

Circuit Court for Baltimore County
Case No. 03-C-14-011507

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 688

September Term, 2022

HARRIETTE ELIZABETH BELL

v.

JOHN E. DRISCOLL, III, et al.

Wells, C.J.,
Shaw,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: February 28, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 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.

In this appeal from a foreclosure action in the Circuit Court for Baltimore County, Harriette Elizabeth Bell, appellant, challenges the court’s denial of her “Motion for Reconsideration,” re-ratification of an audit, and deeming of her “Motion in Response” as moot. For the reasons that follow, we shall affirm the judgments of the circuit court.

We recount some of the pertinent facts from one of our previous opinions in the parties’ dispute:

After [Ms.] Bell defaulted on a deed of trust loan on her house in 2012, [appellees,¹] acting as substitute trustees, filed a foreclosure action in the Circuit Court for Baltimore County. [Ms.] Bell’s house was sold to the Federal National Mortgage Association (“Fannie Mae”) in November 2015. On February 11, 2016, the circuit court ratified the sale and referred the case to an auditor.

On May 24, 2016, Fannie Mae sought a judgment of possession of the property, which [Ms.] Bell opposed. The circuit court granted Fannie Mae’s motion for judgment of immediate possession on July 1, 2016.

Bell v. Driscoll, No. 1081, September Term, 2018 (filed December 26, 2019), slip op. at 2.

Ms. Bell filed numerous post-judgment motions, all of which were denied.

Id. at 3. Ms. Bell then filed multiple notices of appeal. *Id.*

In a *per curiam* opinion, *Bell v. Driscoll, et al.*, Nos. 1018 and 1776, Sept. Term, 2016 (filed Dec. 27, 2017), we reduced the 21 issues raised by [Ms.] Bell . . . to four The *per curiam* panel affirmed the judgments of the circuit court, resolving all issues pertaining to possession. *Id.*

* * *

After we returned the record to the circuit court following [Ms.] Bell’s first appeal, the auditor’s report – although stamped as “filed” on April 15,

¹Appellees are John E. Driscoll, III, Jana M. Gantt, Arnold Hillman, Kimberly Lane, and Deena L. Reynolds.

2016 – was docketed on May 2, 2018. On May 7, 2018, [Ms.] Bell filed a “motion of exception to auditor’s report due to procedural irregularity of an invalid auditor’s report.” Although acknowledging therein that she had received the auditor’s report on April 18, 2016, along with a note from the auditor that the report had been filed with the court clerk, [Ms.] Bell nonetheless argued that the report had not been docketed until 2018, which she alleged was “highly irregular” and, in her view, provided a basis for her to ask the court to invalidate the foreclosure sale and vacate the order ratifying the sale.

* * *

On July 19, 2018, the court held a hearing on [Ms.] Bell’s exceptions to the auditor’s report. At that hearing, [Ms.] Bell argued that the delay between the filing of the report and its docketing amounted to an irregularity requiring that the foreclosure sale be vacated. Notably, she made no argument about the specifics of the actual accounting reflected in the auditor’s report.

Bell, No. 1081, September Term, 2018, at 4-6 (footnote omitted).

Following argument, the court “found no irregularity, fraud, or mistake with respect to the filing of the auditor’s report,” *id.* at 6, denied Ms. Bell’s motion to except, and stated that it would “prepare an order to memorialize” its ruling. The court then asked counsel for appellees if there was “anything else.” Counsel for appellees stated: “Your Honor, you may want to take a look and just to be on the safe side, you can re-ratify the audit if you wanted to in that order also, and that way you can statistically close this file at this juncture.” Although the docket entries indicate that on July 23, 2018, the court issued an order denying Ms. Bell’s exceptions and related motions, the order is not in the record. Ms. Bell appealed from the court’s judgment, which we subsequently affirmed. *Bell*, No. 1081, September Term, 2018, at 15.

On March 4, 2022, the court sent to appellees a “Notice of Contemplated Dismissal,” in which the court stated that the “proceeding will be dismissed for lack of prosecution . . . unless . . . a written motion showing good cause to defer the entry of an order of dismissal is filed.” The court did not specify its reasons for sending the notice, but in their response, appellees recognized that the auditor’s report had not been ratified. Appellees requested that the court “defer entry of an Order of dismissal” and “review and consider the filed Auditor’s Report and Account for ratification.” On April 27, 2022, the court granted appellees’ request and “deferred [dismissal] until September 1, 2022.”

On May 17, 2022, Ms. Bell filed a “Motion for Reconsideration” of the court’s April 27, 2022 order. In the motion, Ms. Bell requested, for numerous reasons, that the court “reconsider [its] decision to grant” appellees’ motion, and “dismiss this foreclosure matter effective immediately.” In an opposition to Ms. Bell’s motion, appellees contended that the order requested at the end of the July 19, 2018 hearing, “for some unexplained reason[,] never was properly docketed,” and “the matter cannot be completed until such time as the Order is rendered and the audit re-ratified.” Appellees requested that the court deny Ms. Bell’s motion as moot, “either reissue its July 23, 2018[] Order and have same docketed or merely issue a re-ratification of the audit,” and “statistically close the file.” On June 7, 2022, the court entered an order in which it denied Ms. Bell’s motion, ordered “that the Audit be . . . re-ratified,” and ordered the Clerk to “mark this . . . case statistically closed.” On June 8, 2022, Ms. Bell filed a “Motion in Response” to appellees’ opposition, in which she again requested, for numerous reasons, that the court “dismiss this foreclosure matter

effective immediately.” On June 30, 2022, the court entered on the motion a notation stating: “MOOT. Motion already ruled on June 7, 2022.”

Ms. Bell now contends that, for numerous reasons, the court erred in denying her motion for reconsideration, re-ratifying the audit, and deeming her motion in response moot. But, we have already affirmed the court’s denial of Ms. Bell’s exceptions to the auditor’s report, and “decisions rendered by a prior appellate panel . . . generally govern the second appeal at the same appellate level as well[.]” *Holloway v. State*, 232 Md. App. 272, 279 (2017) (internal citation omitted). Also, Rule 2-543(g)(1) states that exceptions to an auditor’s report must be filed “[w]ithin ten days after the filing of the . . . report,” and Ms. Bell does not cite any authority that allows a party to re-raise exceptions, or file additional exceptions, upon a request for re-ratification. Hence, the court did not err in denying the motion for reconsideration, re-ratifying the audit, and deeming the motion in response moot.

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**