

Circuit Court for Prince George's County  
Case No. CAEF20-01886

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2285

September Term, 2023

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C. DIONNE POTEAT

v.

CLARKE, DYSON, MENAPACE, ET AL.

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Berger,  
Nazarian,  
Ripken,

JJ.

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Opinion by Berger, J.

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Filed: July 30, 2025

\* 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 with Rule 1-104(a)(2)(B). Md. Rule 1-104

This appeal arises from the circuit court’s granting of Appellee Deutsche Bank National Trust Company’s (“Appellee”) motion for judgment of possession of 1208 Accokeek Landing Drive in Accokeek, Maryland following a foreclosure sale. At the time of the sale, the property was owned by the estate of Beatrice Bennett (“Bennett Estate”), mother-in-law of Appellant C. Dionne Poteat (Ms. Poteat). Ms. Poteat is the personal representative of both the Bennett Estate and the estate of her deceased husband, James Poteat (“Poteat Estate”), Beatrice Bennett’s son. Ms. Poteat appealed the circuit court’s order granting possession to Appellee and presents three questions for our review which we recast and rephrase as follows:

- I. Whether the Poteat Estate was a necessary party to the foreclosure and possession actions.
- II. Whether the property’s occupants were bona fide tenants with rights pursuant to Maryland Code Real Property Section 7-105.8.
- III. Whether the trial court erred by failing to hold a hearing on the motion for judgment of possession.

### **FACTS AND PROCEDURAL HISTORY**

In May 2006, Beatrice Bennett (“Bennett”) executed a mortgage with Long Branch Mortgage Company on a home located at 1208 Accokeek Landing Drive in Accokeek, Maryland (“the property”). In August 2008, Bennett stopped making payments on the home. Bennett died in October 2014 and her son, James Poteat (“Mr. Poteat”), was appointed personal representative of her estate. In January 2020, the Substitute Trustees under the deed of trust filed an order to docket foreclosure of the property against the Bennett Estate. Notice of the foreclosure action was sent to the Bennett Estate and Mr.

Poteat as personal representative of the estate. In 2021, following Mr. Poteat's death, his wife, Ms. Poteat, was appointed successor personal representative of the Bennett Estate. She was also named personal representative of the Poteat Estate. The deed to the property remained with the Bennett Estate for the duration of foreclosure proceedings.

In April 2022, Ms. Poteat requested and participated in foreclosure mediation, but the parties were unable to reach an agreement. A public auction took place on October 5, 2022, and the property was sold to Appellee. The Circuit Court for Prince George's County ratified the sale on March 27, 2023. Appellee received the deed to the property on March 30, 2023, and recorded the deed on April 4, 2023. On April 11, 2023, a notice to vacate was sent to all occupants of the property.

On May 22, 2023, Appellee filed a motion for possession of the property against the Bennett Estate and all occupants of the property who had failed to deliver possession. Appellee included an affidavit that listed Ms. Poteat as an occupant, the dates Appellee's agent visited the property to ascertain occupancy status, the status of the occupants as non-parties to the action, and the dates Appellee paid for the property and received the deed. The affidavit also provided the date that notice to vacate was sent to all occupants. It concluded that none of the property's occupants were bona fide tenants.

Ms. Poteat filed an opposition to this motion on June 2, 2023, arguing that the Poteat Estate was a necessary party to the foreclosure action because the Bennett Estate had transferred to the Poteat Estate and because the Poteats' minor son, Jayson Poteat, is a beneficiary of the Poteat Estate. Ms. Poteat argued that because the Poteat Estate was not added as a party to the foreclosure action the matter should be dismissed. Ms. Poteat also

argued that she was a bona fide tenant of the property and the responsible party of a lease agreement for the property. She attached two lease agreements to the opposition. The first was with Paige Poteat and the second with Jayla Poteat, both her adult children. Her minor child, Jayson Poteat was listed as an occupant on both agreements. The Bennett Estate was listed as landlord. The lease terms began on January 1, 2023, with possession of the premises beginning on December 15, 2022. The rent for each lessee was listed as \$290 per month. Following Appellee's response, Ms. Poteat filed a second opposition to the motion for judgment of possession on July 14, 2023, again asserting that the Poteat Estate was a necessary party and that she and her children were bona fide tenants of the property. At the bottom of each opposition Ms. Poteat requested a hearing on the motion.

