a judgment issued against them.

At the time the September 10, 2014 judgment was entered against the [appellant], she had no ownership interest in [the Property]. The April 27, 2015 deed changed things.

The April 27, 2015 deed conveys [the Property] to both [appellant] and her sister, Valarie Davis. According to Maryland Rule 2-621(a) a money judgment that is recorded and indexed in the county of entry constitutes a lien from the date of entry in the amount of the judgment and post-judgment interest on the defendant's interest in land located in that county. Additionally, according to Courts & Judicial Proceedings, §11-402, a money judgment of a court constitutes a lien to the amount and from the date of the judgment on the judgment debtor's interest in land located in the county in which the judgment was rendered. Thus, when the April 27, 2015 deed was filed, the money judgment against [appellant] automatically became a lien on [the Property]. . . .

**This case rises or falls on the issue of credibility.** [Appellant] contends that she never intended to transfer [the Property] to herself and her sister. . . . [Appellant] also contends that [the] confirmatory deed as well as the disclaimer of inheritance is retroactive to the date of her father's death, and therefore, the judgment lien on the property is invalid. **This contention is wrong and not credible.**

**Pursuant to Estates and Trusts, § 9-210(b)[,] a disclaimer of an interest in property is barred if any of the following occurs before the disclaimer becomes effective: (1) The disclaimant accepts the interest sought to be disclaimed; (2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or (3) A judicial sale of the interest sought to be disclaimed occurs. In this case [appellant] accepted an interest in the property, even though she now claims that transferring the property to herself and her sister was in error.** Moreover, [Meharry's] counsel cites *Darraugh v. Preissman*, 193 Md. 448 and *Hammer v. Westphal*, 120 Md. 15, as legal preceden[ts] that state[] a disclaimer of title cannot be effective if it is executed after the judgment became a lien on property. This court finds that as a matter of law the disclaimer of inheritance rights is not valid against Meharry since a lien had been placed on the property prior to the disclaimer being signed.

**It is clear that the April 27, 2015 deed transferred [the Property] to [appellant] and Valarie Davis, and that the judgment lien attached to the property when the deed was filed. . . .**

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. . . The deed to [the Property] had been in the names of both [appellant] and Valarie Davis for approximately 11 months, and only after it was discovered that the money judgment against [appellant] was filed as a lien was there an attempt to change things. **The court does not find the original transfer on April 27, 2015 to be erroneous.** When looking at the language of the deed, it does not appear to be an error. Not only are both of their names listed, but the language is plural . . . “daughters” “grantees.”

Moreover, no one thought the property could be attached or encumbered, and only after they learned of the lien did they attempt to change the situation and have the property transferred solely to Valarie. The corrected deed of March 24, 2016, as well as the Disclaimer of Inheritance Rights, was done after [the appellant] realized the consequences of transferring property to herself and her sister. [Appellant] is now trying to have this Court invalidate the lien and preserve her family’s major asset by having the encumbrance removed. The encumbrance can be removed when [appellant] satisfies the lien.

**The Court declares that the judgment lien on [the Property] [i]s a valid lien.**

(Emphasis added.)

On May 4, 2017, appellant filed a motion to alter judgment. Appellant’s motion acknowledged that the court made adverse credibility findings regarding the testimony of Valarie and appellant herself, but asserted that, “even if the factual findings of the court are correct, these facts would not invalidate [appellant’s] confirmatory deed as a matter of law, and the confirmatory deed replaces the earlier deed dated April 27, 2015 as a matter of law.” Despite the trial court’s finding that the original deed was *not* an error, appellant contended that the doctrine of mutual mistake permits reformation of a deed to correct a

misunderstanding about the legal effect of the deed. Meharry filed an opposition, pointing out that appellant's "mutual mistake" argument ignored the fact that the court found appellant's and Valarie's testimony on this point not to be credible.

On May 16, 2017, the circuit court summarily denied the motion to alter judgment. Two days after the denial of the motion to alter judgment, this appeal was filed.

### ANALYSIS

Appellant stated in her post-judgment motion that it was filed "pursuant to Maryland Rules 2-534 and 2-535." Rule 2-534 provides:

In an action decided by the court, on motion of any party filed **within ten days** after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment.

(Emphasis added.) Because appellant's motion was filed on the twenty-ninth day following the entry of judgment, it was not a timely motion pursuant to Rule 2-534, and it did not extend the time for filing an appeal from the judgment that had been entered on April 5, 2017.

Nevertheless, appellant also asserted that the motion was filed pursuant to Rule 2-535. Rule 2-535(a) provides that, if a motion seeking revision is filed within 30 days after entry of judgment in an action tried by the court, "the court may take any action that it could have taken under Rule 2-534." Consequently, appellant's motion was a timely application for relief pursuant to Rule 2-535(a). This Court reviews the denial of a Rule 2-535(a) motion for abuse of discretion, although there is no discretion to apply the law

incorrectly. *Morgan v. Schlotzhauer*, 449 Md. 217, 231 (2016). Because we perceive no argument made in appellant's motion that required the trial court to grant revisory relief pursuant to Rule 2-535(a), we conclude that the trial court did not err in denying the motion.

In her Brief, appellant rehashes arguments that had previously been made to the trial court, stating in part:

[T]he Circuit Court erred in finding that the confirmatory deed was invalid. The Circuit Court bases its findings largely on the fact that the Davis sisters formed the confirmatory deed after discovering a personal judgment against Appellant had caused a lien to be placed against the home, and the Court found this motive for forming a confirmatory deed to be invalid. Appellant disagrees and asserts her confirmatory deed is both valid and consistent with case laws.

Citing *Kolker v. Gorn*, 193 Md. 391, 398-99 (1949), she contends: "The rule is well established that in equity, a deed can be reformed, on the ground of mutual mistake as to the legal effect of words, to conform to the real intention of the parties." But *Kolker* also provides that "[p]roof of mutual mistake must, of course, be clear and unequivocal," *id.* at 399 (emphasis added). Here, appellant failed to introduce evidence that the court found *credible* to support her assertion that there was a mutual mistake warranting reformation of a deed she herself signed on behalf of the grantor.

"The burden of proof in a reformation case is high." *McCoy v. Clark*, 21 Md. App. 198, 204 (1974). The evidence must be "so clear, strong and convincing as to leave no reasonable doubt that a mutual mistake was made in the instrument contrary to their agreement." *Hoffman v. Chapman*, 182 Md 208, 210 (1943).

In this case, the court was simply not persuaded by appellant's evidence that the original personal representative's deed was a mistake that warranted reformation. That finding was not clearly erroneous. And, because appellant was essentially both grantor and grantee of the Property in that deed, the trial court did not err in concluding that she had "accepted an interest in the [P]roperty," and was therefore barred from subsequently disclaiming her inherited interest. *See* Maryland Code (1974, 2017 Repl. Vol.), Estates and Trusts Article ("ET"), § 9-210(b)(1) ("A disclaimer of an interest in property is barred if . . . [t]he disclaimant accepts the interest sought to be disclaimed[.]"). As of the date appellant executed the personal representative's deed conveying an interest in the Property to herself, she had not acted to disclaim her inheritance. Upon appellant's recording of that deed among the land records of Howard County, the lien of Meharry's previously-entered judgment attached to her interest in the Property, and by the time she attempted to disclaim the inheritance and reform the recorded deed, ET § 9-210(b)(1) barred her from disclaiming the interest she had already accepted. Because Meharry's lien attached before appellant acted to disclaim her inherited interest in the property, she lost her right to disclaim that inheritance, and ET § 9-203(b) is not applicable because there could be no effective disclaimer after her acceptance.

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