

Circuit Court for Baltimore County
Case No. 03-C-16-003258

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1725

September Term, 2019

LAWRENCE W. KNOTT

v.

EDWARD S. COHN, *et al.*

Fader, C.J.,
Kehoe,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 29, 2020

*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.

Lawrence W. Knott, appellant, appeals from an order issued by the Circuit Court for Baltimore County ratifying the foreclosure sale of his property. He raises a single question on appeal, which we quote verbatim: “Does a defendant in a foreclosure case have the right to due process?” For the reasons that follow, we shall affirm the judgment of the circuit court.

In 2016, appellees, acting as substitute trustees,¹ filed an Order to Docket Foreclosure in the circuit court, seeking to foreclose on real property owned by Mr. Knott located at 212 Linhigh Avenue, Baltimore, Maryland. The property was sold at a foreclosure sale on August 31, 2017. On October 23, 2017, Mr. Knott filed a pleading entitled “Objection to Foreclosure Sale.” In that pleading, he alleged that he had signed a loan modification agreement with his lender prior to the sale; that he had sent the required down payment funds to the lender within the time required under the agreement; and therefore, that he had been current on his mortgage at the time of the sale. Appellees filed a response alleging that M&T bank had never received the down payment from Mr. Knott and therefore, that the proposed loan modification agreement had been rendered null and void. Appellees further argued that Mr. Knott’s motion should have been filed prior to the sale and that he could not raise defenses to the foreclosure sale in post-sale exceptions. The court denied Mr. Knott’s “Objection to Foreclosure Sale” without a hearing on November 27, 2017.

¹ Appellees are Edward S. Cohn, Stephen N. Goldberg, Richard E. Solomon, Richard J. Rogers, Randall J. Rolls, Michael McKeefery, and Christianna Kersey.

On December 6, 2017, Mr. Knott filed a motion for reconsideration, wherein, he contended that the court erred in not holding a hearing on his “Objection to Foreclosure Sale.” Notably, in the motion for reconsideration, Mr. Knott characterized his objections to the foreclosure sale as “exceptions” and contended that a hearing was required pursuant to Maryland Rule 14-305(d), which deals with post-sale exceptions. After the court denied the motion for reconsideration, Mr. Knott filed a notice of appeal. However, we dismissed the appeal as having been prematurely filed. *See Knott v. Cohn*, No. 2406, Sept. Term 2017 (filed Feb. 4, 2019). Thereafter, the circuit court entered an order on August 16, 2019, ratifying the foreclosure sale. This appeal followed.

Mr. Knott presents a single question on appeal: Does a defendant in a foreclosure case have the right to due process? In the abstract, the answer to that question is yes. But it is not entirely clear why Mr. Knott believes that his right to due process was violated in this case. As best as we can discern, Mr. Knott appears to take issue with the fact that the court denied his “Objection to Foreclosure Sale” without holding a hearing, as he asserts that he was not “able to put on testimony or call witnesses” in support of his claim that M&T “was in violation of the terms of the Loan Modification/Repayment Agreement.” However, under the circumstances no hearing was required.

A “borrower’s ability to challenge a foreclosure sale is in part determined by whether relief is requested before or after the sale. Prior to the sale, a borrower may file a motion to stay the sale and dismiss the foreclosure action under Maryland Rule 14-211.” *Thomas v. Nadel*, 427 Md. 441, 443 (2012). “In other words, the borrower ‘may petition the court for injunctive relief, challenging the validity of the lien or . . . the right of the

[plaintiff] to foreclose in the pending action.” *Svrcek v. Rosenberg*, 203 Md. App. 705, 720 (2012) (citation omitted). However, if the motion to stay fails and “[s]hould a sale occur, . . . the [borrower]’s later filing of exceptions to the sale may challenge only procedural irregularities at the sale or the debtor may challenge the statement of indebtedness by filing exceptions to the auditor’s statement of account.” *Thomas*, 427 Md. at 444 (citation omitted); *see also Bates v. Cohn*, 417 Md. 309, 318-19 (2010) (recognizing that challenges to the legitimacy of a foreclosure proceeding that can be raised pre-foreclosure sale pursuant to Rule 14-211 must be raised “before a foreclosure sale takes place”).

Here, Mr. Knott’s claim regarding M&T Bank’s alleged noncompliance with the loan modification agreement did not challenge a procedural irregularity at the sale. Instead, it challenged the right of appellees to foreclose. Thus, it was required to be raised in a pre-sale motion to stay or dismiss pursuant to Rule 14-211. Because Mr. Knott’s claim was not a cognizable exception that could be raised post-sale, there was no need for the court to take evidence or hold a hearing. Consequently, we hold that Mr. Knott has failed to demonstrate that the court violated his due process rights.

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