Circuit Court for Anne Arundel County
Case No.: C-02-CV-16-003932

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 857

September Term, 2023

JOAN KIMMETT, *et al.*

v.

LAURA H.G. O'SULLIVAN, *et al.*

Nazarian,
Friedman,
Zic,

JJ.

Opinion by Zic, J.

Filed: December 17, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This case returns to us for a second time as part of an endeavor by Laura H.G. O'Sullivan and three other substitute trustees, appellees ("Substitute Trustees"), to foreclose on real property ("the Property") owned by Jonathan and Joan Kimmett, appellants. Despite the case's lengthy history, however, the issues are ultimately straightforward.

The Substitute Trustees initiated this foreclosure action in the Circuit Court for Anne Arundel County. The Property was auctioned, and the sale was ratified. After an in banc panel directed the circuit court to consider the Kimmetts' post-sale exceptions, the court granted the exceptions and struck the ratification order. The Substitute Trustees appealed, but we dismissed, in a reported opinion, because the circuit court's order was neither a final judgment nor an appealable interlocutory order. *O'Sullivan v. Kimmett*, 252 Md. App. 653, 680 (2021).

The circuit court then held a full evidentiary hearing on the Kimmetts' pre-sale challenges to the authenticity of the loan documents and the Substitute Trustees' standing to foreclose. After the hearing, the court determined that the loan documents were authentic and that the Substitute Trustees had standing. In the same order denying the Kimmetts' pre-sale challenges, the court also reinstated the foreclosure sale, denied the Kimmetts' post-sale exceptions, reinstated the ratification of the sale, reinstated the deed transferring the Property to the purchaser, and awarded the purchaser a judgment of possession.

QUESTIONS PRESENTED

The Kimmetts appealed and present four questions for our review, which we have recast as five and rephrased as follows:[1]

1. Did the circuit court err in finding that the loan documents were authentic?

2. Did the circuit court err in finding that the Substitute Trustees have standing to foreclose?

3. Did the circuit court abuse its discretion by overruling the Kimmetts' post-sale exceptions after previously granting them?

4. Did the circuit court err in awarding the foreclosure purchaser a judgment of possession?

5. Did the circuit court err in requiring a bond to stay enforcement of its judgment pending appeal?

For the reasons below, we affirm.

[1] The Kimmetts phrased their questions as:

1. Did the trial court err, or abuse[] its discretion, in reversing its previous judgment and reinstating the ratification of sale and deed, granting Appellees' possession of Appellants' residence, and reconsidering[—]and denying—Appellants' timely exceptions to the foreclosure sale?

    a. Did the trial court err, or abuse[] its discretion, in ruling that Appellees ha[ve] authority to foreclose and ruling that Appellees[—]or related entities (*i.e.* the bank)—were valid note holders and had standing to foreclose?

    b. Did the trial court err, or abuse[] its discretion, in ruling that the bank is entitled to a judgment awarding it possession of the property?

2. Did the trial court err, or abuse[] its discretion, when it required an appeal bond, in the circumstances of this case?

BACKGROUND

The Mortgage Loan[2]

On April 20, 2007, Mr. Kimmett took out a $550,000 mortgage loan from American Brokers Conduit.[3] The terms of the loan were set forth in a deed of trust Note ("Note"). Mr. Kimmett, as the sole borrower, was the only party to sign the Note,[4] however, the Kimmetts both executed a Deed of Trust pledging the Property as security. The Deed of Trust named Andrew Valentine as trustee and Mortgage Electronic Registration Systems, Inc. ("MERS") as a nominee for the Note's beneficiary, American Brokers Conduit.

Soon after the loan closed, it was sold and then securitized.[5] The Note bears a single indorsement:

PAY TO THE ORDER OF

WITHOUT RECOURSE

BY: AMERICAN BROKERS CONDUIT

[2] Much of the transactional history was not part of the record in the parties' prior appeal. We mined the details from the evidence presented at the later hearing.

