

Circuit Court for Baltimore City
Case No. 24-O-19-000164

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2092

September Term, 2021

DOMINION RENTAL HOLDINGS, LLC

v.

SHANNON MENAPACE, ET AL.

Wells, C.J.,
Graeff,
Eyler, Deborah S.,
Senior Judge, Specially Assigned,

JJ.

Opinion by Eyler, Deborah S., J.

Filed: January 30, 2023

* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 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.

Dominion Rental Holdings, LLC (“Dominion”), the appellant, purchased a condominium unit in Baltimore City at a foreclosure sale. The Substitute Trustee, Shannon Menapace, Esq., the appellee, timely reported the sale to the Circuit Court for Baltimore City. Over two months later, the circuit court denied ratification of the sale because the report of sale did not include the unit number for the property. Within days of the denial of ratification, the Governor declared a State of Emergency due to the COVID-19 pandemic and, soon after, residential foreclosure cases were stayed subject to an administrative order issued by the Chief Judge of the Court of Appeals.¹

Seven months later, Dominion filed a request for abatement of interest and property taxes due to the delay in ratification of the sale. The request was unopposed. The circuit court denied the motion. Dominion immediately noted this appeal, asking whether the circuit court erred or abused its discretion by denying its motion to abate.² For the following reasons, we shall dismiss the appeal.

¹ On December 14, 2022, the Court of Appeals was renamed the Supreme Court of Maryland.

² The questions as posed by Dominion are:

1. Did the trial court err in denying Foreclosure Purchaser’s unopposed request for abatement of interest and property taxes accruing since March 2, 2020 where interest and taxes have been needlessly accruing for over two years and counting because of the Substitute Trustees’ prolonged failure to file a correct report of sale in addition to other necessary filings in the foreclosure action?

2. Did the trial court err in applying North Star Properties, LLC v. Jeffrey Nadel, et al., 264 A.3d 273 (Md. 2021) where Foreclosure Purchaser alleged trustee neglect due to Substitute Trustees’ prolonged

(continued...)

FACTS AND PROCEEDINGS

On January 28, 2019, the Substitute Trustees filed in the circuit court an order to docket foreclosure for a residential condominium unit at 2702 Lighthouse Point East in Canton (“the Property”). The Property was sold at auction on December 2, 2019, to Dominion, the highest bidder, for \$199,000. Dominion paid a \$30,000 deposit on the Property and, consistent with the terms of sale, was obligated to pay interest at a rate of five percent on the balance of the sales price (\$169,000), in addition to property taxes, utilities, private assessments, and other carrying costs, until settlement.

The Substitute Trustees filed a “Report of Sale” on December 18, 2019, which certified, in pertinent part:

2. That on December 2, 2019 I offered for public auction the subject property at the Circuit Court for BALTIMORE CITY.
3. That the subject property was sold to Dominion Properties LLC for the sum of \$199,000.00.

The caption on the report of sale and an attached proposed Notice of Sale did not include the unit number for the Property.

By order of March 2, 2020, the circuit court denied ratification because the Property was “not properly identified in the Report of Sale.”

failure to file necessary documents and any delay independent of trustee neglect was caused by the federal government’s unconstitutional conduct?

Three days later, Governor Hogan declared a State of Emergency due to the COVID-19 pandemic. On March 18, 2020, the Court of Appeals issued an Administrative Order suspending residential foreclosures, tax sales, and evictions.

More than seven months later, on October 23, 2020, Dominion moved to abate interest and real property taxes that had accrued since March 2, 2020. It asserted that it had paid a \$30,000 deposit on the Property at the time of sale and was obligated to pay interest at a rate of five percent on the balance of the sales price (\$169,000), in addition to property taxes, utilities, private assessments, and other carrying costs, until settlement. It alleged that it owed \$5,208.90 as of October 12, 2020. Citing *Donald v. Chaney*, 302 Md. 465, 477 (1985), Dominion argued that it was within the circuit court’s discretion to modify the terms of a foreclosure sale advertisement requiring the payment of post-sale interest and other costs if the delay in ratification stemmed from 1) neglect by the trustee, 2) “necessary appellate review of lower court determinations[,]” or 3) “the conduct of other persons beyond the power of the purchaser to control or ameliorate.” Dominion maintained that all three prongs of this test were satisfied in this case.

