

Circuit Court for Montgomery County
Case No. 410429V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1526

September Term, 2017

FLAUBERT MBONGO, *et al.*

v.

CARRIE M. WARD, *et al.*

Woodward, C.J.,
Graeff,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 26, 2018

*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.

On October 7, 2015, the substitute trustees, appellees, filed an order to docket foreclosure of 14434 Bradshaw Drive, Silver Spring, Maryland, in the Circuit Court for Montgomery County.¹ On June 16, 2017, Flaubert Mbongo and Charlotte Dikongue, appellants, filed their third motion to dismiss the foreclosure action, claiming that appellees lacked standing to foreclose on the property.² After the circuit court denied that motion, appellants filed this interlocutory appeal, raising three issues which reduce to one: whether the circuit court abused its discretion in denying their motion to dismiss the foreclosure action. For the reasons that follow, we affirm.

Maryland Rule 14-211(a)(2)(A) provides that “a motion by a borrower to stay the sale and dismiss the [foreclosure] action shall be filed no later than 15 days after the last to occur of: (i) the date the final loss mitigation affidavit is filed; (ii) the date a motion to strike postfile mediation is granted;” or (iii) certain events occurring with mediation. Any motion that is untimely must “state with particularity the reasons why [it] was not filed timely.” Md. Rule 14-211(a)(3)(F). If the court concludes that the motion was not timely filed and does not show “good cause” to excuse noncompliance with Rule 14-211(a)(2)(A) it “*shall* deny the motion[.]” Md. Rule 14-211(b)(1)(A) (emphasis added).

¹ The substitute trustees in this case are: Carrie M. Ward, Howard N. Bierman, Jacob Geesing, Pratima Lele, Joshua Coleman, Richard R. Goldsmith Jr., Ludeen McCartney–Green, Jason Kutcher, Elizabeth C. Jones, and Nicholas Derdock.

² Appellants previously filed motions to stay or dismiss the foreclosure action on October 22, 2015, and October 31, 2016. The circuit court denied both motions, and we affirmed the denial of those motions in separate unreported opinions. *See Mbongo v. Ward*, No. 2436, Sept. Term 2015 (filed Jan. 18, 2017); *Mbongo v. Ward*, No. 2229, Sept. Term 2016 (filed Feb. 9, 2018).

Because appellants did not request mediation, any motion to stay or dismiss the foreclosure action had to have been filed within fifteen days of November 24, 2015, which was the date the final loss mitigation affidavit was filed. Accordingly, appellants' June 16, 2017, motion to dismiss was untimely. Moreover, although appellants' motion generally requested the court to "excuse [their] non-compliance" with Rule 14-211, the motion failed to "state with particularity" why it was not filed in a timely manner. Consequently, the circuit court did not abuse its discretion in denying appellant's motion to dismiss the foreclosure action.

**JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANTS.**