

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0628

September Term, 2014

JOYCE H. SAMS

v.

GEORGE G. HENDERSON, PERSONAL
REPRESENTATIVE OF THE ESTATE OF
JANE G. HENDERSON

Berger,
Reed,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Sharer, J.

Filed: January 13, 2016

*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 this intra-sibling dispute, we are asked by Joyce H. Sams, appellant,¹ to find that the Circuit Court for Charles County erred in dismissing her complaint against the Estate of Jane G. Henderson, appellee.

BACKGROUND and PROCEEDINGS BELOW

Jane G. Henderson died on July 27, 2011. Ten weeks later, Sams, one of Jane’s four children, filed a claim in the Office of the Register of Wills against her mother’s estate seeking transfer of a 25% share of the Jane G. Henderson, LLC (“LLC”), or, in the alternative, the current appraised value of the 25% interest.^{2 3}

While not pertinent to the issue raised in this appeal, it is helpful to note that, in 2001, Jane created the Jane G. Henderson LLC, the purpose of which was to hold title to a large tract of real estate. Subsequently, Jane proposed to divide the interests in the LLC into quarters, and to assign those interests in equal shares to her four children, Sams included. In 2002, Sams rejected the proposed assignment of interests and sought to negotiate another option. Nothing more, at least of record, was heard of Sams’ contentions until after Jane’s death in 2011, when Sams asserted the claims that became the basis of this litigation.

¹Sams appears before this Court *pro se*, as she did throughout the proceedings below, in both the Orphans Court for Charles County and the circuit court.

²Sams originally asserted that the value of the 25% interest was \$131,250, but later amended her claim to \$816,000 based on a later appraisal.

³Sams asserts that she filed the claim with the Register of Wills for Charles County. The Estate claims that she filed her claim in the Orphans’ Court for Charles County. Regardless, the filing of the claim is not in dispute.

On October 31, 2011, George G. Henderson, personal representative of the Estate, denied Sams' claim. Sams then filed a petition for allowance of the claim in the Orphans' Court for Charles County. The Estate moved to dismiss the claim, asserting that the court lacked subject matter jurisdiction. Finding that Sams' claim exceeded \$50,000, the orphans' court dismissed her claim pursuant to § 1-301(b) of the Estates & Trusts Article of the Maryland Code ("Est. & Trusts") (2011 Replacement Vol.).⁴ Ruling that it had no jurisdiction to transfer the case, the orphans' court simultaneously dismissed Sams' petition to transfer the case to the circuit court. Sams noted an appeal of the orphans' court order to the circuit court, which likewise dismissed on jurisdictional grounds.

The instant litigation began on January 6, 2014, when Sams filed a complaint against the Estate in the circuit court, challenging the disallowance of her claim for the 25% share of the LLC, or its current value. The Estate moved to dismiss the complaint, contending: (1) that the claim was barred by multiple statutes of limitation, and (2) that the complaint failed to state a claim upon which relief could be granted. Sams opposed the motion to dismiss and also filed an amended complaint. The Estate again moved to dismiss the amended complaint, renewing its arguments that the amended complaint, too, was barred by limitation and failed

⁴ Est. & Trusts § 1-301(b) provides:

(b) the court may determine questions of title to personal property not exceeding \$50,000 in value for the purpose of determining what personal property is properly includable in an estate that is the subject of a proceeding before the court.

to state a claim upon which relief could be granted. On May 7, 2014, the circuit court dismissed the complaint and amended complaint.⁵ This appeal followed.⁶

STANDARD of REVIEW

“A trial court may grant a motion to dismiss, if, when assuming the truth of all well-pled facts and allegations in the complaint and any inferences that may be drawn, and viewing those facts in the light most favorable to the nonmoving party, ‘the allegations do not state a cause of action for which relief may be granted.’” *Latty v. St. Joseph’s Soc’y of the Sacred Heart, Inc.*, 198 Md. App. 254, 262-63 (2011) (quoting *RRC Northeast, LLC v. BAA Md., Inc.* 413 Md. 638, 643 (2010)). On review of the grant of a motion to dismiss, appellate courts “must determine whether the [c]omplaint, *on its face*, discloses a legally sufficient cause of action.” *Pittway Corp. v. Collins*, 409 Md. 218, 234 (2009) (emphasis in original). “If it is apparent from the face of the complaint that the action is barred by the statute of limitations, the complaint fails to state a claim upon which relief can be granted

⁵The circuit court issued a one-page order stating:

“ORDERED that Defendants’ [sic] Motion to Dismiss the Complaint and Amended Complaint is GRANTED; AND IT IS FURTHER ORDERED that the Plaintiff’s Complaint and Amended Complaint are dismissed in their entirety.”

⁶Also before the Court is Sams’ Motion to Strike Appellee’s Brief and Appendix on the ground that they contain citations to orphans’ court proceedings which, pursuant to an earlier order, this Court previously excluded from the record. We may take judicial notice of the dates of filing events in the orphans’ court in order to assist in resolving the issue on appeal; however, the substance of the orphans’ court pleadings are not part of our review. Therefore, we shall not consider them as they are not relevant to the appeal.

and the statute of limitations can be the grounds for a motion to dismiss.” *Doe v. Archdiocese of Washington*, 114 Md. App. 169, 175 (1997) (citations omitted).