[3] American Brokers Conduit was a trade name of American Home Mortgage Corp., which is related to another company relevant to this case: American Home Mortgage Servicing, Inc. For readability, we refer to American Brokers Conduit by its trade name throughout this opinion.

[4] Mrs. Kimmett claims to have initialed the Note as well.

[5] The Supreme Court of Maryland explained the process of securitization in *Anderson v. Burson*, 424 Md. 232, 237-38 (2011).

American Brokers Conduit securitized the Note into an investment trust entitled American Home Mortgage Asset Trust 2007-4, Mortgage-Backed Pass-Through Certificates Series 2007-4 ("the Trust"). The pooling and servicing agreement established Deutsche Bank National Trust Company ("Deutsche Bank") as trustee and custodian, and American Home Mortgage Servicing, Inc., "or its successor[,]" as servicer. The Kimmetts' loan was deposited into the Trust on May 1, 2007, and the pooling and servicing agreement closed at the end of the month. Deutsche Bank possessed the Note from then on.

A few months later, American Brokers Conduit—the Kimmetts' original lender—and several related companies, including American Home Mortgage Servicing, filed for Chapter 11 bankruptcy. Several companies ultimately restructured into American Home Mortgage Servicing.[6] American Home Mortgage Servicing later changed its name to Homeward Residential Inc. Homeward Residential then merged with Ocwen Loan Servicing, LLC in December 2012 and transferred the servicing of certain residential mortgage loans, including the Kimmetts' loan, to Ocwen. Ocwen was the servicer on the

[6] The Kimmetts' arguments largely rest on their contention that these companies were liquidated as part of the bankruptcy proceedings and, as a result, ceased to exist. Without getting into the intricacies of bankruptcy law, we note that "Chapter 11 of the [United States] Bankruptcy Code provides that liquidation may be a *form* of reorganization, as opposed to a straight liquidation under Chapter 7." *In re Deer Park Inc.*, 10 F.3d 1478, 1481 (9th Cir. 1993) (citing 11 U.S.C. § 1129(a)(11)) (emphasis added). This issue is ultimately a red herring, however, so we need not discuss it further.

Kimmetts' loan until June 2019 when Deutsche Bank appointed, as a replacement servicer, PHH Mortgage Corporation,[7] who continued as servicer ever since.

Foreclosure Action

The Kimmetts defaulted on their mortgage in May 2009. In September 2013, MERS executed an Assignment of Deed of Trust assigning its beneficial interest in the Note to Deutsche Bank, which was recorded in the land records on October 1, 2013. Three years later, Ocwen, as attorney-in-fact for Deutsche Bank, recorded in the land records a Substitution of Trustee, which appointed the Substitute Trustees.

On December 28, 2016, the Substitute Trustees filed an Order to Docket initiating this foreclosure action. When mediation was unsuccessful, the circuit court authorized a foreclosure sale. A few weeks later, but before the foreclosure sale, the Kimmetts declared bankruptcy, automatically staying further proceedings. In their bankruptcy filings, the Kimmetts acknowledged Ocwen as the servicer of their mortgage, but they could "neither admit nor deny" whether Deutsche Bank was a secured creditor.

Once the bankruptcy was dismissed, and the stay lifted, the circuit court scheduled the foreclosure sale for November 7, 2018. Two days before the auction, the Kimmetts moved to stay the sale challenging securitization of the Note and the Substitute Trustees' standing to foreclose. The motion did not comply with Maryland Rule 1-204, however, so no stay was entered. The sale went forward as scheduled, and the Property was

[7] PHH is another subsidiary of Ocwen's parent company, Ocwen Financial.

purchased by Deutsche Bank, the only bidder, for $482,000. Two days after the sale, the court denied as moot the Kimmetts' Rule 14-211 motion to stay the sale.[8]

Post-Sale Exceptions

On January 6, 2019, the Kimmetts filed post-sale exceptions, raising three arguments all rooted in the ownership of the Note.

