

Circuit Court for Carroll County
Case No. C-06-CV-23-000029

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1034

September Term, 2024

LAURA OCHS

v.

MELISSA REBECCA MYERS, *et al.*

Albright,
Kehoe, S.,
Pauler, Viki M.,
(Specially Assigned),

JJ.

Opinion by Albright, J.

Filed: March 3, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In this interlocutory appeal from the Circuit Court for Carroll County, Appellant Laura Ochs, who is the plaintiff below, points to two provisions in Maryland’s interlocutory appeal statute as the basis of her right to appeal. The first is Section 12-303(1) of the Courts and Judicial Proceedings Article, which permits an interlocutory appeal from an order “with regard to the possession of property with which the action is concerned[.]” Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 12-303(1). The second is Section 12-303(3)(v), which permits an interlocutory appeal from an order “for the sale, conveyance, or delivery of real property or the payment of money[.]” CJP § 12-303(3)(v).¹ Because the order Ms. Ochs appeals from does not regard the possession of property, or require the sale, conveyance, or delivery of real property, we agree with Appellees that this interlocutory appeal must be dismissed.² We do not reach the merits

¹ Ms. Ochs did not mention this second basis for her interlocutory appeal until oral argument. We address it anyway.

² Ms. Ochs presents three questions for our review:

- I. Did the circuit court err in ordering, and proceeding with, the bifurcation of trial when there were factual issues related to the existence of a confidential relationship, mixed questions of law and fact which should have been submitted to the jury as the fact finder instead of the presiding judge.
- II. Did the court err in excluding the recordings of the will discussions of April 29, 2021, in light of the testimony and evidence presented both as it relates to:
 - a. the Dead Man’s Statute Md. Code Ann. Cts & Jud. Pro. § 9-116, Transactions or statements made by deceased or incompetent persons (“The Dead Man’s Statute”) between the plaintiff, defendants and the decedent;

of Ms. Ochs’s appellate arguments.

BACKGROUND

Ms. Ochs and Appellee Melissa Myers are sisters and the daughters of Kenneth Myers, who died intestate on September 20, 2022. Prior to and at the time of his death, Mr. Myers lived at his home at 3733 Secret Fence Drive, Mount Airy, Maryland 21771 (the “Property”). Ms. Myers lived with him. Ms. Ochs did not. Appellee Jonathan Weetman, a lawyer and Ms. Myers’s romantic partner, also sometimes lived at the Property. On October 12, 2019, Mr. Myers added Ms. Myers to the deed for the Property (the “Deed”). He did not add Ms. Ochs to the Deed at that time, or at any time thereafter. Mr. Weetman’s law firm is also an appellee here.

In the Circuit Court for Carroll County, in an amended complaint filed on March 28, 2023,³ Ms. Ochs alleged that Ms. Myers had a confidential relationship with, and exercised undue influence over, Mr. Myers in order to pressure him to place Ms. Myers on the Deed to his home, and later, that Appellees pressured Mr. Myers into not adding

b. Maryland’s Wiretap Statute, despite the obvious consent or at least implied consent and whether the circuit court abused its discretion by failing to consider the testimony of an independent third-party witness in determining the consent of the parties in recording the conversation of the April 29, 2021 meeting where the decedent, plaintiff and defendants were present, and telephones utilized were conspicuously placed in front of everyone at the meeting.

III. Did the circuit court err as a matter of law in failing to apply the theories of equitable estoppel to Plaintiff[’]s claim regarding the agreement and undue influence claims with respect to her interest in 3733 Secret Fence, Mount Airy Maryland.

³ Ms. Ochs filed her original complaint on January 20, 2023.

Ms. Ochs to the Deed, promising instead that Ms. Ochs would be “evened up” with assets from Mr. Myers’s Estate after his death. The promise, and Mr. Myers’s assent to it, were recorded on a cell phone during a meeting around Mr. Myers’s kitchen table (“the kitchen table meeting”). When, after Mr. Myers died, Ms. Myers failed to honor the promise, Ms. Ochs sued Ms. Myers, Mr. Weetman, and Mr. Weetman’s law firm, and demanded a jury trial.⁴

Before the jury trial occurred, the circuit court bifurcated, tried, and largely ruled against Ms. Ochs on, four of the thirteen counts in her amended complaint. The circuit court did so after concluding that the bifurcated counts sought equitable relief while the others did not.⁵ The four bifurcated, bench-tried counts were for declaratory relief (Count IV), in which Ms. Ochs sought a declaration that the Deed transferring an interest in the Property to Ms. Myers was invalid; for constructive trust (Count V), in which Ms. Ochs asked that a constructive trust be imposed on the Property; rescission (Count VI), in which Ms. Ochs requested that the Deed be rescinded; and accounting (Count XII), in which Ms. Ochs asked that Ms. Myers produce an accounting of “all assets and funds . . . she

⁴ Ms. Ochs demanded a jury trial in her original complaint.