On August 28, 2023, the court denied Ms. Poteat's opposition to the motion for possession finding that the Poteat Estate was not a necessary party to the foreclosure action because it had been removed as personal representative of the Bennett Estate. The court further found that even if the Poteat Estate were a necessary party, Ms. Poteat's objections were untimely pursuant to Maryland Rule 14-305. The court also found that neither Ms. Poteat nor her children were bona fide tenants of the property pursuant to Maryland Code, Real Property, Section 7-105.8(b)(1). The court explained at length:

First, [Ms. Poteat] is the daughter-in-law of Beatrice Bennett and as the successor personal representative of the Estate is standing in the shoes of the mortgagor . . . Second, the lease does not define [Ms. Poteat] as a tenant but that of a landlord; [Ms. Poteat]'s home address is the same as the subject property . . . Third, [Ms. Poteat] identifies the following persons as bona fide tenants/occupants, all family members: (a) Paige Poteat and (b) Jayla Poteat . . . Forth, the lease was executed between [Ms. Poteat] and Paige Poteat on December 15, 2022 -- 71 days

after the foreclosure sale. Fifth, the rent of \$290 per month is substantially less than fair market rent for the property (*comparable rents for 4-bedroom single family homes in Accokeek, Maryland: \$3,500 - \$4,745: Rentals.com*).

On December 21, 2023, Appellee filed an amended motion for possession alleging that the Bennett Estate, Ms. Poteat, Paige Poteat, Jayla Poteat, and all other occupants of the property had still failed to deliver possession. It again included an affidavit in support of its assertions that it was the record title holder of the property, that the property was occupied, and that the occupants had failed to vacate the property at that time. On January 24, 2024, the court granted Appellee's motion for possession. This timely appeal followed.

## DISCUSSION

### **I. The Poteat Estate was not a necessary party to the foreclosure or possession actions against the property.**

On appeal, Ms. Poteat argues that failure to join the Poteat Estate as a necessary party to the foreclosure and possession actions removes jurisdiction from the court and nullifies its orders. Maryland Rule 2-211(a) provides:

Except as otherwise provided by law, a person who is subject to service of process shall be joined as a party in the action if in the person's absence

(1) complete relief cannot be accorded among those already parties, or

(2) disposition of the action may impair or impede the person's ability to protect a claimed interest relating to the subject of the action or may leave persons already parties subject to a substantial risk of incurring multiple or inconsistent obligations by reason of the person's claimed interest.

In the context of a foreclosure action, Maryland Code, Tax-Property Section 14-836(b)(1) provides in relevant part that,

[e]xcept as otherwise provided in this subsection, the defendants in any action to foreclose the right of redemption shall be:

(i) the record title holder of the property as disclosed by a search performed in accordance with generally accepted standards of title examination of the land records of the county, of the records of the register of wills of the county, and of the records of the circuit court for the county . . .

Pursuant to Maryland Code, Estates and Trusts Section 1-301, “[a]ll property of a decedent . . . shall pass directly to the personal representative, who shall hold the legal title for administration and distribution, without any distinction, preference, or priority as between real and personal property.” In *Solis v. Schueneman*, 112 Md. App. 572, 584-85 (1996), we further explained that a “personal representative holds legal title to the property . . . only in his limited capacity as personal representative and only for the purpose of administration and distribution.” It is “only upon the delivery of [the] deed that the person or persons ultimately entitled to the property acquire title to it.” *Solis*, 112 Md. App. at 585.

Following a foreclosure sale, if “the person in actual possession fails or refuses to deliver possession, the purchaser or a successor in interest who claims the right of immediate possession may file a motion for judgment awarding possession of the property.” Maryland Rule 14-102(a)(1). “The motion and all accompanying documents shall be served on the person in actual possession and on any other person affected by the motion.” Maryland Rule 14-102(d)(1).

Here, the record reveals that the deed to the property remained with the Bennett Estate throughout the foreclosure proceedings. Following the court’s ratification of the sale, the deed transferred from the Bennett Estate to Appellee on March 30, 2023, and was recorded on April 4, 2023. At no time during these proceedings did Mr. Poteat, the Poteat Estate, or Ms. Poteat ever hold record title to the property. Before his death, Mr. Poteat held legal title to the property solely in his limited capacity as personal representative of the Bennett Estate. Following his death, the Poteat Estate did not retain any legal interest in the property. The Bennet Estate, as record title holder of the property, was properly named as the only defendant in the foreclosure action. Similarly, because the Poteat Estate was not at any time in actual possession of the property, the estate was not a necessary party to the motion for judgment of possession. Appellee properly served all occupants of the property in its motion. Failure to join the Poteat Estate as a party to either of these actions, therefore, does not invalidate the court’s rulings in this matter.