First, the Kimmetts contended that the Substitute Trustees were not "individuals authorized to make the sale[.]" They claimed American Brokers Conduit ceased to exist as of November 30, 2010, and so could not have validly assigned the Deed of Trust to Deutsche Bank in 2013. Thus, according to the Kimmetts, because the assignment to Deutsche Bank was illegitimate, so too was the appointment of the Substitute Trustees by a servicer appointed by Deutsche Bank. At bottom, the Kimmetts' argued that the Substitute Trustees were not individuals authorized to make the sale, so the advertisement for the sale was procedurally defective because it was not published by "the individual[s] authorized to make the sale" as required by Maryland Rule 14-210(a).

Second, relying on the same logic, the Kimmetts contended that the advertisement of sale contained a "mis-description" because the Substitute Trustees represented in the advertisement that they had the power to sell even though, in the Kimmetts' view, they did not.

Third, the Kimmetts contended that the Substitute Trustees' misrepresentation "chilled" the bidding at the foreclosure sale, which was a procedural irregularity.

[8] The order was not entered until November 27, 2018.

The Substitute Trustees opposed the Kimmetts' exceptions arguing that they were untimely and that, in any event, the Substitute Trustees' right to foreclose could not be challenged in post-sale exceptions. The court held a hearing on the exceptions on March 4, 2019, and denied them as untimely without reaching their merits. The court ratified the sale on May 30, 2019. The Kimmetts then timely sought in banc review.

While the in banc review was pending, the Substitute Trustees recorded in the land records a deed purporting to convey the Property to Deutsche Bank. Then, still while the in banc review was pending, Deutsche Bank moved for a judgment of possession. The Kimmetts moved to strike the deed and opposed Deutsche Bank's motion.

After a hearing, the in banc panel, in a written opinion, ruled that the Kimmetts' exceptions were timely and so reversed the trial judge's denial. The panel did not reach the merits of the exceptions and, instead, remanded the case "to the [t]rial [j]udge for further action on the merits[.]" Soon after the remand was docketed, the Kimmetts moved to strike the final ratification order, re-moved to strike the deed conveying the Property to Deutsche Bank, and renewed their opposition to Deutsche Bank's motion for a judgment of possession.

The court held a hearing on all pending motions, as well as the Kimmetts' post-sale exceptions, on August 10, 2020. At the outset, the parties agreed that the court should strike the final order ratifying the sale, and the Substitute Trustees did not oppose striking the deed conveying the property to Deutsche Bank. The court also struck

Deutsche Bank's motion for possession, but this was done largely as a housekeeping measure with only a nominal opposition from the Substitute Trustees.

The Kimmetts were the only witnesses at the hearing. While neither of them had personal knowledge as to any fact relevant to whether the exceptions should be granted or denied, from the circuit court's perspective, the Kimmetts' testimony, along with filings from American Brokers Conduit's Chapter 11 bankruptcy, were sufficient to cast doubt on "who the proper Creditor [was]." Although the court was "not overly thrilled with either position," it was not convinced that the Substitute Trustees were the authorized party under Rule 14-210 to make the sale. As a result, the court granted the Kimmetts' exceptions and ordered a full evidentiary hearing under Rule 14-211.

The court also cautioned the Substitute Trustees on what it expected from them at the evidentiary hearing:

> Now, I will say, [Counsel for Substitute Trustees], what I would want to see from you would be that paint by numbers history because you know it's going to come up again, because your client is going to want to move to sale. Sale has been set aside. So, now [the Kimmetts] have pre-sale rights again, which I expect them to raise, and I'm not telling you how to do your thing but . . . [i]f it can be done, that's the way you are going to have to go.

