

Circuit Court for Prince George's County
Case No. CAL21-05019

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1528

September Term, 2021

HOWARD T. TYSON, SR.

v.

MARYLAND STATE DEPARTMENT OF
ASSESSMENTS AND TAXATION, et al.

Kehoe,
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 26, 2022

*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.

Howard T. Tyson, Sr., appellant, challenges the granting, by the Circuit Court for Prince George’s County, of a motion by appellee First Home Mortgage Corporation (“FHMC”) to dismiss Mr. Tyson’s complaint, the court’s denial of Mr. Tyson’s motion to vacate that judgment, and the court’s failure to enter an order of default against appellee Maryland State Department of Assessments and Taxation (“the SDAT”). For the reasons that follow, we shall affirm the judgments of the circuit court.

On January 12, 2007, Mr. Tyson and his wife obtained from FHMC a loan, which the Tysons then used to purchase a property located at 12018 Long Ridge Lane in Bowie. On May 7, 2021, Mr. Tyson filed a complaint in which he alleged “conspiracy, fraud[,] and racial discrimination” by appellees. The complaint is confusing and frequently incoherent, but as best we can determine, Mr. Tyson contended that FHMC had impermissibly loaned him and his wife more than the property was worth, and that the value of the property had been impermissibly over-assessed for the purpose of property tax calculation. On August 16, 2021, Donyetta Lewis of Kaundre Judicial Services (“KJS”) filed a “Return of Service,” in which she stated that she had served process upon FHMC. On September 9, 2021, Parsippany Howard of KJS filed a return of service, in which she contended that she had served process upon the SDAT “by certified mail, restricted delivery, return receipt requested.”

On September 10, 2021, FHMC moved to dismiss the complaint on numerous grounds, including that Mr. Tyson’s “claim related to [the] purchase of” the property was “time barred.” On October 1, 2021, the court granted the motion. Mr. Tyson subsequently filed motions to vacate the dismissal and for an order of default against the SDAT. On

November 1, 2021, the court issued orders in which it denied the motion to vacate and affirmed the dismissal.

Mr. Tyson contends that, for numerous reasons, the court erred in dismissing the petition and “fail[ing] to honor the default” of the SDAT. We disagree for three reasons. First, Md. Code (1974, 2020 Repl. Vol.), § 5-101 of the Courts and Judicial Proceedings Article states that generally, a “civil action at law shall be filed within three years from the date it accrues.” Mr. Tyson failed to file his complaint within three years of his purchase of the property, and hence, the court did not err in dismissing the complaint as to FHMC. Second, the Court of Appeals has stated that “ordinarily when an administrative remedy is provided by statute, relief provided under those statutory provisions must be exhausted before a litigant may resort to the courts.” *State Dep’t of A. & Tax. v. Clark*, 281 Md. 385, 401 (1977). Here, Md. Code (1986, 2019 Repl. Vol., 2021 Supp.), Title 14 of the Tax-Property Article, provides an administrative remedy for the appeal of an assessment made by the supervisor of assessments for a county or the SDAT. There is no evidence in the record that Mr. Tyson exhausted this remedy before filing his complaint, and hence, the court did not err in dismissing the complaint as to the SDAT. Finally, Rule 2-124(k) states that “[s]ervice is made on an . . . agency of the State of Maryland by serving (1) the resident agent designated by the . . . agency, or (2) the Attorney General or an individual designated by the Attorney General in a writing filed with the Clerk of the Court of Appeals.” There is no evidence in the record that Mr. Tyson followed this rule in serving process upon the SDAT, and hence, the court did not err in failing to enter an order of default against the SDAT.

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