

Circuit Court for Baltimore City
Case No. 24-C-18-004467

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 871

September Term, 2020

MICHAEL FULLER

v.

JANET LUCKY

Fader, C.J.,
Ripken,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: September 9, 2021

*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 August 2018, Michael Fuller, appellant, filed a “Petition for Sale In Lieu of Partition,” in the Circuit Court for Baltimore City requesting the court to order a sale of real property that he jointly owned with Janet Lucky, appellee. Following a bench trial, the court entered an order appointing a trustee and ordering a sale of the property at either a public or private sale. On April 20, 2020, the trustee entered into a contract of sale for the purchase price of \$32,000. After the trustee filed the report of sale, Mr. Fuller sent a letter to the court objecting to the sale price, which the court treated as exceptions to the sale. In his exceptions, Mr. Fuller took issue with the sale price, claiming that the property had been sold for below market value and that the “price was manipulated and substantially lower without reason.” The court overruled the exceptions without holding a hearing, finding that “the inadequacy of price alone without evidence of misconduct” was insufficient to overturn the sale and that Mr. Fuller had failed to provide any evidence to support his claim that the price had been “manipulated.” The same day the court also entered an order ratifying the sale. This appeal followed.

Mr. Fuller’s sole claim on appeal is that the court erred in denying his exceptions without holding a hearing, which he claims was required pursuant to Maryland Rule 2-311(f). As an initial matter, Rule 2-311(f) does not apply in this case. Rather, whether a court is required to hold a hearing on a party’s exceptions to a judicial sale of property is governed by Maryland Rule 14-305(d)(2). That Rule provides that, unless the court sets aside the sale, the court shall hold a hearing only if one is requested *and* if the exceptions or the response “clearly show a need to take evidence.” *Id.* (emphasis added). We review

the court’s determination not to hold a hearing on Mr. Fuller’s exceptions for abuse of discretion. See *Four Star Enterprises Ltd. P’ship v. Council of Unit Owners of Carousel Ctr. Condo., Inc.*, 132 Md. App. 551, 567 (2000).

Although Mr. Fuller requested a hearing, the circuit court had no legal or factual basis to conclude that the sale price was inadequate. In *Fagnani v. Fisher*, 418 Md. 371 (2011), in upholding a foreclosure sale price of about 50 percent of the property’s market value, the Court of Appeals noted the “well settled” rule that “inadequacy of price alone, unless it indicates fraud, unfairness or some misconduct or mistake for which the purchaser should be held responsible, ordinarily is not a sufficient ground to set aside a sale.” *Id.* at 393 (internal quotation marks and citation omitted). Here, the trustee hired a realtor to sell the property and the property ultimately sold for approximately 71 percent of its appraised value after having been on the market for eight months. And, although Mr. Fuller generally asserted that the lower sale price was the result of “manipulation,” his exceptions did not identify any evidence to support that claim. Nor is there any evidence in the record suggesting that the sale was the result of fraud or misconduct. Consequently, the court did not abuse its discretion in finding that there was no “need to take evidence” and therefore, in denying Mr. Fuller’s exceptions without a hearing.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**