The court entered a written order the same day embodying its rulings on all pending motions, granting the Kimmetts' exceptions, and directing a full evidentiary hearing. The Substitute Trustees appealed. But because the circuit court's order was neither a final judgment, nor an immediately appealable interlocutory order, we dismissed the appeal as not allowed by law. *See O'Sullivan*, 252 Md. App. at 680.

Evidentiary Hearing

The circuit court then held a full evidentiary Rule 14-211 hearing on May 31, 2023. This time, in addition to the Kimmetts, the court also heard testimony from Benjamin Verdooren, a representative from PHH's parent company. Mr. Verdooren delivered the "paint-by-numbers history" the court sought following the exceptions hearing, which we laid out above.

The original wet ink Deed of Trust and the Note were both admitted into evidence through Mr. Verdooren's testimony about the loan file. Mr. Kimmett signed the Note in blue ink, and both Kimmetts signed and initialed the Deed of Trust in blue ink. The Note was also initialed in black ink and stamped. Mr. Verdooren explained that the stamp was an indorsement with the payee left blank. According to him, a note would be indorsed only after closing. The indorsement would also be initialed at that same time. Mr. Verdooren suggested that here, Setara Khan—whose name and title appear under the stamp—would have initialed the indorsement.

Mrs. Kimmett disputed Mr. Verdooren's testimony about the initials on the Note. According to her, she initialed the Note at the direction of the title agent during closing. She explained that she switched from the blue ink pen, which she used to sign and initial the Deed of Trust, to a black ink one because the blue ink was running out. Mrs. Kimmett stated that the indorsement stamp was not there when she initialed the Note.

Mrs. Kimmett also signed the Deed of Trust and initialed each page. Yet, according to her, the deed presented at the hearing was not a true and accurate copy of the

Deed of Trust signed at closing. She did not allege any term of document was different. Instead, the only differences she identified concerned the spelling of her husband's name.

According to Mrs. Kimmett, Mr. Kimmett's name was misspelled as "Johnathan" instead of "Jonathan" in several places, and the title agent had instructed him to strike through the extra "h" and initial his modification each time. In the Deed of Trust presented by the Substitute Trustees, the extra "h" was struck through each time, in black ink, and Mr. Kimmett's initials were missing. In contrast, in the Adjustable Rate and Prepayment Riders, the extra printed "h" was struck through in blue ink with Mr. Kimmett's handwritten initials below. Mrs. Kimmett also produced, for comparison, copies of the first two pages that she received at closing, which were admitted into evidence. She did not explain why she was not given copies of the other 13 pages.

Mr. Kimmett's testimony largely repeated his wife's testimony.

Ultimately, the court was convinced, by a preponderance of the evidence, that the Substitute Trustees satisfied the requirements of Md. Code Ann., Com. Law ("CL") § 3-301 and found that they were the holder of the Note. The court also found that Deutsche Bank has been the owner of the Note since May 2007 and remains so.

The court explained that it reached this conclusion, in part, because it did not find Mrs. Kimmett's testimony credible:

> Mrs. Kimmett, I have heard from you in the past and I have heard this argument now for really a matter of years that somehow on the adjustable rate note, where you don't initial anywhere else, you initialed the last page in a different color ink and so that must be a forgery.

> I am going to suggest to you with all due respect ma'am, that that is not a JK, it is probably an SK and probably stands for S[e]tara Khan . . . . [O]h and by the way, that initial doesn't look like your initials on any other example I have seen and just doesn't add up.
>
> It also doesn't add up to me that you would take the position that you are taking now, having noted in your own bankruptcy filing that the holder of the note, on your house, was a company in the Deutsche Bank family of companies. So you knew about it at that point. It doesn't add up to me that you say well I stopped making my mortgage payments in 2009 and I then—after that I escrowed them.
>
> Well, if you had escrowed them, it seems to me that you could have simply paid the mortgage and brought it current once[] you were confronted with the idea that Deutsche Bank was actually the true holder of the note, but you didn't do that. I have strong and serious doubts as to whether there was ever any escrow of the mortgage.

The court denied the Kimmetts' 14-211 Motion and, in the same order, unwound its prior rulings: reinstating the sale; denying the Kimmetts' post-sale exceptions; reinstating the ratification order; reinstating the Trustees' Deed of Trust; and awarding Deutsche Bank a judgment awarding possession of the Property. The Kimmetts timely appealed.

DISCUSSION

I. THE COURT DID NOT ERR IN FINDING THAT THE LOAN DOCUMENTS ARE AUTHENTIC.

The Kimmetts first argue that the circuit court erred in denying their Rule 14-211 motion because the loan documents produced by the Substitute Trustees were forgeries. The Kimmetts do not dispute that they owe the debt or that they are in default. Instead,

they contend only that the circuit court should have credited their testimony about the inauthenticity of the Substitute Trustees' loan documents. We disagree.

Under Maryland Rule 14-211, an interested party may challenge a foreclosure action by contesting, among other things, the validity of the lien instrument. Md. Rule 14-211(a)(3)(B). Put simply, "a party cannot institute a foreclosure upon forged documents." *Mitchell v. Yacko*, 232 Md. App. 624, 641 (2017). The determination of whether a document is a forgery, however, is a question of fact. *See Starke v. Starke*, 134 Md. App. 663, 674-76 (2000) (explaining that a trial court's finding that a signature was "not false or forged or copied" was a finding of fact). And we review findings of fact for only clear error, Maryland Rule 8-131(c), giving due deference to the factfinder's assessment of a witness's credibility. *Grimm v. State*, 447 Md. 482, 505-06 (2016).

At the hearing, the Substitute Trustees produced the original wet ink version of both loan documents. To be sure, despite the wet ink signatures and initials, Mrs. Kimmett claimed that the Deed of Trust produced by the Substitute Trustees was not the same one she and her husband executed at closing. Even so, the only differences she identified concerned her husband's name. Indeed, Mrs. Kimmett undercut her own testimony with the documents she produced. The court admitted into evidence Mrs. Kimmett's copy of the first two pages of the Deed of Trust, which she explained were given to her at closing. On review, the pages are identical in every way to the corresponding pages of the Substitute Trustees' Deed of Trust. We note that, despite Mrs. Kimmett's claim that her husband initialed each modification to his name

throughout the Deed of Trust, on both versions of the first two pages admitted at trial, the extra "h" in Mr. Kimmett's name is struck through without his initials.

As for the Note, it was signed, in blue ink, by Mr. Kimmett, and initialed, in black ink, by someone else. Mrs. Kimmett claimed that the initials were hers and that the indorsement stamp was a material alteration. Mr. Verdooren claimed that the initials belonged to Setara Khan, an assistant secretary at American Brokers Conduit. The circuit court compared the initials on the Note to Mrs. Kimmett's initials on the Deed of Trust and found Mr. Verdooren's testimony was credible, while Mrs. Kimmett's was not. In assessing witnesses' credibility, "the circuit court is entitled to accept—or reject—*all, part, or none* of their testimony, whether that testimony was or was not contradicted or corroborated by any other evidence." *Hripunovs v. Maximova*, 263 Md. App. 244, 263 (2024) (internal citation and marks omitted). "It is not our role, as an appellate court, to second-guess, the trial judge's assessment of a witness's credibility." *Id.* at 264 (cleaned up). The Kimmetts have not pointed to anything in the record that shows the court's factual findings were clearly erroneous. The court thus did not err in rejecting the Kimmetts' testimony and finding that the loan documents were authentic.

