

Circuit Court for Anne Arundel County
Case Nos. C-02-CV-18-000493

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 3117

September Term, 2018

SHANNON A. CHASE, ET AL.

v.

CARRIE M. WARD, ET AL.

Berger,
Arthur,
Kenney, James A. III,
(Senior Judge, Specially Assigned),
JJ.

Opinion by Kenney, J.

Filed: December 12, 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.

This case arises from a foreclosure action filed in February 2018 in the Circuit Court for Anne Arundel County against Shannon A. Chase,¹ appellant, by Carrie Ward, Howard N. Bierman, Pratima Lele, Joshua Coleman, Richard R. Goldsmith, Jr., Elizabeth C. Jones, Nicholas Derdock, Andrew J. Brenner, Angela M. Dawkins, Wayne Anthony Holman, Megh Milan Mitra, Amy Czekala, David Chen, Michael Leeb, and Christopher Robert Selig, appellees. In response to the foreclosure suit, appellant filed, among other things, a motion and an amended motion to stay and to dismiss the foreclosure action and a motion for *ex parte* relief in which she sought to stay the foreclosure sale. On November 14, 2018, appellant also filed a counter-complaint for declaratory judgment and other relief.

By order dated November 16, 2018, and entered on the docket on December 7, 2018, the circuit court imposed a temporary stay of the foreclosure sale and required, *inter alia*, that appellant “make monthly payments into [appellees’] escrow account in the amount of \$1,891.68 per month, retroactive to the date [appellant] filed her Motion to Stay or Dismiss, October 25, 2018, and continuing each month during the pendency of the stay[.]” The monthly payments were to be mailed to appellees’ counsel and, if appellant failed to make timely payments in accordance with the order, the stay of foreclosure would “be automatically dissolved without further order of [the circuit court], upon the filing of a Line by” appellees. On December 11, 2018, just four days after the order was entered on the docket, appellees filed a motion to lift the temporary stay on the ground that appellant failed to make the required payments. By order dated December 26, 2018, and entered on the

¹ Appellant is self-represented in this appeal.

docket on January 14, 2019, the circuit court lifted the temporary stay. On January 4, 2019, appellant filed a notice of appeal.² No appeal was taken from the circuit court’s order lifting the temporary stay.³

ISSUE PRESENTED

The sole issue presented on appeal, as set forth by appellant, is as follows:

The court ordered that Appellant shall make monthly payments into Appellee’s escrow account in the amount of \$1,891.68 per month, retroactive to October 25, 2018, and continuing each month during the pendency of the stay. It was further ordered that if Appellant fails to make timely payments in accordance with this order, any stay of foreclosure previously entered in the above-captioned foreclosure action shall automatically be dissolved without further order of this Court, upon the filing of a Line by Appellees.

In her Brief, appellant asserts that the circuit court’s order requiring her to make payments in the amount of \$1,891.68 per month failed to state the date on which each

² Subsequent to the filing of her notice of appeal, appellant filed for bankruptcy protection in the United States Bankruptcy Court for Maryland. This appeal was stayed per 11 U.S.C. § 362(a). By order dated March 24, 2022, we recognized that the automatic stay resulting from the bankruptcy filing had been lifted and the appeal proceeded. Our review of the circuit court docket entries reveals that after the bankruptcy stay was lifted, the trial court entered an order staying the case pending the outcome of this appeal.

³ Appellant’s notice of appeal did not specify the order from which the appeal was taken. The original order granting the temporary stay, entered on the docket on December 7, 2018, provided that if appellant failed to make timely payments the stay of foreclosure would be automatically dissolved, without further order of the circuit court, upon the filing of a Line by appellees. Appellees did not file a Line. Instead, they filed a motion to lift the temporary stay. The order granting that motion, and lifting the stay, was not entered until January 14, 2019, after appellant’s notice of appeal was filed. For that reason, we view appellant’s notice of appeal as an appeal from the order granting the temporary stay.

monthly payment should be made.⁴ She notes that subsequent to the filing of her notice of appeal, she was “found in default of the . . . payment plan, based on the omissions within this order.”

For the reasons set forth below, we shall dismiss the appeal.

ANALYSIS

This Court does not acquire jurisdiction over an appeal unless it is taken from a final judgment or from an interlocutory order that falls within one of the exceptions to the final judgment requirement. *Bessette v. Weitz*, 148 Md. App. 215, 232 (2002); *see also* Maryland Rule 2-602(a); § 12-301 of the Courts and Judicial Proceedings Article (“CJP”) of the Maryland Code. To constitute a final judgment, the trial court’s determination must either decide and conclude the rights of the parties involved or deny a party the means to prosecute or defend rights and interests in the subject matter of the proceeding. *In re Samone H.*, 385 Md. 282, 297-98 (2005) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)). “In considering whether a particular court order or ruling constitutes an appealable judgment, we assess whether any further order was to be issued or whether any further action was to be taken in the case.” *Id.*

Under Maryland Rule 2-602(a)(1), a decision that “adjudicates the rights and liabilities of fewer than all the parties to the action . . . is not a final judgment[.]” *See also Salvagno v. Frew*, 388 Md. 605, 615 (2005) (the right to seek appellate review of a trial

⁴ In her Brief, appellant also references a prior foreclosure action in the Circuit Court for Anne Arundel County, Case No. C-02-CV-15-004154. That case was dismissed on November 17, 2017 and is not before us.

court’s ruling ordinarily must await the entry of a final judgment that disposes of all claims against all parties); *Nnoli v. Nnoli*, 389 Md. 315, 324 (2005) (“An order that is not a final judgment is an interlocutory order and ordinarily is not appealable[.]”). In a foreclosure action, an order ratifying a foreclosure sale represents the “final judgment as to any rights in the real property[.]” *Huertas v. Ward*, 248 Md. App. 187, 205-06 (2020) (“The ratification of the sale has the practical effect of putting the parties out of court, as they can no longer prosecute or defend their rights with respect to the property; therefore, an order ratifying a foreclosure sale is a final judgment with respect to the in rem aspects of a foreclosure proceeding.”).

