Circuit Court for Baltimore City
Case No. 24-C-23-000898

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2019

September Term, 2024

SINGH PLASTIC, LLC, ET AL.

v.

MARK ROTHENHOEFER, ET AL.

Berger,
Shaw,
Kehoe, Christopher B.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: July 9, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from the sale and subsequent assignment of real property subject to a leasehold in Baltimore City. The tenant, Nicole Ayag ("Ayag"), initiated the underlying lawsuit in the Circuit Court for Baltimore City against Singh Plastic, LLC, Pay Your Rent Property Management, LLC, and Milissa Brown (collectively, "Appellants") after Appellants attempted to raise Ayag's rent shortly after Singh Plastic acquired the subject property. Thereafter, Appellants filed third-party claims against the original owner of Ayag's home, Mark Rothenhoefer, and JTR Corporation (collectively, "Appellees") seeking, among other remedies, indemnification and recission of contract. After the circuit court granted summary judgment in favor of Appellees on all of Appellants' third-party claims, Appellants settled with Ayag and the underlying dispute was dismissed with prejudice. This appeal followed.

Appellants present one question for our review, which we have rephrased as follows:[1]

> I. Whether the circuit court erred in granting summary judgment in favor of Appellees on all counts and denying Appellants' motion for summary judgment.

For the following reasons, we dismiss Appellants' appeal of the circuit court's order granting summary judgment in favor of Appellees and denying Appellants' motion for summary judgment because the underlying controversy is moot.

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[1] Appellants phrased the question as follows:

> 1. Did the judge hearing the motion for summary judgment err in granting summary judgment in favor of the appellees on all counts and denying appellants' motion?

BACKGROUND

Mark Rothenhoefer ("Rothenhoefer"), through JTR Corporation ("JTR"), owned several residential properties on Stafford Street in Baltimore City ("Stafford Properties"). In April 2022, Rothenhoefer and Ben Caplan ("Caplan"), the owner of Revolutionary Home Buyers ("RHB"), began discussing the sale of the Stafford Properties. During the negotiations, Rothenhoefer provided Caplan with physical copies of the leases for the Stafford Properties. Caplan misplaced the leases and asked Rothenhoefer to email them to him. Rothenhoefer informed Caplan that he could not email the leases because of technical difficulties, and instead provided Caplan with physical copies again. According to Rothenhoefer, both sets of physical paper leases provided to Caplan included all current leases for the Stafford Properties including a five-year lease dated April 1, 2018, for 3124 Stafford Street ("2018 Lease"). The 2018 Lease was between tenants Ayag and Marcus Anderson and landlord JTR and provided for one renewal term of five years with no extension beyond March 31, 2028.

Despite having received physical copies of the leases, Caplan continued to ask Rothenhoefer to email the leases to him. Rothenhoefer requested that his attorney send electronic copies of the leases that could be forwarded to Caplan. Rothenhoefer's attorney emailed the leases for the Stafford Properties and advised Rothenhoefer to check to ensure they were up to date. Rothenhoefer did not check the emailed leases and instead forwarded them directly to Caplan. The 2018 Lease was not included. Instead, the emailed leases included a five-year lease dated April 1, 2013, between tenants Ayag and Corey Jacker and landlord JTR for 3124 Stafford Street ("2013 Lease"). The 2013 Lease provided that, upon expiration of the lease on March 31, 2018, JTR would allow Ayag to renew the lease for a term of five years on a month-to-month basis. Caplan did not review the emailed leases.

On July 22, 2022, RHB entered into a contract with JTR to purchase the Stafford Properties ("JTR/RHB Contract"). Among other things, the JTR/RHB Contract provided that the Stafford Properties were being sold "as is" and that JTR "makes no representations or warranties of any type as to the physical condition of the property for any purpose, the leases or financial viability of the" properties. Additionally, the JTR/RHB Contract included an acknowledgment that JTR was "aware that [RHB] is purchasing and/or assigning the Property for immediate and/or concurrent resale and profit."

