

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2052

September Term, 2013

ANIEFIOK UDOUMOH, ET AL.

v.

DEBORAH K. CURRAN, ET AL.
SUBSTITUTE TRUSTEES

Eyler, Deborah S.
Reed,
**Hotten, Michele D.,

JJ.

Opinion by Reed, J.

Filed: December 28, 2016

*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.

**Michele D. Hotten, J., participated in the hearing of this case while still an active member of this Court but did not participate in either the preparation or adoption of this opinion.

Aniefiok Udoumoh and Glory Umoh, appellants, launch a broad-based attack upon the attempts of BankUnited, through its substitute trustees Deborah K. Curran, Laura H.G. O’Sullivan, and Erin M. Brady (the “Substitute Trustees”), appellees here, to foreclose upon their real property. This foreclosure action has wended its way through the Circuit Court for Montgomery County for more than four years, achieving some degree of finality in late 2013.

In this appeal the questions posed by the appellant, are based on their mooted 2011 appeal to this Court. In a hearing held on November 14, 2013, the circuit court denied the 2013 exceptions, which are merely a restatement of the exceptions already raised by the appellants, on grounds that appellants failed to show any procedural irregularities in the sale per Maryland Rule 14-305(d).

After careful review of the appellants’ appeal, the Court has chosen to review the only relevant issue that it perceives. Per Maryland Rule 8-131, “[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]” Appellants improperly ask us to resolve this appeal not on issues “raised in or decided by the trial court,” but on issues we determined were mooted in 2011 when we dismissed the first appeal.

Per Rule 8-131, we will address the circuit court’s holding and rationale contained in its order. In order to examine properly the circuit court’s order and also because of

considerations of judicial efficiency, we think the issues in this appeal may be addressed with one question arising from the circuit court’s order on the 2013 exceptions:¹

Whether the circuit court erred where it dismissed appellants’ exceptions to the 2013 foreclosure sale for a failure to demonstrate a procedural irregularity in the sale according to Maryland Rule 14-305.

¹ Appellants present the following four questions in their brief:

- I. Whether the Trial Court erred in denying Defendants Exceptions [sic] where on February 19, 2011, American First Realty, Inc., (hereinafter “AFR”) by Adeniji Williams Akinladenu, represented Defendants and presented an offer of \$380,000.00 to BU, who rejected the offer. Whereas on February 23, 2011, BU by its agent GR Financial, LLC, (hereinafter “GRF”) counter-offered \$480,000.00 for the property, which was accepted by a buyer presented by AFR. And on March 4, 2011, AFR, accepted the offer and sent a HUD-1 by email to BU accepting their offer. Nevertheless, on March 4, 2011, apparently, after accepting to sale [sic] the property through AFR, by Short-Sale for \$480,000.00, BU, through Plaintiff fraudulently, sold the property for \$384,000.00 back to BU.
- II. Whether, the Trial Court erred in denying Defendant’s Exceptions where Plaintiff’s [sic] unjustly enriched themselves by selling Defendant’s property which they purchased for \$720,000 to themselves for \$384,000, whereas there was an accepted counter offer of \$480,000.
- III. Whether the Trial Court erred in denying Defendants Exceptions [sic] where Plaintiff’s [sic] converted Defendants property and kept it, and Defendants are entitled to a return of their property.
- IV. Whether the Trial Court erred in denying Defendants’ Exceptions where Plaintiff’s [sic] counter offered to accept \$480,000, and Defendants’ buyer accepted the counter offer and American First Realty, Inc., sent a HUD-1 by email to Bank United accepting their offer.

We answer this question in the negative. Accordingly, we affirm the judgment of the circuit court and shall explain.

FACTUAL AND PROCEDURAL BACKGROUND

Appellants Aniefiok Udoumoh and Glory Umoh are mortgagors who seek to set aside the foreclosure sale of their real property made by the Substitute Trustees on behalf of mortgagee BankUnited. Appellants had purchased a parcel of real property in Clarksburg, Maryland (the “Clarksburg property”), on December 22, 2005. They sought, two years later, to refinance the loan on the property and obtained a new mortgage loan with BankUnited on April 6, 2007. In exchange for the loan, appellants executed a promissory note and Deed of Trust in favor of BankUnited for \$720,000. On August 10, 2010, BankUnited exercised its right under the terms of the Deed of Trust to substitute new trustees and appointed the Substitute Trustees.