In the case at hand, the circuit court did not issue a final decision on the foreclosure action; it merely granted a temporary stay of the foreclosure proceedings subject to certain conditions. Moreover, appellant filed a counter-complaint in the circuit court that had not been resolved at the time she filed her notice of appeal. As no final judgment was entered below, the order at issue in this appeal is an interlocutory order. An interlocutory order may be appealed if an immediate appeal is authorized by statute, if it falls within the collateral order doctrine, or if the circuit court directs the entry of a final judgment pursuant to Maryland Rule 2-602. *Salvagno*, 388 Md. at 615. The order in this case does not fall within the collateral order doctrine⁵ and the circuit court did not enter a final judgment pursuant to Md. Rule 2-602.

⁵ “To qualify as a collateral order, a ruling must satisfy four criteria: ‘(1) it must conclusively determine the disputed question; (2) it must resolve an important issue; (3) it must be completely separate from the merits of the action; and (4) it must be effectively
(continued...)”

The statutory exceptions to the final judgment rule are enumerated in CJP § 12-303.⁶ Appellees maintain that no exception is applicable to the instant case. We agree with appellees that the order staying the foreclosure and requiring appellant to make monthly payments to appellees’ escrow account did not constitute an order with regard to “the possession of property with which the action is concerned or with reference to the receipt

unreviewable on appeal from a final judgment.” *McLaughlin v. Ward*, 240 Md. App. 76, 88 (2019) (quotation marks and citation omitted). The circuit court’s failure to specify a particular payment date does not qualify as “an important issue” in this particular case because the order made clear that the payments were to be made monthly and appellant failed to seek clarification from the court, as she was free to do. In addition, there is no indication in the record that appellant made or attempted to make any payment at all.

⁶ Section 12-303 of the Courts and Judicial Proceedings Article provides, in relevant part:

A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:

(1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order;

* * *

(3) An order:

(i) Granting or dissolving an injunction, but if the appeal is from an order granting an injunction, only if the appellant has first filed his answer in the cause;

* * *

(v) For the sale, conveyance, or delivery of real or personal property or the payment of money, or the refusal to rescind or discharge such an order, unless the delivery or payment is directed to be made to a receiver appointed by the court[.]

or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order[.]” CJP § 12-303(1). Thus, that exception to the final judgment rule does not apply here.

Section 12-303(3)(i) permits an interlocutory appeal from the granting or dissolving of an injunction. Because a stay qualifies as an injunction, granting the stay permitted the instant appeal under that exception.⁷ But appellant would still not prevail because she, herself, sought the stay of foreclosure. *Dietz v. Dietz*, 351 Md. 683, 689-90 (1998) (a party cannot be aggrieved by a judgment to which he or she acquiesced); *Bowen v. City of Annapolis*, 402 Md. 587, 618 (2007) (A “basic rule of appellate jurisprudence” is that “[a] party may not appeal a judgment wholly in its favor.”). And even if she was not fully satisfied with the stay order, appellant failed to raise the issue of the payment date in the circuit court. Ordinarily, we will not decide any issue “unless it plainly appears by the record to have been raised in or decided by the trial court[.]” Md. Rule 8-131(a).

For the same reason, we need not decide whether the requirement that appellant make monthly escrow payments to maintain the stay was an order to pay money under CJP § 12-303(3)(v) and thus appealable. Even were we to assume that it was, appellant would not prevail because she did not seek clarification from the court or, in any other way, raise the issue of the payment date in the circuit court. Md. Rule 8-131(a). Moreover, the order made clear that the payments, retroactive to October 25, 2018, were to be made on a

⁷ See *Washington Suburban Sanitary Comm’n v. C.I. Mitchell and Best Co.*, 303 Md. 544, 580 (1985) (“A stay is itself an injunction and is immediately appealable” under CJP § 12-303(3)(i).).

monthly basis, even though a particular day was not specified. There is nothing in the record before us indicating that appellant made or even attempted to make a payment prior to January 14, 2019, the date the court entered an order lifting the temporary stay.

In sum, appellant’s failure to raise the issue of the payment date in the circuit court denied the appellees and the trial judge an opportunity to consider and respond to that issue and develop a proper record. Therefore, we decline to exercise our discretion under the exception to the general preservation requirement contained in Md. Rule 8-131(a), which permits an appellate court to address an issue that was not raised in or decided by the trial court. As the Court of Appeals has noted, the discretion provided in Md. Rule 8-131(a) is one “that appellate courts should rarely exercise, as considerations of both fairness and judicial efficiency ordinarily require that all challenges that a party desires to make to a trial court’s ruling, action, or conduct be presented in the first instance to the trial court so that (1) a proper record can be made with respect to the challenge, and (2) the other parties and the trial judge are given an opportunity to consider and respond to the challenge.” *Chaney v. State*, 397 Md. 460, 468 (2007).

**APPEAL DISMISSED; CASE REMANDED
TO THE CIRCUIT COURT FOR ANNE
ARUNDEL COUNTY; COSTS TO BE PAID
BY APPELLANT.**