Circuit Court for Charles County
Case No. 08-C-17-000990

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1042

September Term, 2020

JERMAINE T. BOLDEN, *et al.*

v.

RICHARD A. LASH, *et al.*

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

JJ.

PER CURIAM

Filed: September 10, 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 2017, appellees, acting as substitute trustees,[1] filed an Order to Docket in the Circuit Court for Charles County seeking to foreclose on real property owned by Jermaine and Leonie Bolden, appellants. The Boldens filed a motion to stay or dismiss the foreclosure action, which was denied, and their home was ultimately sold at a foreclosure auction. The foreclosure sale was ratified on September 5, 2018 and the case was referred to an auditor. Following the ratification of the auditor's report, the Boldens filed a "Motion to Dismiss/Motion to Vacate Final Judgment/Motion to Stay" which was denied on January 10, 2019. They did not file a timely appeal from the order ratifying the foreclosure sale, the order ratifying the auditor's report, or the order denying their "Motion to Dismiss/Motion to Vacate Final Judgment/Motion to Stay."

On January 16, 2019, the Boldens filed a "Motion to Revise Order," wherein they sought to vacate the order ratifying the foreclosure sale pursuant to Maryland Rule 2-535(b). In that motion, they claimed that Aurora Financial Group, Inc. (Aurora), the holder of the Note securing the Deed of Trust, did not have a license to conduct business in Maryland; did not have standing to foreclose because there was no assignment of the Note from their lender to Aurora recorded in the Charles County land records; and did not have a license to act as a debt collection agency in Maryland, as required by the Maryland Collection Agency Licensing Act (MCALA). After the court denied the motion, the

[1] Appellees are Richard A. Lash, Robert E. Kelly, David A. Rosen, and Douglas W. Callabresi.

Boldens appealed. This Court affirmed, holding that only the last claim was cognizable in a Rule 2-535(b) motion. We further held that the claim lacked merit because, pursuant to *Blackstone v. Sharma*, 461 Md. 87 (2018), appellees and Aurora were not subject to the requirements of MCALA and did not require a debt collector's license before pursuing the foreclosure action. *See Bolden v. Lash*, No. 262, Sept. Term 2019 (filed Aug. 6, 2020).

Thereafter, the Boldens filed a "Re-Amended Motion to Revise Order to Motion to Dismiss with Prejudice For Appellees' Lack of Standing and the Maryland Court's Lack of Jurisdiction" (Re-Amended Motion to Revise). In that motion, the Boldens contended that Aurora lacked standing to bring the action because there were no written mortgage assignments from the lender to Aurora and therefore "no transfer of interest in [their] real property to [Aurora]." They also appeared to re-assert their claim that the ratification order was void because appellees were unlicensed debt collectors. The circuit court denied the motion without a hearing. The Boldens now appeal raising five issues, which reduce to one: whether the court abused its discretion in denying their Re-Amended Motion to Revise. For the reasons that follow, we shall affirm the judgment.

The September 5, 2018 order ratifying the foreclosure sale constituted the final judgment on the merits as to the validity of the foreclosure sale. *See Ed Jacobsen, Jr., Inc. v. Barrick*, 252 Md. 507, 511 (1969) ("[T]he law is firmly established in Maryland that the final ratification of the sale of property in foreclosure proceedings is res judicata as to the validity of such sale, except in the case of fraud or illegality, and hence its regularity cannot be attacked in collateral proceedings." (citations omitted)). Because the Boldens' Re-Amended Motion to Revise was filed more than 30 days after the ratification order was

entered, the only basis for the circuit court to have granted the motion would have been if they demonstrated the existence of fraud, mistake, or irregularity in the judgment. *See* Maryland Rule 2-535(b). However, as was the case in the Boldens' previous appeal, their challenge to appellees' standing to foreclose does not demonstrate the existence of fraud, mistake or irregularity as those terms are used in Rule 2-535(b). *See generally Thacker v. Hale*, 146 Md. App. 203, 217 (2002) ("Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments."). Rather, that claim should have been raised prior to the entry of a final judgment in the foreclosure action.[2]

Finally, we have previously rejected the Boldens' contention that appellees were acting as an unlicensed debt collector when they initiated foreclosure proceedings in this case. Consequently, that claim is barred by the law of the case doctrine. *See Baltimore County v. Baltimore County Fraternal Order of Police, Lodge No. 4*, 220 Md. App. 596, 659 (2014) (noting that "neither the questions decided [by the appellate courts] nor the ones that could have been raised and decided are available to be raised in a subsequent appeal." (quotation marks and citation omitted)).

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

[2] In any event, we note the Boldens' contention that there must have been a specific written assignment of the Note to Aurora before appellees could initiate foreclosure proceedings lacks merit.