On February 25, 2021, Dominion filed a “Declaration of Exemption from Foreclosure Moratorium,” certifying that the Property was not occupied for the purposes of the CARES Act and attached an “Affidavit of Vacancy of Foreclosed Property,” with photographic evidence of vacancy.

By order entered May 5, 2021, the circuit court denied Dominion’s request to proceed based upon its declaration of exemption because it had failed to comply with the

Eighth Amended Administrative Order Lifting the Suspension During the COVID-19 Emergency of Foreclosures, Evictions, and Other Ejectments Involving Residences (Chief Judge, Court of Appeals of Maryland, February 16, 2021).

On June 1, 2021, the Substitute Trustees filed a Declaration of Exemption of Moratorium, supported by Dominion’s Affidavit of Vacancy.

More than seven months later, on January 28, 2022,³ the circuit court denied Dominion’s motion to abate interest and real property taxes. The court determined that the delay in ratification did not satisfy any of the factors enunciated in *Donald*, 302 Md. at 477.⁴ The circuit court ordered the Substitute Trustees to file an amended Report of Sale within 30 days correcting the deficiency.

As specified in the order, the circuit court simultaneously issued an order finding that the Property was exempt from the federal moratorium and allowing the case to proceed.

³ The order is erroneously dated January 28, 2021. The docket entries, as well as the substance of the order itself, make clear that it was entered in 2022.

⁴ The court noted that because the lien instrument was insured by a federal agency, it was subject to the federal moratorium on foreclosures absent evidence that the Property was vacant. The Substitute Trustees had filed the Declaration of Exemption of Moratorium on June 1, 2021, “promptly after [Dominion] executed an Affidavit of Vacancy of Foreclosed Property[.]” Consequently, the court was entering an “Order Finding that Case May Proceed Pursuant to Exemption” contemporaneously with the denial of the motion to abate. The second and third prongs under *Donald* also were not satisfied because the case “has not been appealed” and the delay occasioned by “a public health emergency” was not “conduct of other persons” under the authority of *North Star Props., LLC v. Jeffrey Nadel*, 253 Md. App. 164 (2021).

Within thirty days of the order denying the motion to abate, Dominion noted the instant appeal.

Since the appeal was noted, on April 21, 2022, the Substitute Trustees have filed an amended Report of Sale in the circuit court. The sale has not yet been ratified.

DISCUSSION

“In Maryland, appellate jurisdiction, except as constitutionally created, is statutorily granted.” *Schuele v. Case Handyman & Remodeling Servs., LLC*, 412 Md. 555, 565 (2010). Generally, parties only may appeal from the entry of a final judgment. *See* Md. Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article (“CJP”). To be a final judgment, an order must adjudicate all claims against all parties. *See, e.g., Waterkeeper All., Inc. v. Maryland Dep’t of Agric.*, 439 Md. 262, 278 (2014) (citing *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)).

“In a foreclosure case, a court does not enter a final judgment at least until it has ratified the foreclosure sale.” *McLaughlin v. Ward*, 240 Md. App. 76, 83 (2019) (citing *Balt. Home All., LLC v. Geesing*, 218 Md. App. 375, 383 & n.5 (2014) & Md. Rule 14-305(e)). When Dominion noted its appeal in this case, the circuit court had not ratified the foreclosure sale. Because the appeal was not taken from a final judgment and does not fall

within the three exceptions to the final judgment rule,⁵ we do not have jurisdiction over the appeal and must dismiss it.

**APPEAL DISMISSED. COSTS
TO BE PAID BY APPELLANT.**

⁵ Those exceptions are “appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602; and appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *Salvagno v. Frew*, 388 Md. 605, 615 (2005). None apply to the denial of a motion to abate interest and taxes in a foreclosure case.