II. THE COURT DID NOT ERR IN FINDING THAT THE SUBSTITUTE TRUSTEES HAVE STANDING TO FORECLOSE.

The Kimmetts next argue that the circuit court erred in denying their Rule 14-211 motion because the Substitute Trustees lacked standing to foreclose. *See* Md. Rule 14-211(a)(3)(B) (allowing an interested party to challenge a foreclosure action by contesting "the right of the plaintiff to foreclose in the pending action"). In the same

vein, they also contend the court erred in denying their post-sale exceptions because a party that lacks standing to foreclose cannot be an "individual authorized to make the sale," which the Kimmetts' claim is a procedural irregularity.[9] *See* Md. Rule 14-210(a). Again, the Kimmetts do not dispute that they owe the debt or that they are in default. They contend only that Deutsche Bank was not authorized to start the chain of events that led to this foreclosure. In short, the Kimmetts argue that Deutsche Bank is not the owner of the Note, so the Substitute Trustees cannot enforce the Deed of Trust. This is not so.

Unlike a mortgage, a deed of trust securing a negotiable promissory note cannot be transferred. *Deutsche Bank Nat'l. Tr. Co. v. Brock*, 430 Md. 714, 728 (2013). Instead, the note may be transferred, and "the right to enforce the deed of trust follow[s]." *Svrcek v. Rosenberg*, 203 Md. App. 705, 727 (2012). Therefore, if a party can enforce the note, they can enforce the deed of trust. *See Brock*, 430 Md. at 728-29.

Under CL § 3-301, a promissory note may be enforced by: "(i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to § 3-309 or § 3-418(d)." A "holder," in this context, is "the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession." CL § 1-201(b)(21)(i). The holder of a note is

[9] Ordinarily, parties may not repackage their Rule 14-211 pre-sale arguments as Rule 14-305 post-sale exceptions. *See Bates v. Cohn*, 417 Md. 309, 328-30 (2010). We address the Kimmetts' underlying arguments with respect to their post-sale exceptions here only because the unusual procedural posture of this appeal brings them before us simultaneously with the Kimmetts' pre-sale arguments.

"entitled to enforce the instrument even [if it is] not the owner of the instrument or is in wrongful possession of the instrument." CL § 3-301.

A note "payable to an identified person may become payable to bearer if it is indorsed in blank[.]" CL § 3-109(c). If an indorsement is made by the holder of an instrument, and the indorsement does not identify to whom it makes the instrument payable, it is a "blank indorsement." CL §3-205(b). "When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed." *Id.* Thus, the person in possession of a note indorsed in blank, is a holder entitled generally to enforce that note. *Brock*, 430 Md. at 729-30.

Here, the Note was originally payable to American Brokers Conduit, who later indorsed the Note. The indorsement does not state a payee, so it is indorsed in blank and, as such, is payable to bearer and negotiable by transfer of possession alone. CL § 3-205(b). The Substitute Trustees are in possession of the Note, so they are the holder. CL § 1-201(b)(21)(i). As a holder, they are entitled to enforce the Note and, by extension, the Deed of Trust. CL § 3-301; *Brock*, 430 Md. at 728. As a result, the Substitute Trustees have standing to foreclose.

The Kimmetts' arguments on appeal focus mainly on disputing whether Deutsche Bank is the owner of the Note. But they miss the point. "Under established rules, the maker of a note[—here, the Kimmetts—]should be indifferent as to who owns or has an interest in the note so long as it does not affect [their] ability to make payments on the note." *Brock*, 430 Md. at 731 (cleaned up). And the Kimmetts acknowledged in their bankruptcy filings that they knew they needed to make payments to Ocwen. Thus,

whether Deutsche Bank is or is not the owner of the Note "is irrelevant for present purposes." *Id.* at 733.

Finally, unlike the cases on which the Kimmetts rely, there is no gap in the indorsements purporting to transfer the Note. *Compare Anderson*, 424 Md. at 247-50 *with Brock*, 430 Md. at 731-33. Here, there is only one indorsement on the Note, and it is in blank. The "paint-by-numbers history" that the Substitute Trustees set out at the evidentiary hearing, though helpful, was not necessary to prove they were a holder with the right to enforce the Note and Deed of Trust. Because the Note was indorsed in blank and only once, all the Substitute Trustees had to show was that they were in possession of the Note. *See Brock*, 430 Md. at 732-33. And they did.