The mortgage fell into default in 2009 when Appellants were unable to make all of the required payments on the loan. Both Mr. Udoumoh and Ms. Umoh had lost their jobs in May 2009, which affected their ability to make the mortgage payments. As a result, on August 31, 2010, pursuant to the power of sale in the Deed of Trust and Maryland Rule 14-207(a),² the Substitute Trustees filed an Order to Docket with the Circuit Court for Montgomery County.

² Rule 14-207(a)(1) states: “*Power of Sale*. An action to foreclose a lien pursuant to a power of sale shall be commenced by filing an order to docket. No process shall issue.” (formatting in original).

Once the Substitute Trustees filed the Order to Docket, the sale of the Clarksburg property was ready to proceed. Appellants were notified by the Substitute Trustees on February 17, 2011, that a foreclosure sale of the Clarksburg property would take place at a public auction on March 4, 2011. At the March 4 auction, BankUnited purchased the property for \$384,000, and on March 16, 2011, the Substitute Trustees filed with the circuit court a report of the sale per Rule 14-305(a).³

Although the sale had already taken place, appellants sought to object to the sale after it was reported to the circuit court. They filed their first set of exceptions (the “first exceptions”) on March 31, 2011, and alleged several grounds upon which the sale should be set aside. Before presenting these grounds, however, appellants explained their alleged efforts to avoid default. When they received the notice of sale from the Substitute Trustees, appellants sought a short-sale of the Clarksburg property. To that end, they engaged the services of American First Realty, Inc. (“AFR”) to present a short-sale offer of \$380,000 to BankUnited. The bank, appellants contended, rejected their offer but later presented a counter-offer of \$480,000. AFR secured a buyer for the property and accepted the bank’s counter-offer on behalf of that party, only to have the anticipated sale fall through when BankUnited allegedly sold the property back to itself via the Substitute Trustees for \$384,000.

³ Rule 14-305(a) states: “**Report of Sale.** As soon as practicable, but not more than 30 days after a sale, the person authorized to make the sale shall file with the court a complete report of the sale and an affidavit of the fairness of the sale and the truth of the report.” (formatting in original).

BankUnited's averred actions formed the basis of appellants' first exceptions. Appellants argued they were entitled to damages and rescission of the sale on grounds of fraud, unjust enrichment, trover and conversion, intentional and negligent representation, and breach of contract. They supplemented these allegations at the hearing the circuit court held on May 18, 2011, with an assertion that the price obtained for the Clarksburg property was unconscionable.

The circuit court denied appellants' first exceptions as procedurally improper per Rule 14-305(d)⁴ and the Court of Appeals' holding in *Bates v. Cohn*, 417 Md. 309 (2010). The court explained that the case's posture at that point in time meant only post-sale exceptions per Rule 14-305(d) could be raised. Appellants' exceptions were not proper because *Bates* establishes that short-sale loss-mitigation efforts defenses must be raised prior to the sale of a property. The circuit court determined that the exhibits appellants presented could not support a finding of procedural irregularities in the sale or that the price obtained was unconscionable. With no satisfactory grounds for post-sale exceptions, the circuit court denied appellants' exceptions and ratified the sale on May 24, 2011.

⁴ Rule 14-305(d) states in relevant part:

How Taken. A party, and, in an action to foreclose a lien, the holder of a subordinate interest in the property subject to the lien, may file exceptions to the sale. Exceptions shall be in writing, shall set forth the alleged irregularity with particularity, and shall be filed within 30 days after the date of a notice issued pursuant to section (c) of this Rule or the filing of the report of sale if no notice is issued.

(formatting in original).

On June 14, 2011, appellants sought review of the ratification order in this Court. Thereafter, in the circuit court the Substitute Trustees moved to strike the ratification order as invalid due to non-compliance with Rule 14-305(c).⁵ That rule requires the circuit court to execute and publish a post-sale notice. The court granted the motion on August 23, 2011. The Substitute Trustees then filed a motion to dismiss the appeal, informing this Court of the newly struck ratification order. Because appellants had noted an appeal from that ratification order, this Court could no longer grant relief and we dismissed appellants' first appeal as moot in a November 2, 2012, order.