Meanwhile, RHB engaged Milissa Brown ("Brown")[2] and her company Pay Your Rent Property Management, LLC ("Pay Your Rent") to find assignees for the Stafford Properties. On September 3, 2022, Singh Plastic, LLC ("Singh Plastic")[3] entered into a Contract for the Assignment of Purchase Agreement with RHB for several of the Stafford Properties, including Ayag's home ("RHB/Singh Plastic Assignment"). Among other things, the RHB/Singh Plastic Assignment provided:

> Assignee agrees to purchase said property in As-Is condition and agrees to hold Assignor harmless for any and all defects to the property, land, and improvements. Assignee is responsible for performing all due diligence and research necessary priorities [sic] to assignment. Assignee forfeits any and all contingencies in the original buyer's/Assignor's contract, and understands there are no contingencies within any contracts in relation to this property available to the Assignee. . . .

[2] Milissa Brown is also referred to as Millie Brown in the record.

[3] Singh Plastic, LLC is also referred to as Singh Plastics, LLC in the record.

On October 4, 2022, RHB closed on the Stafford Properties. JTR then transferred to Singh Plastic by deed the Stafford Properties assigned to Singh Plastic, including Ayag's home. Neither Caplan nor RHB provided Appellants with the relevant leases for the Stafford Properties prior to execution of the RHB/Singh Plastic Assignment or closing.

After closing, Singh Plastic hired Pay Your Rent to manage the properties. Pay Your Rent recommended that Singh Plastic increase the rent of all tenants, including Ayag, to market rates. With Singh Plastic's approval, Pay Your Rent then sent all tenants a notice concerning the rent increase. After receiving the notice, Ayag informed Pay Your Rent that it could not increase her rent because she had a five-year lease. Pay Your Rent responded that the lease it had on file, which was the 2013 Lease, was a month-to-month lease. Thereafter, Ayag forwarded the 2018 Lease to Pay Your Rent. As Appellants and Ayag sorted out the lease discrepancy, Ayag continued to pay her original rent, and her account started to accrue a balance due for the additional amount. Thereafter, a Pay Your Rent employee not familiar with the lease discrepancy filed a Failure to Pay Rent action against Ayag and caused Ayag to be served with a Notice to Vacate. The Failure to Pay Rent action against Ayag was subsequently dismissed by Appellants.

On February 7, 2023, Ayag filed the instant action against Appellants claiming, among other things, wrongful eviction. Thereafter, on June 30, 2023, Appellants filed a third-party claim against Appellees based on Appellees providing an outdated lease for Ayag's home. On July 28, 2024, Appellants filed an Amended Third-Party Complaint against Appellees and Counterclaim for Reformation against Ayag ("Third-Party Complaint"). In the Third-Party Complaint, Appellants alleged, among other things, that

Appellees engaged in fraud with Ayag regarding her lease. Specifically, Appellants made claims for: (i) equitable recission of contract; (ii) breach of contract; (iii) intentional misrepresentation; (iv) negligent misrepresentation; and (v) slander of title.

Subsequently, on October 20, 2024, Appellants filed a Motion for Summary Judgment against Appellees as to the recission of contract, breach of contract, and negligent misrepresentation claims. On October 21, 2024, Appellees filed a cross Motion for Summary Judgment on all third-party claims.

After a hearing on November 22, 2024, the circuit court granted summary judgment in favor of Appellees on all of Appellants' claims:

> This Court finds that JTR and Singh Plastic are not in contractual privity with each other, therefore, all claims related to any alleged contract between the parties warrants judgment as a matter of law for the third-party Defendants. This Court also find[s] that the third-party Defendants are entitled to judgment as a matter of law for the claims alleging misrepresentation both [because] Mr. Rothenhoefer never communicate[d] with the third-party Plaintiff[s] before they entered into a contract with R[HB] and because the explicit language of both contracts states that the properties are sold as is.
>
> Lastly, this Court finds that the third-party Plaintiff[s] have not provided any facts to support their claim for slander of title. As such, third-party Defendant[s] are entitled to judgment as a matter of law on all counts.

On December 2, 2024 -- just before Ayag's claims against Appellant were tried by a jury -- Appellants settled with Ayag. On December 5, 2024, the circuit court entered an order granting summary judgment in favor of Appellees and Appellants noted a timely appeal. Thereafter, on April 2, 2025, as part of the settlement, Ayag filed a Stipulation of Dismissal with Prejudice dismissing the case.

