

Circuit Court for Prince George's County
Case No. CAEF13-37607

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2968

September Term, 2018

RONDA L. SHORT EVANS

v.

TRACEY D. JEAN-CHARLES

Berger,
Friedman,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 3, 2020

*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.

In December 2013, appellees, acting as substitute trustees, filed an Order to Docket, in the Circuit Court for Prince George’s County, seeking to foreclose on real property owned by Ronda L. Short Evans, appellant. The property was ultimately sold at a foreclosure sale and the circuit court ratified the sale on August 14, 2018.

On August 20, 2018, Ms. Short Evans filed a motion to alter or amend the judgment claiming that: (1) the affidavit of lien included with the order to docket was a nullity because the deed of trust was unlawfully recorded; (2) the final loss mitigation affidavit was not lawfully executed by the secured party; and (3) appellees failed to file a bond prior to the foreclosure sale (first revisory motion).¹ Appellees filed an opposition to that motion on September 11, 2018. The court denied the first revisory motion on September 17, 2018. On September 19, 2018, Ms. Short Evans filed a “Motion to Strike Plaintiff’s Untimely Response to Defendant’s Motion to Alter/Amend Judgments Pursuant to Md Rule 2-534; Or in the Alternative Revise Judgments Pursuant to Md. Rule 2-535; And Set Aside Order Ratification of Sale” (second revisory motion). In that motion, she asked the court to strike appellees’ response to the first revisory motion because it was untimely and to vacate the ratification of the foreclosure sale. The court denied the second revisory motion on October 9, 2018. Ms. Short Evans filed her notice of appeal on November 7, 2018.

On appeal, Ms. Short Evans raises three issues: (1) whether the court erred in allowing appellees to file a bond after the foreclosure sale had been completed; (2) whether

¹ Ms. Short Evans had previously raised these claims in her exceptions to the foreclosure sale, which were denied prior to the ratification of the sale.

the court erred in denying her exceptions to the foreclosure sale; and (3) whether the court erred in considering appellees’ untimely opposition to her first revisory motion. Appellees contend that the court did not err and have also filed a motion to dismiss the appeal. For the reasons that follow, we shall grant the motion to dismiss the appeal.

Maryland Rule 8-202 provides that a party must file his or her notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” That 30-day deadline is tolled when a motion to alter or amend judgment under Md. Rule 2-534 is filed within ten days of the entry of judgment. *See* Md. Rule 8-202(c).

Here, the court entered the order ratifying the foreclosure sale on August 14, 2018. Ms. Short Evans filed the first revisory motion within ten days of that order and, therefore, her time to file a notice of appeal from the ratification order was tolled until the first revisory motion was resolved. The first revisory motion was denied in an order docketed on September 17, 2018. Ms. Short Evans therefore had until October 17, 2018, to file a notice of appeal from the ratification order and the denial of her first revisory motion.

But Ms. Short Evans did not note an appeal to this Court before that time. Instead, she filed her second revisory motion on September 19, 2018. That motion, however, did not toll the time to file her notice of appeal from either the ratification order or the order denying her first revisory motion. *See Leese v. Department of Labor, Licensing and Regulation*, 115 Md. App. 442, 445 (1997) (noting that a party cannot obtain additional extensions of the deadline to appeal by filing a series of successive motions to alter or amend the previous motion’s denial). Consequently, her November 7, 2018, notice of appeal was not timely as to the ratification order or the first revisory motion. And although

it was timely as to the denial of the second revisory motion, “the denial of [a] second motion to revise is not appealable because it is not a final judgment.” *Pickett v. Noba, Inc.*, 114 Md. App. 552, 560 (1997) (noting that a “second motion to revise filed more than thirty days after the entry of judgment, even though within thirty days after the denial of the first motion, cannot be granted”).²

Because Ms. Short Evans’s appeal from the ratification order and first revisory motion is untimely and the second revisory motion is not an appealable judgment, the appeal must be dismissed.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.

² Even if the court’s order denying the second revisory motion was appealable, reversal would not be required. To the extent that appellees’ opposition to the first revisory motion was untimely, Ms. Short Evans has not demonstrated how she was prejudiced by the court’s failure to strike it as appellees were not required to file an opposition before the court could rule on the first revisory motion. Moreover, the court was familiar with the issues raised in the first revisory motion as it had previously considered them when it denied Ms. Short Evans’s exceptions to the foreclosure sale.