⁵ “Ordinarily, when there are legal and equitable claims, the jury finds the facts and the judge decides whether equitable relief is warranted based on the facts found by the jury. If there is a declaratory judgment claim, and the parties would have had the right to a jury trial before the enactment of the declaratory judgment statute, the jury finds the facts and the judge issues a declaration based on the jury’s findings.” *Donohue v. Mavronis*, 267 Md. App. 676, 683 n.1 (2025) (citing *Kann v. Kann*, 344 Md. 689, 700 (1997)). Here, however, the circuit court tried Ms. Ochs’s equitable claims first, before the jury could determine any of the facts.

obtained during [Mr. Myers’s] Life and after [his] death.”⁶ Regarding Counts V, VI, and XII, the circuit court granted judgment in favor of Appellees, finding that Ms. Ochs had not made out a prima facie case for those three counts.⁷ It reserved on Ms. Ochs’s declaratory judgment claim (Count IV). On June 24, 2024, the circuit court explaining its reasoning for these rulings and issued a written order memorializing them (“June 24, 2024 Order). This interlocutory appeal followed.⁸

DISCUSSION

Appellees move to dismiss this interlocutory appeal, arguing that it did not produce “[a]n order entered with regard to the possession of property” under CJP § 12-303(1).⁹ According to Appellees, Ms. Ochs’s amended complaint “makes no claim for

⁶ The remaining counts were for breach of contract against Ms. Myers (Count I); unjust enrichment against Ms. Myers (Count II); detrimental reliance against Ms. Myers (Count III); negligent misrepresentation against Mr. Weetman and his firm (Count VII); intentional misrepresentation of material fact against Mr. Weetman and his firm (Count VIII); civil conspiracy against Ms. Myers, Mr. Weetman, and his firm, (Count IX); intentional misrepresentation against Ms. Myers, Mr. Weetman, and his firm (Count X); constructive fraud against Mr. Weetman and his firm (Count XI); and tortious interference with inheritance against Ms. Myers, Mr. Weetman, and his firm (Count XIII).

⁷ The circuit court made other findings, including that the cell phone recording of the kitchen table meeting was inadmissible because not all parties had consented to it being recorded.

⁸ In the Civil Information Report filed with her appeal, Ms. Ochs acknowledged that the rulings appealed do not end the entire case against all parties but were nonetheless appealable because “[t]he case was erroneously bifurcated impacting the ownership of the property at issue.”

⁹ Section 12-303(1) states, in pertinent part,

relief seeking possession of the [Property] in which Appellant Myers has resided since 2020[.]” Appellees also assert that Ms. Myers’s possessory rights “and any other rights of possession were never a subject of the action” because Ms. Ochs “sought only to challenge the title ownership and to restrict Myers[‘s] ability to convey the home[.]” Lastly, Appellees point out that the ruling Ms. Ochs mentions in her Civil Information Report and brief only impacts “ownership” of the Property, not possession.

Ms. Ochs opposes dismissal. As we understand it, Ms. Ochs does not contend that the court’s rulings were final judgments.¹⁰ Rather, Ms. Ochs argues that the trial court’s

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

- (1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order[.]

CJP § 12-303(1).

¹⁰ At times, Ms. Ochs refers to the June 24, 2024 Order as a final judgment, while at other times, she argues that her appeal from the June 24, 2024 Order is properly an interlocutory appeal, i.e., an appeal properly taken from an interlocutory, non-final judgment. The June 24, 2024 Order cannot be a final judgment, however, because it did not adjudicate all of the claims in the action, or all of the liabilities of all of the parties in the action. *See* Md. Rule 2-602(a).

Nor did the circuit court, in the June 24, 2024 Order, direct the entry of a final judgment as to Counts V, VI, and XII. *See* Md. Rule 2-602(b) (permitting the circuit court to direct the entry of a final judgment “as to one or more but fewer than all of the claims or parties[.]” upon an express determination in a written order “that there is no just reason for delay[.]”)

Nor do we exercise our discretion to “enter a final judgment on [our] own initiative[.]” *See* Md. Rule 8-602(g)(1)(C). “Different legal theories for the same recovery, based on the same facts or transaction, do not create separate ‘claims’ for

June 24, 2024 Order was an appealable interlocutory order that satisfies CJP § 12-303(1) because the rulings contained in that Order “sustain Appellee’s continued illegal possession and control of the [P]roperty.” For this proposition, Ms. Ochs cites three cases: *Mayor & City Council of Baltimore v. Boitnott*, 356 Md. 605 (1999); *Bledsoe v. Bledsoe*, 294 Md. 183 (1982); and *Mayor & City Council v. Kelso*, 281 Md. 514 (1977). She also points to Section 12-303(3)(v), which pertains to orders “[f]or the sale, conveyance, or delivery of real or personal property[.]” arguing that the June 24, 2024 Order satisfies this subsection because the ruling allows Ms. Ochs to sell or convey the property during the pendency of the case.

We agree with Appellees. Ordinarily, Maryland does not permit appeals from non-final judgments. *See* CJP § 12-301 (“[A] party may appeal from a *final* judgment” (emphasis added)). This is known as the “final judgment rule.” We say “ordinarily” because there are three exceptions, situations in which we do allow an appeal from a non-final order or judgment. These are: “appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals

purposes of [Rule 2-602(b)].” *Cnty. Com’rs for St. Mary’s Cnty. v. Lacer*, 393 Md. 415, 426 (2006) (cleaned up)). Here, it appears that all of the counts in Ms. Ochs’s amended complaint arise out of the same facts, i.e., out of Appellees’ alleged undue influence over Mr. Myers and Appellees’ failure to honor the promise that Ms. Ochs would be “evened up” from assets from Mr. Myers’s estate. Accordingly, Counts V, VI, and XII would not qualify for a Rule 2-602(b) order.

In any event, because the June 24, 2024 Order was not a final judgment, the circuit court has the power to revise it. *See* Md. Rule 2-602(a)(3) (establishing a non-final judgment “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.”).

from interlocutory rulings allowed under the common law collateral order doctrine.”

Johnson v. Johnson, 423 Md. 602, 607 (2011). As noted above, Ms. Ochs relies on the first exception, specifically Sections 12-303(1) and 12-303(3)(v).

Here, the June 24, 2024 Order was not “[a]n order entered with regard to the possession of property[.] CJP § 12-303(1). “[I]n order for § 12-303(1) to apply, the possessory interest involved must be immediate.” *Rustic Ridge, L.L.C. v. Washington Homes, Inc.*, 149 Md. App. 89, 98 (2002). “This provision does not include every order that adjudicates some property-related issue with an indirect relationship to the right of possession.” Hon. Kevin F. Arthur & Sean R. Luhks, *Final Judgments and Appealable Interlocutory Orders*, in *Appellate Practice for the Maryland Lawyer: State and Federal* 207, 227 (6th ed. 2023). This is true even where the trial court determines the ownership of property and that ownership right could lead to possession. *Id.*; *see, e.g., Rustic Ridge, L.L.C.*, 149 Md. App. at 98. (“In any event, there can be no dispute that Rustic Ridge had no right to possess the property. Rustic Ridge claimed only a contractual interest in the property. That claimed interest might or might not have led eventually to a transfer of title and corresponding right of possession.”).

At best, the June 24, 2024 Order was about ownership of the Property. Ms. Ochs had alleged that Ms. Myers improperly owned the Property. Ms. Ochs did not allege that she (Ms. Ochs) possessed the Property and was somehow ousted. Nor did she allege that Ms. Myers improperly possessed the Property. The June 24, 2024 Order did not change, or fail to change, who possessed the Property. It simply indicated that Ms. Ochs had not

proven her claims for constructive trust, rescission, and accounting. The June 24, 2024

Order states:

FOR THE REASONS stated on the record today, upon consideration of the Defendants' Motions for Judgment at the close of Plaintiff's case, pursuant to Md. Rule 2-519(b), it is hereby

ORDERED, that the Defendants' Motions for Judgment be, and are hereby, GRANTED as to all relief requested in Count V - Constructive Trust; Count VI - Rescission; and Count XII - Accounting; and it is further

ORDERED, that the Court reserves ruling on the Motions for Judgment as to Count IV - Declaratory Relief pending outcome of the scheduled jury trial on all remaining Counts.

The fact that Ms. Ochs might be granted, or not be granted, possession of the Property further down the procedural timeline of this case is not enough to bring this appeal within Section 12-303(1).