On April 11, 2025, Appellees filed a Motion to Dismiss the present appeal, arguing that the settlement and stipulation of dismissal rendered Appellants' third-party claims moot. On May 1, 2025, this Court denied Appellees' Motion to Dismiss with leave to raise the arguments in briefing.

On appeal, Appellants contend that the circuit court erred in granting summary judgment in favor of Appellees. First, Appellants argue that, contrary to the circuit court's determination, there was contractual privity between Appellants and Appellees by virtue of the RHB/Singh Plastic Assignment. Further, Appellants contend that summary judgment on the negligent and intentional misrepresentation claims was improper because Appellants had relied on a spreadsheet sent to them by Caplan notating that all the properties were on month-to-month leases which they understood contained information received from Appellees. Finally, Appellants argue that the circuit court erred in granting Appellees' motion for summary judgment on the slander of title claim because the conflicting leases for Ayag's home impact the nature of the rights that Singh Plastic now holds in the land.

Appellees counter that, because there was no contract between Appellants and Appellees, no contractual privity exists to form the basis of the contract claims. Further, Appellees contend that summary judgment on the negligent and intentional misrepresentation claims was proper because there was no communication between Appellees and Appellants prior to closing. As for Appellants' slander of title claim, Appellees reason that summary judgment was proper because Appellants failed to allege any facts to support the requisite elements of a slander of title claim.

Additionally, Appellees renew their argument that dismissal is warranted because Appellants' third-party claims for indemnification cannot survive after the dismissal of Ayag's claims. Further, Appellees contend that Appellants' third-party claims are not ancillary because they are derivative of Ayag's initial claims, therefore, no controversy exists. Appellants counter that the settlement did not nullify their third-party claims against Appellees because such claims are ancillary to Ayag's claims. Appellants reason that indemnification was not the only remedy sought, rather they sought direct damages as well as recission of contract. We agree with Appellees that Appellants' third-party claims are moot, and, therefore, dismiss.

DISCUSSION

Appellate courts are vested with the discretion to dismiss an appeal, either on motion or on their own initiative, when "the case has become moot." Maryland Rule 8-602(a)(8). "Generally, a case is moot if no controversy exists between the parties or when the court can no longer fashion an effective remedy." *In re K.K.*, 266 Md. App. 161, 174 (2025) (quoting *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 351-52 (2019)). Because we do not issue advisory opinions, we "are reluctant to hear and decide the merits of moot cases." *In re K.K.*, 266 Md. App. at 174 (citing *D.L.*, 465 Md. at 352).

Maryland Rule 2-332 governs third-party claims. Relevant here, subsection (a) provides:

> **Defendant's Claim Against Third Party.** A defendant, as a third-party plaintiff, may cause a summons and complaint, together with a copy of all pleadings, scheduling notices, court orders, and other papers previously filed in the action, to be served upon a person not a party to the action *who is or may be liable to the defendant for all or part of a plaintiff's claim against the defendant*. A person so served becomes a third-party defendant.

Md. Rule 2-332(a) (emphasis added).

As we have explained, "the italicized language makes clear, under [Maryland] Rule 2-332(a), a third-party claim is contingent upon and originates from the plaintiff's claim." *Moreland v. Aetna U.S. Healthcare, Inc.*, 152 Md. App. 288, 302 (2003) (citing *Hartford v. Scarlett Harbor,* 109 Md. App. 217, 283 (1996), *aff'd,* 346 Md. 122 (1997)). The Supreme Court of Maryland has clarified, "a third-party claim will lie in any case where it can be alleged that the third-party defendant is necessarily answerable to the original defendant should judgment be entered against [them]." *White v. Land Homes*, 251 Md. 603, 609 (1968) (discussing the predecessor to Maryland Rule 2-332 and concluding it is *in pari materia* to Federal Rule of Civil Procedure 14). It is axiomatic that

> a third-party claim for indemnity under [Maryland] Rule 2-332(a) cannot stand when the plaintiff's original claim is dismissed. The third-party claim necessarily depends upon the existence of the original claim because it is a claim for recovery of sums the defendant/third-party may be adjudged liable to pay the plaintiff on the original claim.

Moreland, 152 Md. App. at 303.