## **II. The occupants of the property were not bona fide tenants.**

On appeal, Ms. Poteat argues that she and her children are bona fide tenants of the property and, therefore, entitled to the rights afforded such tenants in Maryland Code, Real Property Section 7.105.8, including specific notice requirements related to actions for possession. Pursuant to Maryland Rule 14-102(a)(1), when “the purchaser of an interest in real property . . . is entitled to possession and the person in actual possession fails or refuses to deliver possession,” the purchaser “may file a motion for judgment awarding possession of the property.” When the right to possession arises from a foreclosure sale, the party moving for possession must either establish to the best of his “knowledge,

information, and belief . . . that the person in actual possession is not a bona fide tenant,” pursuant to Maryland Code, Real Property Section 7-105.8(b)(1) or, if the person is a bona fide tenant, show that proper notice was given and that the tenant no longer has a right to possession. Md. Rule 14-102(a)(3). Any bona fide tenants are entitled to “a notice to vacate . . . at least 90 days before the effective date of the notice.” Md. Code, Real Property § 7-105.8(b)(2)(i). The court may issue an order for possession upon a showing that “(1) the property was purchased at a foreclosure sale, (2) the purchaser is entitled to possession, and (3) the person in possession fails or refuses to relinquish possession.” *G.E. Capital Mortgage Services, Inc. v. Samuel W. Edwards*, 144 Md. App. 449, 457 (2002).

A lease or tenancy is only considered bona fide pursuant to Maryland Code, Real Property Section 7-105.8(b)(1) if:

- (i) The mortgagor or grantor or the child, spouse, or parent of the mortgagor or grantor under the contract is not the tenant;
- (ii) The lease or tenancy was the result of an arm's length transaction; and
- (iii) The lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a federal, State, or local subsidy.

Here, the court properly found that Ms. Poteat and her children were not bona fide tenants of the property and, therefore, did not require notice pursuant to Maryland Code, Real Property Section 7-105.8(b)(2)(i). First, Ms. Poteat has never established herself as a tenant of the property. In the lease agreements shared with the court, the Bennett Estate is named as landlord and Ms. Poteat’s children, Jayla and Paige, are named as tenants. Rather



than qualifying as a tenant, Ms. Poteat, as personal representative, stood in the shoes of the Bennett Estate as mortgagor, and executed lease agreements with her children. Within this framework, the tenants -- Jayla and Paige -- can be considered children of the mortgagor. Next, given the familial relationship among the parties involved, these lease agreements cannot be considered arm's length transactions. Finally, the rental amount of \$290 per tenant, or \$580 per month total, is well below the market rate for a comparable rental, even when considering that the tenants were only occupying three of the five bedrooms in the home.<sup>1</sup>

Under these circumstances, the Poteats were not entitled to notice pursuant to Maryland Code, Real Property Section 7-105.8(b)(2)(i). In filing the motion for judgment of possession, Appellee properly served Ms. Poteat and all occupants of the property and filed an affidavit that stated the names of those in possession, the actions taken to conduct a reasonable inquiry into the occupancy status, whether those in actual possession were parties to the action, and the dates payment for the property was made and the deed was received. Appellee also provided notice advising Ms. Poteat and all occupants that any response to the motion must be filed within 30 days after being served. Because neither Ms. Poteat nor her children were bona fide tenants of the property, no further notice was required before the court granted the motion for judgment of possession, and the court did not err by doing so.

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<sup>1</sup> According to Zillow.com, the average rental price for a three-bedroom property in Accokeek, Maryland is \$3,100. The average rental price for a home with four or more bedrooms is \$3,300 to \$4,500 per month.

**III. The court was not required to hold a hearing before granting Appellee’s motion for judgment of possession.**

Ms. Poteat argues on appeal that the court erred by failing to hold a hearing on the motion for judgment of possession when a hearing was requested in her oppositions to that motion. Pursuant to Maryland Rule 2-311(f),

[a] party desiring a hearing on a motion . . . shall request the hearing in the motion or response under the heading “Request for Hearing.” The title of the motion or response shall state that a hearing is requested. Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

Here, Ms. Poteat filed two oppositions in response to Appellee’s initial motion for judgment of possession, the first on June 2, 2023, and the second on July 14, 2023. In both oppositions, Ms. Poteat stated at the end of the document, below her signature, “defendant requests a hearing on this motion.” She did not, as Maryland Rule 2-311(f) requires, include the heading “Request for Hearing” or state in the title of the response that a hearing was requested. The Court denied both oppositions without granting Appellee’s motion for judgment of possession. Thereafter, Appellee filed an amended motion for judgment of possession on December 21, to which Ms. Poteat did not file a response or request a hearing. Because a hearing was not properly requested pursuant to Maryland Rule 2-311(f) in Ms. Poteat’s responses to the first motion for judgment of possession and no hearing was requested following the amended motion for judgment of possession, the court did not err by granting the motion without first holding a hearing on the matter.

## **CONCLUSION**

For the foregoing reasons, the circuit court did not err in ratifying the foreclosure sale or granting Appellee's motion for judgment of possession. The judgments of the circuit court, therefore, are affirmed.

**JUDGMENTS OF THE CIRCUIT COURT  
FOR PRINCE GEORGE'S COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**