DISCUSSION

In considering the propriety of the circuit court’s dismissal of Sams’ complaint, we must determine whether her claim is barred by limitations. We conclude that the circuit court did not err in dismissing on limitations grounds.

Sams contends that her claim is not barred, and in any event, the Estate should be equitably estopped from raising limitations as a defense.

The Estate raises four different statutes of limitation upon which it contends that dismissal of the claim was proper:

(1) the 60-day limitations period to commence an action against a personal representative of an estate following the disallowance of a claim, Est. & Trusts § 8-107;

(2) the six-month statute of limitations to file a lawsuit against an estate, Est. & Trusts § 8-103(a)(1) & § 8-104(d);

(3) the general three-year statute of limitations to file a civil action, § 5-101 of the Courts & Judicial Proceedings Article of the Maryland Code (“CJP”) (2013 Replacement Vol.); and

4) the 12-year specialty/seal statute of limitations, CJP § 5-102.

Finally, the Estate maintains that because Sams failed to raise the equitable estoppel argument before the circuit court, it is waived. We agree.

It is unclear from the record whether, in ordering dismissal, the trial court relied on limitations or the general proposition that Sams' claim did not state a cause of action. However, we may affirm or reverse on any ground "adequately shown by the record, whether or not relied upon by the trial court." *Gomez v. Jackson Hewitt Inc.*, 427 Md. 128, 142 (2012) (quoting *Parks v. Alparma, Inc.*, 421 Md. 59, 65 n.4 (2011)(citation omitted). See also *First Nat. Bank of Maryland v. Shpritz*, 63 Md. App. 623, 636 (1985).

Pursuant to Est. & Trusts § 8-107(b), Sams was required to file her claim against the Estate within 60 days from October 31, 2011, the date of disallowance of the claim by the personal representative. Sams made the procedurally fatal decision to file her claim in the orphans' court, which was without jurisdiction. She also failed to satisfy the limitations period for filing a claim against the Estate within six months of her mother's death, pursuant to Est. & Trusts § 8-103(a)(1) & § 8-104(d).

Nonetheless, Sams contends that her claim was preserved and the limitations periods were tolled because she filed the claim in the orphans' court within the prescribed time periods provided in Est. & Trusts § 8-103(a)(1), § 8-104(d), and § 8-107(b), despite the fact that the orphans' court lacked jurisdiction. Sams cites to various statutes in support of her arguments that her claim is not barred by limitations, none of which is a correct application of the law, or otherwise persuasive.

Contrary to Sams' assertions, CJP §12-701(a)(1), which provides that "[a]n appeal from an orphans' court or a circuit court stays all proceedings in the orphans' court

concerning the issue appealed,” is not applicable here. A “stay of proceedings” does not operate to toll or stay a limitations period. Therefore, § 12-701(a)(1) does not operate to save her improperly filed claim in the orphans’ court.

Sams’ reliance on CJP § 5-119 is similarly misplaced, as it applies only to the re-filing of claims that are dismissed without prejudice from the Maryland Health Care Alternative Dispute Resolutions Office in a medical malpractice action. Whatever viable claims Sams might have asserted, medical negligence is not among them.

Finally, Sams cites to the saving provisions in Md. Rules 2-101 (b) and (c) in support of her argument that her claim is not time-barred. The rule is of no avail because it pertains only to the saving of claims originally filed in United States District Court, or courts of another state within the period of limitations prescribed by Maryland law. Absent the application of Rule 2-101(b), there is “simply no statute or rule providing for the plenary tolling of the [s]tatute of [l]imitations during the pendency of a case in the wrong forum.” *Antar v. Mike Egan Ins. Agency, Inc.*, 209 Md. App. 336, 355 (2012). Even where the application of a statute of limitations extinguishes a claim, the Court of Appeals has been “steadfast that no bending of the rule would be permitted.” *Id.* at 333 (construing *Walko Corp. v. Burger Chef Systems, Inc.*, 281 Md. 207 (1977)).

Turning from statutory law to equity, in an effort to save her claim, Sams contends that equitable estoppel should operate to save her claim from being “wiped off the face of the earth.” She contends that her erroneous filing of the claim in the orphans’ court was

based on the misclassification of the 25% share of the LLC as real property in the Estate inventory by the personal representative. She claims that she detrimentally relied on the Estate's representation that the 25% share of the LLC was real property rather than personal property. However, she did not raise equitable estoppel before the circuit court, and cannot raise it for the first time on appeal.

Maryland Rule 8-131(a) provides that: “[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised or decided by the trial court[.]” The record before us does not plainly reveal that the doctrine of equitable estoppel was raised below.

Causes of action must be pleaded with sufficient specificity in order for the court to find “plausible legal entitlement to relief.” *State Ctr., LLC v. Lexington Charles Ltd. P’ship*, 438 Md. 451, 497 (2014) (citations omitted). We observe that Sams proceeded *pro se* through a relatively complex legal process replete with unyielding deadlines. As do all *pro se* litigants, she did so at her own peril. “It is a well-established principle of Maryland law that *pro se* parties must adhere to procedural rules in the same manner as those represented by counsel.” *Dept. Of Labor, Licensing & Regulation v. Woodie*, 128 Md. App. 398, 411 (1999). *See also Tretick v. Layman*, 95 Md. App. 62, 68 (1993) (“The principle of applying the rules equally to *pro se* litigants is so accepted that it is almost self-evident.”)

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