

Circuit Court for Baltimore City
Case No. 24-0-16-001781

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2581

September Term, 2017

AMANDA BOSKENT

v.

THE BELVEDERE CONDOMINIUM
ASSOCIATION

Graeff,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 5, 2019

*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.

Amanda Boskent, appellant, appeals from an order, issued by the Circuit Court for Baltimore City, denying her motion to stay the foreclosure sale of her property. Ms. Boskent contends that the circuit court erred in denying the motion on the merits and in denying the motion without a hearing. Because Ms. Boskent’s motion to stay was untimely and failed to set forth a valid defense to the foreclosure action, we affirm.

Ms. Boskent owns a condominium unit at the Belvedere Condominium in Baltimore City. After she failed to pay her required monthly assessments, the Belvedere Condominium Association (the Association), appellee, obtained a lien against her condominium and then filed a foreclosure action to enforce that lien. The Association also filed a separate action in the District Court for Baltimore City seeking a judgment for the unpaid assessments (the District Court action). The District Court action resulted in the Association obtaining a judgment against Ms. Boskent for approximately \$30,000.

In the foreclosure action, the parties engaged in unsuccessful postfile mediation on September 29, 2016. Ms. Boskent filed two motions to stay the enforcement of the foreclosure sale in October 2016. The circuit court denied both motions and Ms. Boskent’s appeal to this Court was dismissed after she failed to file a brief. A foreclosure sale was then scheduled for March 1, 2018. On February 16, 2018, Ms. Boskent filed a third motion to stay the foreclosure sale. In that motion, she claimed that the sale should be stayed because: (1) she had a pending appeal from the District Court action in this Court, and (2) she had filed an amended civil complaint against the Association for trespass, invasion of

privacy, and breach of contract in December 2017 (the amended complaint).¹ The circuit court denied that motion without a hearing. This appeal followed.

Ms. Boskent first contends that the circuit court erred in denying her motion to stay on the merits. However, the court did not err in denying the motion for two reasons. First, Maryland Rule 14-211(a)(2)(A) provides that where postfile mediation is requested and not stricken, a motion to stay or dismiss must be filed no later than 15 days after the first to occur of: (a) the date the postfile mediation was held; (b) the date the Office of Administrative Hearings files with the court a report stating that no postfile mediation was held; or (c) sixty days after transmittal of the request for mediation. Because the parties engaged in postfile mediation on September 29, 2016, Ms. Boskent was required to file any motion to stay or dismiss the foreclosure action no later than October 14, 2016. Because she did not file the motion to stay that is the subject of this appeal until February 16, 2018, it was untimely.

Moreover, the motion to stay did not provide any explanation for why it had not been timely filed. *See* Maryland Rule 14-211(a)(3)(F) (stating that an untimely motion to stay or dismiss must “state with particularity the reasons why [it] was not timely filed”). Although Ms. Boskent indicated that she had recently filed the amended complaint, the claims that she raised therein were based on events that allegedly occurred in 2014 and had been previously brought to the court’s attention in her previous motions to stay that were filed in 2016. Also, Ms. Boskent failed to explain why she had waited almost two months

¹ Ms. Boskent filed her original complaint in 2016, but that complaint did not include a cause of action for invasion of privacy or breach of contract.

after she filed the amended complaint to file the motion to stay. Because the motion to stay was untimely and did not demonstrate good cause for excusing non-compliance, the circuit court did not err in denying the motion for that reason alone. *See* Maryland Rule 14-211(b)(1)(A) (stating that the “court *shall* deny the motion [to stay or dismiss]” if the motion “was not timely filed and does not show good cause for excusing non-compliance” (emphasis added)).

In addition, a motion to stay or dismiss a foreclosure action must “state with particularity the factual and legal basis for each defense that the moving party has to the validity of the lien or the lien instrument or to the right of the plaintiff to foreclose in the pending action.” *See* Maryland Rule 14-211(a)(3)(B). Neither contention raised by Ms. Boskent, however, establishes a defense to the foreclosure action. First, her claim that this Court might vacate the judgment obtained by the Association in the District Court action is moot because that appeal was dismissed. Second, the motion did not state with particularity how the issues raised in her amended complaint would affect either the validity of her lien or the right of the Association to foreclose if she ultimately obtained relief in that case. Consequently, the circuit court did not err in denying the motion to stay on the merits.

Finally, Ms. Boskent contends that the court erred in denying her motion without holding a hearing. However, because her motion was untimely and did not set forth a valid defense to the foreclosure action, she was not entitled to a hearing. *See* Rule 14-211(b)(1) (stating that the court shall deny a motion to stay or dismiss without a hearing if it is

untimely, fails to substantially comply with Rule 14-211, or fails to state a valid defense to the validity of the lien or the right of the plaintiff to foreclose). Ms. Boskent nevertheless asserts that the court’s failure to hold a hearing violated her due process rights. But Ms. Boskent received notice of the foreclosure proceeding and had a sufficient opportunity to make known to the court, in her motion, the grounds on which she maintained that she was entitled to have the proceeding stayed or dismissed. It was not a violation of her due process right to be heard when, after being heard in writing, the court did not give her an opportunity for an oral hearing when she did not file her motion to stay in a timely manner or plead her claims with sufficient particularity. *See generally Elliot v. Kupferman*, 58 Md. App. 510, 521 (1984) (noting that the process that is due is “created and [its] dimensions are defined by existing rules or understandings that stem from an independent source such as state law – rules or understandings that secure certain benefits and that support claims of entitlement to those benefits” (internal quotation marks and citation omitted)).

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