In sum, the Substitute Trustees are in possession of the Note, which was indorsed in blank by a holder. That makes the Substitute Trustees the holder of the Note. As the holder, they are a person or entity entitled to enforce the Note and, by extension, the Deed of Trust. Consequently, the Substitute Trustees have standing to foreclose. The circuit court thus did not err in denying the Kimmetts' pre- and post-sale motions challenging the Substitute Trustees' standing.

III. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN OVERRULING THE KIMMETTS' POST-SALE EXCEPTIONS.

The Kimmetts next argue that the circuit court erred in overruling their post-sale exceptions because the court had previously granted them. Again, this is not so.

Non-final orders are subject to revision almost without limitation. *See Waterkeeper Alliance, Inc. v. Maryland Dep't of Agric.*, 439 Md. 262, 277 (2014). It is

unclear what standard of review applies to a court's decision to revise a non-final order. There is little law on the issue because an order revising a non-final order is, itself, non-final and, as such, not appealable. *Id.*

Both parties suggest that we should review the circuit court's decision to revise its order for an abuse of discretion. But the cases to which they cite all concern a court's decision under Maryland Rule 2-535(a) to revise an unenrolled judgment. *See*, *e.g.*, *S. Mgmt. Corp. v. Taha*, 378 Md. 461, 494-95 (2003); *Stuples v. Baltimore City Police Dep't*, 119 Md. App. 221, 239 (1998). Rule 2-535, however, "is applicable only to final judgments." *Waterkeeper Alliance*, 439 Md. at 277. "Thus, non-final orders are subject to revision without regard to Rule 2-535." *Id.* (cleaned up). And we held in the parties' prior appeal that the court's order granting the Kimmetts' exceptions was a non-final order, *O'Sullivan*, 252 Md. App. at 680, so it was "subject to revision without regard to Rule 2-535[.]" *Waterkeeper Alliance*, 439 Md. at 277. In the time since the parties briefed this case, however, the Supreme Court of Maryland has said unanimously, albeit only in dicta, that motions for reconsideration should ordinarily be reviewed on the abuse of discretion standard. *Riley Trust v. Venice Beach Citizens Ass'n*, *Inc.*, 487 Md. 1, 16-17 (2024); *see also id.* at 24-25 (Hotten, J., dissenting).[10] As a result, we will review the court's decision here for an abuse of discretion.

[10] In *Riley Trust*, the majority and dissent agreed on this point. *Id.* at 16-17. They disagreed only on whether a motion for reconsideration of a grant of partial summary judgment should be reviewed under the "manifest injustice" standard of Rule 2-501(g). *Id.* at 17-20; *id.* at 25 (Hotten, J., dissenting).

"An abuse of discretion occurs where no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding principles." *Central Truck Center, Inc. v. Central GMC, Inc.*, 194 Md. App. 375, 398 (2010) (cleaned up). To be an abuse of discretion, the court's decision "has to be well removed from any center mark imagined by the [appellate] court and beyond the fringe of what that court deems minimally acceptable." *Id.* (cleaned up).

On this record, we find no such serious error. The sole reason the circuit court initially granted the Kimmetts' post-sale exceptions was because it was unsure if the Substitute Trustees had standing to foreclose, making them unauthorized to make the foreclosure sale. Through the course of the later evidentiary hearing, the court was shown sufficient evidence to conclude that the Substitute Trustees had authority to foreclose. Because that was the only issue the Kimmetts' raised in their exceptions, the court's reasoning for initially granting them no longer stood. The court's decision to revise its order in light of the additional evidence was not "beyond the fringe" of what we consider minimally acceptable. *Central Truck Center, Inc.*, 194 Md. App. at 398. The court, therefore, did not abuse its discretion in overruling the Kimmetts' post-sale exceptions.[11]

[11] In any event, the Kimmetts' post-sale exceptions merely repackaged their Rule 14-211 pre-sale arguments using the language of Rule 14-305. That alone is reason enough to overrule them. *See Bates v. Cohn*, 417 Md. 309, 328-30 (2010).

