

Circuit Court for Baltimore County
Case No. C-03-CV-19-002923

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2301

September Term, 2019

1312 GATESHEAD LLC

v.

DAVID A. ROSEN, ET AL.

Fader, C.J.,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Fader, C.J.

Filed: February 2, 2021

*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.

The appellees, substitute trustees¹ appointed to conduct a foreclosure sale, initiated an action to foreclose on a residential property in Towson of which 1312 Gateshead LLC (“Gateshead”), the appellant, is the record owner (the “Property”). Gateshead filed a motion to dismiss or stay the foreclosure proceedings in which it argued that the action was barred by Maryland’s general three-year statute of limitations applicable to civil actions at law. The circuit court denied the motion, and Gateshead appealed. We will affirm the circuit court for reasons stated in our recent decision in *Daughtry v. Nadel*, ___ Md. App. ___, No. 1814, Sept. Term 2019, 2020 WL 7392787 (Dec. 16, 2020).

BACKGROUND

In 1998, the former record owners of the Property financed its acquisition with a purchase money loan (the “first loan”) secured by a deed of trust (the “first deed of trust”). In 2005, the former record owners took out a second loan (the “second loan”), also secured by a deed of trust (the “second deed of trust”). The former record owners defaulted on the two loans before 2015. In February 2015, the holder of the note secured by the second deed of trust proceeded to foreclose on and sell the Property, which remained subject to the first deed of trust. After the sale, the foreclosure purchaser assigned its interest in the Property to Gateshead. On August 14, 2019, the substitute trustees for the holder of the note secured by the first deed of trust initiated this action by filing an order to docket the foreclosure in the Circuit Court for Baltimore County.

¹ The substitute trustees are identified as David A. Rosen, Eric VandeLinde, and Brittany Taylor.

Gateshead filed a motion to stay or dismiss the foreclosure sale in September 2019. Among other defenses not relevant to this appeal, Gateshead argued that the foreclosure action was barred by Maryland’s three-year statute of limitations, codified in § 5-101 of the Courts and Judicial Proceedings Article (Repl. 2020), because it was filed more than three years after the former owners’ initial default. The substitute trustees opposed Gateshead’s motion, and the circuit court denied it. This timely appeal followed.

DISCUSSION

Gateshead contends that the foreclosure action is barred by the statute of limitations. It argues that § 5-102(c)(2) of the Courts and Judicial Proceedings Article and uncodified provisions of Chapter 592 of the 2014 Laws of Maryland combine to subject foreclosure actions on owner-occupied residential property to the three-year limitations period in § 5-101.² We rejected that same argument in *Daughtry*, 2020 WL 7392787, at *7-13. For the reasons stated in our opinion in *Daughtry*, we hold that no statute of limitations applies to foreclosure actions and that the circuit court therefore did not err in denying Gateshead’s motion. We will affirm.

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

² The parties dispute whether the Property is owner-occupied residential property. In light of our resolution of the dispute on other grounds, we need not address that issue.