The circuit court action went dormant for approximately a year. This year-long dormancy caused the clerk of the circuit court to issue a Rule 2-507(d) notice of contemplated dismissal indicating the matter would be dismissed for a lack of prosecution.⁶ *See* Rule 2-507(c) (“An action is subject to dismissal for lack of prosecution at the

⁵ Rule 14-305(c) states:

Sale of Interest in Real Property; Notice. Upon the filing of a report of sale of real property or chattels real pursuant to section (a) of this Rule, the clerk shall issue a notice containing a brief description sufficient to identify the property and stating that the sale will be ratified unless cause to the contrary is shown within 30 days after the date of the notice. A copy of the notice shall be published at least once a week in each of three successive weeks before the expiration of the 30-day period in one or more newspapers of general circulation in the county in which the report of sale was filed.

(formatting in original).

⁶ The record demonstrates that the last entry in the docket prior to the December 17, 2012, 2-507(d) notice was entered on December 15, 2011.

expiration of one year from the last docket entry.”). The Substitute Trustees sought to stay dismissal of the matter and also to strike the report of the 2011 sale in a motion filed on January 7, 2013. That motion indicated that the Substitute Trustees were ready and able to proceed with the foreclosure, that they intended to reset the sale of the property, and that striking the report of the 2011 sale was appropriate in light of the absence of a valid ratification order. The circuit court saw no reasons to deny the motion and granted the stay of dismissal in an order issued on January 24, 2013. The Substitute Trustees then filed a motion to strike the report of sale on February 4, 2013, which the court granted on February 25, 2013.

The Substitute Trustees **restarted** the foreclosure sale process, but appellants again sought to prevent the sale. The trustees issued a notice of sale per Rule 14-210 to appellants on March 18, 2013, indicating the sale would proceed on April 3, 2013. Eight days after the notice was issued, on March 26, 2013, appellants sought leave from the court to file a motion to stay and dismiss the action and to do so out of time. In arguing for a stay and dismissal, appellants explained they wished to pursue loss mitigation and that the Substitute Trustees had acted in bad faith throughout the foreclosure litigation.

The circuit court, however, was not persuaded and the sale proceeded. The auction took place on April 3, 2013, and BankUnited emerged as the successful bidder for the Clarksburg property, purchasing it for \$432,000. The Substitute Trustees, upon the sale’s conclusion, filed a Report of Sale per Rule 14-305 on April 10, 2013.

Appellants objected to the sale after it took place. They filed exceptions on May 3, 2013 (the “second exceptions”). The arguments supporting these exceptions included a number of issues raised in the first exceptions, including unjust enrichment, intentional and negligent representation, and breach of contract. In addition to the reiterated assertions, however, appellants also argued they had never received a notice to file for mediation, that the Substitute Trustees failed to state a claim upon which relief could be granted, that the court lacked jurisdiction, and that the Substitute Trustees had not acted in good faith.

The Substitute Trustees responded to appellants’ second exceptions on July 16, 2013, stating, as they did in their response to the first exceptions, that the assertions⁷ were improper because they did not demonstrate any procedural irregularities. The circuit court held a hearing on November 14, 2013, where it denied appellants’ exceptions for failing to demonstrate any procedural irregularity as required by Rule 14-305. With no further impediments to ratification, the circuit court entered an order on November 15, 2013, ratifying the April 3, 2013, sale.

On November 26, 2013, appellants timely noted their appeal to this Court.

⁷ The Substitute Trustees argued that appellants could not contest the trustees’ right to foreclose or their failure to comply with loss mitigation requirements, nor were appellants entitled to mediation. Moreover, the trustees contended all of appellants’ arguments were moot or lacked merit.

DISCUSSION

A. Parties' Contentions

Appellants' contentions arise from the Substitute Trustees' purported decision to proceed with the foreclosure sale even after a short-sale offer was accepted. Appellants claim BankUnited presented a short-sale counteroffer of \$480,000 for their property to AFR, appellants' short-sale agent, after rejecting appellants' previous offer of \$380,000. A buyer represented by AFR accepted this counteroffer only to have BankUnited and the Substitute Trustees decide to proceed with the foreclosure sale. In this sale, appellants argue BankUnited sold the property back to itself via the Substitute Trustees. This sequence of events provides the basis for appellants' allegations of fraud, unjust enrichment, conversion, breach of contract, and bad faith dealing.

