

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 146

September Term, 2023

RESHMA ALI, *et al.*

v.

JAMES E. CLARKE, *et al.*

Leahy,
Kehoe, S.,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: August 6, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

In August 2017, appellees,¹ acting as substitute trustees, filed an Order to Docket in the Circuit Court for Montgomery County, seeking to foreclose on real property owned by Reshma and Khwaja Ali, appellants. The property was sold at a foreclosure auction on September 6, 2022. In January 2023, appellants filed a “Motion to Dismiss for Failure to File Affidavit of Military Service” pursuant to 50 U.S.C. § 520 (the motion to dismiss). The motion to dismiss did not indicate when the failure to file the affidavit occurred and did not cite any statutes, rules, or case law in support thereof. The court denied the motion without a hearing. This appeal followed. For the reasons that follow, we shall dismiss the appeal.

As an initial matter, appellants’ first two issues on appeal concern an order entered by the circuit court on November 30, 2022, which granted appellees’ “Motion to Accept and Amend Report of Sale *Nunc Pro Tunc* to October 6, 2022.” However, appellants previously appealed that order, and this Court dismissed the appeal as not allowed by law because it was taken from a non-appealable, interlocutory order. At the time this appeal was filed, there was still no final judgment entered in the foreclosure case because the foreclosure sale had not been ratified. Consequently, the validity of the court’s November 30, 2022, order is not properly before us.

Appellants’ remaining claim is that the court erred in denying their motion to dismiss. In their brief they clarify that the motion was based on appellees’ alleged failure

¹ Appellees are James E. Clarke, Christine M. Drexel, Renee Dyson, Brian Thomas, Shannon Menapace, and Hugh J. Green.

to “attach[] a military affidavit to the Report of sale.” It is thus clear that, however captioned, the motion to dismiss was not filed pursuant to Maryland Rule 14-211, as it was filed after the sale and did not challenge the validity of the lien or the lien instrument or the right of appellees to foreclose. Rather, it was an attempt to raise an exception to the foreclosure sale. But the denial of exceptions to a foreclosure sale is not a final judgment or an appealable interlocutory order. *See McLaughlin v. Ward*, 240 Md. App. 76, 83 (2019) (“In a foreclosure case, a court does not enter a final judgment at least until it has ratified the foreclosure sale.”). And no exception to the final judgment rule otherwise applies. Consequently, we hold that the appeal is premature and must be dismissed.

**APPEAL DISMISSED. COSTS TO
BE PAID BY APPELLANTS.**