

Circuit Court for Montgomery County
Case No. 484817V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 824

September Term, 2021

MASSOUD HEIDARY

v.

MONTGOMERY COUNTY, *et al.*

Arthur
Shaw,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 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.

In February 2021, Massoud Heidary, appellant, filed a complaint against Montgomery County, appellee, and the City of Gaithersburg (Gaithersburg), raising claims arising from the tax sale of his former property. The complaint contained three counts: Count I – Denial of Due Process as to appellee, Count II- Denial of Due Process as to Gaithersburg, Count III-Unconstitutional Taking Without Compensation as to Gaithersburg. Montgomery County and Gaithersburg both filed motions to dismiss. Following a hearing, the court entered an order on July 27, 2021, granting Montgomery County’s motion to dismiss on the grounds that it was barred by the doctrine of res judicata, failed to state a claim upon which relief could be granted, failed to allege a sufficient amount in controversy to invoke the court’s jurisdiction, and was barred by the statute of limitations. On August 9, 2021, appellant filed his notice of appeal in the instant case. The court subsequently granted Gaithersburg’s motion to dismiss on December 9, 2021. Appellant filed a separate notice of appeal from that order on December 15, 2021, which has been captioned as Case No. CSA-REG-1620-2021. A briefing order has yet to be issued in that case. On appeal, appellant contends that the court erred in granting appellee’s motion to dismiss. For the reasons that follow, we shall dismiss the appeal.

This Court only has jurisdiction over an appeal when it is taken from a final judgment or is otherwise permitted by law. *See Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 273-74 (2009). A final judgment is a judgment that “disposes of all claims against all parties and concludes the case.” *Matter of Donald Edwin Williams Revocable Trust*, 234 Md. App. 472, 490 (2017) (quotation marks and citation omitted). “An order will constitute a final judgment if the following conditions are satisfied: (1) it must be

intended by the court as an unqualified, final disposition of the matter in controversy; (2) it must adjudicate or complete the adjudication of all claims against all parties; and (3) the clerk must make a proper record of it on the docket.” *Waterkeeper Alliance, Inc. v. Maryland Dept. of Agriculture*, 439 Md. 262, 278 (2014) (internal quotation marks and citation omitted). Maryland Rule 2-602(a) makes clear that a judgment that does not dispose of all claims by and against all parties is not a final judgment. Specifically, it provides:

(a) Generally. Except as provided in section (b) of this Rule, an order or other form of decision, however designated, that adjudicates fewer than all of the claims in an action (whether raised by original claim, counterclaim, cross-claim, or third-party claim), or that adjudicates less than an entire claim, or that adjudicates the rights and liabilities of fewer than all the parties to the action:

(1) is not a final judgment;

(2) does not terminate the action as to any of the claims or any of the parties;
and

(3) is subject to revision at any time before the entry of a judgment that adjudicates all of the claims by and against all of the parties.

There are only three exceptions to the final judgment requirement: appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602(b); and appeals from interlocutory rulings permitted under the common law collateral order doctrine. *Johnson v. Johnson*, 423 Md. 602, 607 (2011).

Here, the circuit court’s July 27, 2021 order did not resolve appellant’s claims against Gaithersburg. Consequently, no final judgment had been entered when appellant filed his notice of appeal from that order. Moreover, no exception to the final judgment

rule applies. And under the circumstances presented, we decline to exercise our discretion and enter a final judgment pursuant to Maryland Rule 8-602(g)(1)(C). Consequently, we must dismiss the appeal. In doing so, we note that this dismissal is without prejudice to appellant raising the same claims that he raises in this appeal in his brief in Case No. CSA-REG-1620-2021, as that appeal was taken from a final judgment.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.