The Substitute Trustees explain that the arguments appellants present in their brief are inapplicable to the present appeal because the circuit court rendered its decision on altogether different grounds. The Substitute Trustees explain that the arguments appellants present in this appeal relate to the bank's right to foreclose in the *first* sale in 2011. This Court dismissed appellants' 2011 appeal as moot when the circuit court struck its ratification of the sale. Accordingly, the Substitute Trustees address the 2013 denial of appellants' second exceptions. They explain the circuit court committed no error where it denied the second exceptions because appellants should have raised their defenses prior to the sale, as they are not irregularities within the meaning of Maryland Rule 14-305(d).

Furthermore, the Substitute Trustees argue the price obtained for the property at the foreclosure sale was not unconscionable.

At this juncture, it is appropriate to address the contents of appellants’ brief. Maryland Rule 8-504(c) grants this Court the discretion to “dismiss the appeal or make any other appropriate order with respect to the case” if a brief is not in compliance with the mandates of subsection (a) of this Rule. As is relevant to this appeal, the Rule provides:

(a) Contents. A brief shall comply with the requirements of Rule 8-112 and include the following items in the order listed:

...

(3) A statement of the questions presented, separately numbered, indicating the legal propositions involved and the questions of fact at issue expressed in the terms and circumstances of the case *without unnecessary detail*.

...

(5) A concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument.

(Emphasis added).

Appellants’ brief presents four questions for our consideration, the first of which provides an excessive amount of unnecessary detail in contravention of Rule 8-504(a)(3). The first question presented provides four sentences of factual background before stating an apparent contention of fraud as the basis for sustaining the exceptions to the sale. The remaining three questions, though more concise than the first, are still unclear. Questions two through four primarily present factual contentions, and questions three and four do so without indicating the legal propositions involved, as required by 8-504(a)(3).

Furthermore, in addition to the deficient questions presented, appellants’ brief does not provide the applicable standard of review as required by Rule 8-504(a)(5).

Dismissing an appeal for an appellant’s failure to comply with the rules of appellate procedure is a “drastic” measure that we do not take lightly. *See Rollins v. Capital Plaza Assocs., L.P.*, 181 Md. App. 188, 201 (2008), *cert. denied*, 406 Md. 746 (2008) (quoting *Brown v. Fraley*, 222 Md. 480, 483 (1960)). It is the preferred course of this Court to resolve an appeal on its merits. *See Joseph v. Bozzuto Mgmt. Co.*, 173 Md. App. 305, 348 (2007). To that end, we will not dismiss an appeal if an appellant’s violations of the rule do not prejudice the appellee, or the violations are not deliberate. *See id.* (citation omitted). Where, however, the violations are “many and substantial” such that they cumulatively present needless difficulties to appellee’s defense of an appeal, we shall dismiss the appeal. *Rollins*, 181 Md. App. at 203.

We will proceed on the merits because the Substitute Trustees have presented us with arguments and additional materials from the record that permit us to resolve this appeal. *See Joseph*, 173 Md. App. at 348 (declining to dismiss appeal where appellees “[b]y their own diligence . . . have supplied much of the material that makes it possible for us to reach a decision on the merits of the case . . .”). Our concern with appellants’ brief, however, is with its fairly clear departures from the strictures of Rule 8-504 and its failure to address any issues raised by the denial of the second exceptions. Appellants have presented us with arguments arising from the denial of the *first* exceptions in 2011. The circuit court struck its ratification of the 2011 sale on the motion of the Substitute Trustees,

thereby extinguishing any existing controversy that this Court could resolve. We shall not resolve any questions that are rendered moot by the dissipation of a live controversy. *See Attorney Gen. v. Anne Arundel Cnty. Sch. Bus Contractors Ass’n, Inc.*, 286 Md. 324, 327 (1979).

B. Standards of Review

We employ two standards of review when reviewing the decision of a trial court with regard to exceptions to a foreclosure sale and whether to ratify the sale because the decision raises questions of both fact and law. *See Jones v. Rosenberg*, 178 Md. App. 54, 68 (2008), *cert. denied*, 405 Md. 64 (2008) (citation omitted). We are deferential to the trial court’s findings of fact and shall not disturb that court’s judgment absent clear error. *Johnson v. Nadel*, 217 Md. App. 455, 465 (2014) (citations omitted). With regard to the trial court’s conclusions of law, however, we review those determinations *de novo*. *Svrcek v. Rosenberg*, 203 Md. App. 705, 720 (2012).

C. Analysis

Resolution of this appeal hinges on whether any of the grounds appellants asserted in their second set of exceptions fall within the term “irregularity” in Maryland Rule 14-305. We hold that they do not. Appellants asserted grounds that are not recognized irregularities within the meaning of the rule. This applies to the first and second set of exceptions filed in the circuit court.

The Maryland Rules governing foreclosures allow a party to object to a sale of property both before and after the sale occurs. *See* Md. Rules 14-211 & 14-305. Rule 14-

211 allows a party to seek injunctive relief to prevent a sale. *See Greenbriar Condo., Phase I Council of Unit Owners, Inc. v. Brooks*, 387 Md. 683, 688 (2005) (*Greenbriar*) (“[T]he debtor may seek to enjoin the foreclosure sale from proceeding by filing a motion to enjoin as provided in [Md.] Rule 14-[211].”). Unlike Rule 14-211, however, Rule 14-305 only permits a party to object “with particularity” to *irregularities* in the conduct of the sale. Rule 14-305(d)(1). This is the only permissible procedure for excepting to a sale once it has occurred because the equities as they existed prior to the sale cannot be maintained once it has taken place. *See Greenbriar*, 387 Md. at 741 (“The equities cannot be maintained—and are not intended to be maintained—*after* the foreclosure sale by any method other than the filing of exceptions. The nature of the exceptions may be to request that the Circuit Court . . . set aside the sale due to irregularities in the sale process itself—but not to upset retroactively a sale properly held.” (emphasis in original)). Accordingly, “Rule 14-305 is not an open portal through which any and all pre-sale objections may be filed as exceptions, without regard to the nature of the objection or when the operative basis underlying the objection arose and was known to the borrower.” *Bates*, 417 Md. at 327 (citations omitted).

Although the statute does not define an irregularity, both the Court of Appeals and this Court have provided some clarity as to what will satisfy this requirement. In *Greenbriar*, the Court of Appeals recognized allegations of procedural defects in the sale. *See Greenbriar*, 387 Md. at 741. Specifically, improprieties in the advertisement of the property prior to the sale may constitute an irregularity, if, for example, the advertisement

itself was insufficient or the property was not properly described. *Id.* Additionally, fraud in the bidding process—either by preventing an individual from bidding or chilling the bidding altogether—may also qualify. *Id.* This Court explained in a 2008 opinion that a failure to send notice of a foreclosure by registered mail constitutes a procedural irregularity. *See Jones*, 178 Md. App. at 70–71.

Allegations of irregularity, however, are not limited to procedural defects. Both the Court of Appeals and this Court have recognized that challenges to the price obtained for the property may constitute irregularities. *See Fagnani v. Fisher*, 418 Md. 371, 391 (2011) (citing *Greenbriar*, 387 Md. at 741); *accord Johnson v. Nadel*, 217 Md. App. 455, 467 (2014). A party challenging the price obtained may argue the price was unconscionable, or that the trustees ignored or overlooked a putative better offer. *See Greenbriar*, 387 Md. at 741 (unconscionability); *Johnson*, 217 Md. App. at 466–67 (putative better offer). Although challenging the trustees’ alleged decision to ignore or overlook a putative better offer may constitute an irregularity as to the price obtained, it is also a procedural irregularity in that it “prevent[s] someone from bidding or . . . chill[s] the bidding.” *Johnson*, 217 Md. App. at 467 (quoting *Jones*, 178 Md. App. at 69).

In light of this legal background, appellants’ second exceptions cannot demonstrate there existed an irregularity per Rule 14-305 in the sale. As in their first exceptions, appellants alleged counts of unjust enrichment, intentional and negligent misrepresentation, and breach of contract. Appellants argue these counts arose when the Substitute Trustees offered them the opportunity to have BankUnited review appellants’

Home Affordable Modification Program (“HAMP”) application in exchange for dismissing the appeal, only to then decide to proceed with the sale. Without passing on the veracity of these allegations, the posture of the present case precludes their consideration. These allegations concern actions that took place *prior* to the sale. Appellants do not, as Rule 14-305 requires, allege irregularities in the sale itself such as errors in the advertisement of the sale or in the bidding process itself. *See Greenbriar*, 387 Md. at 741 (advertising and bidding irregularities); *Johnson*, 217 Md. App. at 466–67 (bidding irregularities). Nor do these allegations concern the price obtained during the sale. *See Greenbriar*, 387 Md. at 741 (challenges to the price obtained). Appellants should properly have asserted these allegations, given that they are derived from actions that occurred prior to the sale, under Rule 14-211 in an effort to prevent a sale appellants believed unfair. To the extent they did so, they have not appealed the circuit court’s adverse ruling.

Appellants’ allegations that the Substitute Trustees have a legally insufficient claim to their property and have not dealt with appellants in good faith are similarly untenable assertions. Paragraphs 16 through 19 of appellants’ second exceptions were presented to the trial court under the header “FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED.” In those paragraphs, appellants present a mix of arguments targeting the Substitute Trustees’ standing in this matter and their right to foreclose as a whole. Nowhere in those paragraphs, however, does an allegation exist regarding the propriety of a foreclosure *sale*. Likewise, paragraphs 21 through 24 allege the Substitute Trustees have acted in bad faith by not engaging in mediation with

appellants. Mediation is a matter of pre-sale relief. *See* Md. Rule 14-202 (defining foreclosure mediation as a method of reaching an agreement on a loss mitigation program, which the Rule also defines as a program intended to avoid or lessen the impact of foreclosure). Accordingly, as the allegations concern matters that occurred prior to—and not during—the sale, they are properly within the ambit of Rule 14-211 rather than Rule 14-305.

Finally, appellants’ allegations regarding lack of notice are similarly unavailing because they focus on the period of time prior to the sale. As explained *supra*, the failure of a foreclosing party to send notice of a sale by registered or certified mail is a procedural irregularity that would allow the circuit court to set aside the sale. *See Jones*, 178 Md. App. at 69. This is not what appellants alleged. In paragraphs 15 and 20 of the second exceptions, under the guises of the Substitute Trustees’ failure of service and the circuit court’s lack of jurisdiction,⁸ appellants contended that they did not receive notice of the foreclosure mediation as required by Paragraph 15 of the Deed of Trust.⁹ Paragraph 20 of the second

⁸ Appellants made the allegations in paragraph 15 under the heading “NONE/IMPROPER SERVICE,” and the allegations in paragraph 20 under the heading “LACK OF JURISDICTION.”

⁹ Paragraph 15 of the Deed of Trust states as follows:

(continued...)

exceptions contained an additional allegation that conflated the Substitute Trustees’ jurisdictional and contractual obligations to argue that the action was subject to dismissal for lack of personal jurisdiction.¹⁰ Neither of these allegations demonstrates a failure to notify appellants of the foreclosure sale, which *Jones* indicated would be an irregularity.

Notices. All notices given Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower’s notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower’s change of address. If Lender specifies a procedure for reporting Borrower’s change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender’s address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

¹⁰ Appellants’ specific allegation is that “[p]ursuant to Rule 2-507(b), this Court should dismiss the instant case because Defendant was not sent a notice pursuant to Section 15[] of the Deed of Trust” Maryland Rule 2-507(b) renders an action subject to dismissal if a plaintiff has not served a defendant within 120 days of the issuance of the original process. Appellants’ reliance on this Rule is misplaced. The Rule contemplates the dismissal of an action for plaintiff’s failure to serve *process*, whereas the notice provision of the Deed of Trust applies only to notices sent “in connection with” the Deed. Simply put, the Rule is a matter of the trial court’s jurisdiction, while the Deed’s notice provision is a matter of the parties’ contractual obligations.

The alleged failures of notice, just as the remainder of appellants' allegations, were unrelated to the conduct of the sale. Rather, they were related to the parties' dealings with each other during the pendency of the foreclosure. Accordingly, there are no grounds that would sustain findings of procedural irregularities such that the sale could be set aside under Rule 14-305.

The circuit court properly dismissed appellants' second exceptions. We discern no clear error in the court's findings that the facts demonstrated a lack of procedural irregularities, and the court committed no error of law in its determination that Rule 14-305 would not support appellants' exceptions.

**JUDGMENT OF THE CIRCUIT COURT FOR
MONTGOMERY COUNTY AFFIRMED. COSTS
TO BE PAID BY APPELLANTS.**