Ms. Ochs's citation to *Bledsoe v. Bledsoe*, 294 Md. 183 (1982), does not persuade us otherwise. There, the order that Mr. Bledsoe challenged, a pendente lite order awarding Ms. Bledsoe use-and-possession of the marital home, did pertain to the immediate possession of property. 294 Md. at 185 n.1. Prior to their separation and divorce, Mr. and Ms. Bledsoe had owned the marital home as tenants by the entirety. *Id.* at 187. Each had two children from a prior marriage but no children in common. *Id.* at 184. Mr. Bledsoe's children did not live in the marital home, but Ms. Bledsoe's children did. *Id.* After some years, Ms. Bledsoe left, accompanied by her children, and filed for divorce. *Id.* at 185. Because the above use-and-possession order awarded possession of the home to Ms. Bledsoe and not Mr. Bledsoe, there was no dispute that his interlocutory appeal of the use-and-possession order was permissible. *Id.* at 185 n.1. Here, unlike Mr.

Bledsoe, Ms. Ochs never alleged that she possessed, or was improperly ousted from, the Property.

Ms. Ochs’s reliance on *Mayor & City Council of Baltimore v. Kelso Corp.*, 281 Md. 514 (1977), is also misplaced. In that case, as in *Bledsoe v. Bledsoe*, an interlocutory appeal was proper because the order appealed from divested the City from immediate possession of property. *See id.* at 517 n.2. After the City invoked local “quick-take” provisions “to take immediate possession of and title to property” it sought to condemn, the lower court granted the motion of Kelso Corporation, the property’s owner prior to the City’s quick take, to divest the City of immediate possession (and title) to the property. *Id.* at 514–17. On appeal, our Supreme Court declined to dismiss the City’s appeal, holding,

[I]t is obvious that the City’s appeal is properly before this Court. The appellants have a right of appeal under section 12-303(a) of the Courts Article, Md. Code (1974, 1977 Cum. Supp.) (appeal from interlocutory order with regard to possession of property) and possibly under [the City’s “quick take” public local laws].

Id. at 517 n.2. Here, unlike the City, Ms. Ochs never possessed the Property, and because of that fact, the June 24, 2024 Order did not divest Ms. Ochs of possession and could not have entitled Ms. Ochs to an interlocutory appeal.

Mayor & City Council of Baltimore v. Boitnott, 356 Md. 605 (1999), does not advance Ms. Ochs’s position either. In *Boitnott*, the appeal arose from a final judgment, not an interlocutory order. 356 Md. at 605. The Supreme Court interpreted “owned” for the purposes of Section 6-102(e) and Section 7-501 of Maryland’s Tax-Property Article.

Id. On appeal, the issue was whether Baltimore City’s having leased city-owned land to developers meant the City no longer satisfied Section 6-102(e)’s ownership requirement when it granted tax exemptions to those developers. *Id.* at 606–11. Our Supreme Court concluded that even though the City leased away substantial rights, doing so did not prevent the City from granting tax exemptions to the developers. *Id.* at 606, 621–22. While *Boitnott* reaffirms our general understanding that “ownership” encompasses a variety of subsidiary property rights, *Boitnott*, like this case, was one in which the circuit court’s order adjudicated a “property-related issue with an indirect relationship to the right of possession.” See Arthur, *Appellate Practice for the Maryland Lawyer: State and Federal* at 227. *Boitnott* was not, nor could it have been, an interlocutory appeal under Section 12-303(1).

Nor does June 24, 2024 Order satisfy Section 12-303(3)(v).¹¹ An order “[f]or the sale, conveyance, or delivery of real . . . property” under CJP § 12-303(3)(v) “necessarily

¹¹ Section 12-303 states, in pertinent part,

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

...

(3) An order:

...

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court[.]

CJP § 12-303(3)(v).

entails an order requiring that the property be sold.” *McLaughlin v. Ward*, 240 Md. App. 76, 86 (2019). *See also Rustic Ridge, L.L.C. v. Washington Homes, Inc.*, 149 Md. App. 89, 96 (2002) (holding that summary judgment in which one party was declared to be “the proper and rightful owner” of the land at issue did not constitute an order for the “sale, conveyance, or delivery or real or personal property” under CJP § 12-303(3)(v)).

The June 24, 2024 Order does not require that the Property be sold. Indeed, the June 24, 2024 Order requires no action be taken with regard to the Property. Even if we read the June 24, 2024 Order to somehow fortify Ms. Myers’s ownership of the Property, that reading would not transform the June 24, 2024 Order into one that requires Ms. Myers to sell, convey, or deliver the Property. As such, the June 24, 2024 Order simply is not an appealable interlocutory order under Section 12-303(3)(v).

**APPEAL DISMISSED. COSTS TO BE PAID
BY APPELLANT.**