IV. THE COURT DID NOT ERR IN AWARDING DEUTSCHE BANK A JUDGMENT OF POSSESSION.

The Kimmetts next contend that Deutsche Bank was not entitled to a judgment of possession. The scope of an appeal from an order granting or denying possession is limited. *See Manigan v. Burson*, 160 Md. App. 114, 119 (2004). "The appeal must pertain to the issue of possession [. . .] and may not be an attempt to relitigate issues that were finally resolved in a prior proceeding." *Id.* A party may not raise issues in an appeal of an order granting possession that could have been properly raised in a motion to stay or dismiss a foreclosure or in timely filed exceptions. *Id.*

A purchaser may move for a judgment awarding possession under Maryland Rule 14-102. "To invoke the rule, the purchaser must show that (1) the property was purchased at a foreclosure sale, (2) the purchaser is entitled to possession, and (3) the person in possession fails or refuses to relinquish possession." *G.E. Cap. Mortg. Servs., Inc. v. Edwards*, 144 Md. App. 449, 457 (2002). "[G]enerally, a purchaser of property at a foreclosure sale may be entitled to seek possession of that property when the sale is ratified by the [c]ircuit [c]ourt." *Empire Props., LLC v. Hardy*, 386 Md. 628, 651 (2005).

The Kimmetts' attack the second element. Their only argument, however, is that Deutsche Bank is not entitled to possession because the Substitute Trustees were not authorized to foreclose. As we have already explained, the Kimmetts' argument lacks merit. In the end, Deutsche Bank purchased the Property at a valid foreclosure sale, and the Kimmetts refuse to relinquish possession. The circuit court, thus, did not err in granting Deutsche Bank a judgment awarding possession.

V. WE DECLINE TO ADDRESS THE SUPERSEDEAS BOND ISSUE.

The same day the Kimmetts' noted this appeal, they moved for the circuit court to stay enforcement of its judgment. The circuit court promptly denied their motion, and the Kimmetts asked this Court for the same relief. A Panel of this Court denied their request. The Kimmetts then moved for the circuit court to set a $1 supersedeas bond to stay enforcement of its judgment pending appeal. A month later, the court granted their motion, in part, and directed the Kimmetts to post a $565,593.56 bond within ten days to stay the judgment pending this appeal. The Kimmetts did not post the bond. They now argue the circuit court erred in requiring them to post any bond to stay the judgment.

We decline to address this issue. To begin with, the Kimmetts did not appeal from the supersedeas bond order. *See Julian v. Buonassissi*, 414 Md. 641, 658-59 (2010). Neither, for that matter, did they move for this Court to adjust the amount of the bond. *See* Md. Rule 8-422(c). Thus, it is questionable whether the issue is even properly before us.

At any rate, the point of posting a supersedeas bond in challenges to ratified foreclosure sales is to prevent the appeal from becoming moot. *See Mirjafari v. Cohn*, 412 Md. 475, 483-84 (2010). Despite the Kimmetts' failure to post the bond, neither party contends in any filing in this Court that the case has become moot, and we have addressed their appeal on its merits. We thus need not address the bond requirement.

CONCLUSION

For the above reasons, we hold that the circuit court did not clearly err in finding that the loan documents are authentic, did not err in denying the Kimmetts' pre- and

post-sale motions challenging the Substitute Trustee's standing, did not abuse its discretion in overruling the Kimmetts' post-sale exceptions. We additionally conclude that the circuit court did not err in awarding Deutsche Bank possession and decline to address the supersedeas bond issue.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.