Maryland case law, however, acknowledges a second type of third-party action. In *Roebuck v. Steuart*, 76 Md. App. 298 (1988), we held that, although no Maryland Rule expressly allows for the joinder of claims, after a third-party plaintiff properly asserts a third-party claim, they may join additional independent but related claims -- so-called ancillary claims -- against the third-party defendant. *Roebuck*, 76 Md. App. at 320.

Faced with the question of whether such ancillary claims survive the dismissal of the underlying claims, we explained in *Moreland* that

> *Roebuck* does not stand for the proposition . . . that when the plaintiff's claim is dismissed and therefore a properly asserted third-party indemnity claim is dismissed, so a third-party claim meeting the definition of [Maryland] Rule 2-332(a) no longer exists, related, ancillary claims of the third-party plaintiff that were joined with the third-party claim remain viable. Rather, *Roebuck* merely stands for the proposition that it is proper to join related ancillary claims with a proper third-party claim.

Moreland, 152 Md. App. at 303-04. Nevertheless, we held that trial courts have "discretion to retain jurisdiction over ancillary claims joined with a third-party claim." *Id.* at 304. Indeed, we adopted the rule in federal courts:

> The vast majority of the cases conclude that the court retains jurisdiction over the impleader claim, and has discretion to proceed to litigate it. In determining how to proceed, the court may be influenced by timing. If the underlying suit is resolved quite early in the proceedings . . . the timing may augur toward dismissal of the impleader claim. If, on the other hand, the underlying claim is resolved after the case has been pending for some considerable time, or if the statute of limitations will have run [on the ancillary claim] . . . the court should retain jurisdiction . . . .

Id. (quoting *First Golden Bancorporation v. Weiszmann*, 942 F.2d 726, 731 (10th Cir. 1991)).

In the present case, as part of the settlement agreement, Appellants and Ayag agreed to dismiss the underlying claims with prejudice. Appellants argue that this dismissal did not negate their claims for indemnification, rather it was merely a settlement of the underlying claims. We are not persuaded. Although it is true, as Appellants contend, that *Moreland* did not involve the settlement of an underlying dispute, we are not convinced that such a distinction warrants a different result. Indeed, the settlement and dismissal with prejudice of Ayag's claims eliminates any contingency underlying Appellants' third-party claims. Dismissal of Ayag's claims, therefore, results in the extinguishment of claims dependent upon or derivative of the dismissed claims. If Appellants' third-party claims are contingent upon and originate from Ayag's claims, there is no controversy, and we may dismiss the present appeal as moot. *See* Maryland Rule 8-602(c)(8). Accordingly, we must determine whether Appellants' claims are in fact ancillary.

In their Third-Party Complaint, Appellants' claims are as follows: (i) equitable recission of contract based on Appellees allegedly "providing false information" in the form of the outdated lease for Ayag's home to Appellants; (ii) breach of contract based on Ayag's home being under a 5-year, rather than month-to-month lease; (iii) "Fraud/Intention [sic] Misrepresentation" based on Appellees providing an outdated lease for Ayag's home, which was allegedly relied upon by Appellants in purchasing the RHB/Singh Plastic Assignment; (iv) negligent misrepresentation based on Appellees providing an outdated lease for Ayag's home; and (v) slander of title based on the outdated lease for Ayag's home negatively impacting Singh Plastic's ability to increase the rent. In addition to seeking indemnification for any potential liability to Ayag, Appellants sought direct damages suffered because of lost rental income, punitive damages, and recission of contract. Because of this, Appellants urge us to conclude that their third-party claims are ancillary. We are not persuaded.

As in *Moreland*, Appellants' "claims originated from and were entirely contingent upon" Ayag's claims against Appellants. *Moreland*, 152 Md. App. at 305. To be sure, Ayag's claims against Appellants all relied on the assertion of a five-year lease rather than a month-to-month lease. Similarly, Appellants' third-party claims rely on the same allegedly conflicting leases for Ayag's home. Rather than being ancillary, therefore, Appellants' third-party claims are wholly derivative of Ayag's claims which were dismissed with prejudice as part of the settlement. The fact that Appellants sought direct damages and recission of contract does not change our conclusion. Because no action for indemnification can lie after the underlying action is dismissed, Appellants' third-party claims are moot. We, therefore, dismiss the appeal. Consequently, we do not reach the merits of the circuit court's grant of summary judgment to Appellees and denial of summary judgment to Appellants.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANTS.