

Circuit Court for Prince George's County
Case No. CAEF14-24185

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1160

September Term, 2018

ALABDJOU A. TCHAMA

v.

LAURA H.G. O'SULLIVAN, *et al.*

Nazarian,
Leahy,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 7, 2019

*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 September 2014, appellees, acting as substitute trustees,¹ filed an Order to Docket in the Circuit Court for Prince George’s County, seeking to foreclose on real property owned by Alabdjou Tchama, appellant. Mr. Tchama’s home was eventually sold at a foreclosure auction and the circuit court ratified the sale on December 29, 2016. Mr. Tchama appealed to this Court and we affirmed the court’s ratification of the foreclosure sale. *Tchama v. O’Sullivan*, No. 2425, Sept. Term. 2016 (filed February 9, 2018).

The case was then referred to an auditor and the auditor filed his report in the circuit court on May 10, 2018. Mr. Tchama filed a motion entitled “exception to the auditor’s statement of account,” wherein he requested the court not to ratify the auditor’s report because 1) “[t]he substitute trustees never supplied any proof of the balance of debt at the time of the foreclosure filing and [] failed to do so again for the audit,” and (2) “[a]fter the foreclosure sale, [he] had filed objections to the auction based on the lack of proofs of proper assignments and payments made on the mortgage before its transfer to the current alleged owner.” The court denied Mr. Tchama’s exceptions, finding that he had failed to provide “a sufficient legal basis . . . to Sustain the Exceptions,” and ratified the auditor’s report. Mr. Tchama now appeals, raising six issues which reduce to two: (1) whether the court erred in ratifying the auditor’s report, and (2) whether the court erred in denying his exceptions to the auditor’s report without holding a hearing. For the reasons that follow, we shall affirm.

¹ Appellees are Laura H.G. O’Sullivan, Erin M. Shaffer, Diana C. Theologou, Chasity Brown, Laura T. Curry, Alyson Gromak, and Youme Lee.

As an initial matter, four of the six “Questions Presented” in Mr. Tchama’s brief do not challenge the validity of the auditor’s report, but rather the validity of the underlying foreclosure action. Specifically, Mr. Tchama contends that (1) the circuit court erred in ratifying the foreclosure sale because appellees failed to notify the Prince George’s County Department of Permitting, Inspections, and Enforcement (DPIE) of the filing of the order to docket; (2) the circuit court erred in accepting appellees’ amended affidavit of service with respect to their notice of intent to foreclose; (3) appellees never produced a “valid lien [] instrument in the foreclosure action”; and (4) the foreclosure sale was illegal because appellees never provided proof that the note had been properly transferred.

Of those four claims, only Mr. Tchama’s claim that appellees never provided proof that the note had been properly transferred is preserved for appellate review as it is the only one raised in his exceptions to the auditor’s report. *See* Maryland Rule 8-131(a). And that claim is not a cognizable exception to the auditor’s report because such exceptions can only challenge the amount that is due and owing on the mortgage following the foreclosure sale. *See Pac. Mortg. & Inv. Grp., Ltd. v. LaGuerre*, 81 Md. App. 28, 33-34 (1989) (noting that the auditor determines “the amount that is due and owing under the mortgage in stating the account” and, if that “amount due is disputed, exceptions may be filed pursuant to Rule 2-543(g)”). Rather, any challenge to validity of the lien or the substitute trustees’ standing

to foreclose must be raised in a motion to stay or dismiss the foreclosure sale pursuant to Maryland Rule 14-211.²

Mr. Tchama’s only contention on appeal that addresses the amount of his indebtedness is that the court erred in ratifying the auditor’s report because appellees did not provide any proof of the balance of his mortgage debt and any transactions that he made to pay off the debt. However, Maryland Rule 2-543(g) requires that any asserted errors with the auditor’s report must be set forth “with particularity.” And Mr. Tchama’s conclusory assertion that appellees failed to “suppl[y] any proof of the balance of the debt,” does meet this requirement. Moreover, based on our review of the record, it appears that appellees did, in fact, provide the auditor with an “Amended Affidavit of Indebtedness” which set forth Mr. Tchama’s mortgage balance at the time of the audit. And, in his exceptions, Mr. Tchama did not contest the validity of that affidavit or proffer any evidence indicating that the information contained therein is incorrect. Consequently, we are not persuaded that the court erred in denying his exceptions and in ratifying the auditor’s report.

Finally, Mr. Tchama contends that the court erred in denying his exceptions without holding a hearing. However, Maryland Rule 2-543(h) provides that the “court may decide exceptions without a hearing unless a hearing is requested with the exceptions or by an

² Because we have already affirmed the ratification of the foreclosure sale, Mr. Tchama’s claims challenging the validity of that sale are also 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” (citation omitted)).

opposing party or claimant within five days after service of the exceptions.” Because Mr. Tchama did not request a hearing when he filed his exceptions, and appellees did not request a hearing within five days after being served with his exceptions, no hearing was required.

**JUDGMENT OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**