

Circuit Court for Prince George's County
Case No. CAEF16-04391

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1746

September Term, 2019

COMFORT BOATENG, *et al.*

v.

KRISTINE D. BROWN, *et al.*

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

JJ.

PER CURIAM

Filed: November 13, 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.

In 2016, 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 Comfort and Kofi Boateng, appellants. The Boatengs’ home was sold at a foreclosure sale in September 2018. In September 2019, the Boatengs filed a “Motion to Dismiss the Foreclosure Sale,” claiming that the substitute trustees lacked standing to foreclose because they had not been appointed by the noteholder. The circuit court denied the motion without a hearing, finding that it was untimely, failed to comply with the requirements of Md. Rule 14-211(b)(1), and did “not on its face state a valid defense to the validity of the lien or the lien instrument or the right of the plaintiff to foreclose[.]” The same day the court entered an order ratifying the foreclosure sale. The Boatengs appealed and raise a single issue for our review: whether the court erred in not dismissing the foreclosure action. For the reasons that follow, we shall affirm.

Maryland Rule 14-211(a)(2)(A) provides, in relevant part, that, if the court grants a motion striking postfile mediation, any motion to stay the sale and dismiss the foreclosure action must be filed no later than fifteen days thereafter. Here, the court struck the parties’ scheduled postfile mediation on September 20, 2018. However, the Boatengs did not file their motion to dismiss until one year later, well after the foreclosure sale had occurred. Consequently, the motion was untimely. *See Bates v. Cohn*, 417 Md. 309, 318-19 (2010) (recognizing that challenges to the legitimacy of a foreclosure proceeding that can be raised

¹ Appellees are Kristine D. Brown, Gregory N. Britto, William M. Savage, and Lila Stitely.

pre-foreclosure sale pursuant to Rule 14-211 must be raised “before a foreclosure sale takes place”). And although the court may excuse the untimely filing of a motion to dismiss for good cause, it may only do so if the motion “state[s] with particularity the reasons why the motion was not timely filed.” *See* Rule 14-211(a)(3)(F). The Boatengs’ motion to dismiss did not provide any reason why it was untimely. Consequently, the court did not err in denying their motion to dismiss. In fact, it was required to do so. *See* Rule 14-211(b)(1)(A)(stating that the “court *shall* deny the motion” to stay or dismiss if the motion “was not timely filed and does not show good cause for excusing non-compliance” (emphasis added)).²

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

² We note that, in their brief, the Boatengs assert that the substitute trustees’ alleged lack of standing caused the ratification order to be “void” because the court did not have subject matter jurisdiction over the parties. The issue of subject matter jurisdiction can, of course, be raised at any time, including for the first time on appeal. However, the Maryland Rules of Procedure, which govern the courts of this state, provide that the circuit courts in Maryland have general equity jurisdiction over foreclosures. *See* Md. Rule 14-203; *see also* *Voge v. Olin*, 69 Md. App. 508, 514 (1986) (“[T]he circuit court has authority to exercise general equity jurisdiction over mortgage foreclosure proceedings and it may invoke all the equitable powers with which it is imbued.”). And because the subject property is located in Prince George’s County, the Prince George’s County circuit court had *in rem* jurisdiction over the foreclosure after the Order to Docket was filed. *See* Md. Rule 14-203. The Boatengs’ arguments regarding the standing of the substitute trustees to initiate the foreclosure action do not concern the court’s power to decide the case, but rather whether it was appropriate to grant the relief requested by appellees. *See generally* *Preissman v Mayor & City Council of Balt.*, 64 Md. App. 552, 559 (1985). Consequently, there is no merit to their claim that the court lacked subject matter jurisdiction.