

Circuit Court for Baltimore City
Case No. 24-O-18-001996

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 984

September Term, 2023

VALEDIA GROSS

v.

CARRIE M. WARD, *et al.*

Berger,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 2, 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 this foreclosure case, Valedia Gross, appellant, appeals an order issued by the Circuit Court for Baltimore City, granting a motion for judgment of possession filed by Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2, appellee, (Deutsche Bank). Appellant raises thirteen issues that are reducible to one: whether the court abused its discretion in issuing the possession order. For the reasons that follow, we shall affirm.

In 2018, Carrie M. Ward, appellee, acting as substitute trustee for Deutsche Bank, filed an Order to Docket seeking to foreclose on real property owned by appellant. Appellant filed multiple motions to stay or dismiss the foreclosure action, all of which were denied, and her home was ultimately sold at a foreclosure auction to Deutsche Bank for \$145,000.00 by way of a credit bid. The circuit court entered an order ratifying the sale on October 10, 2019, and the case was referred to an auditor. Following the ratification of the auditor's report, appellant filed a notice of appeal. This Court affirmed the judgment ratifying the auditor's report. *Gross v. Ward*, No. 42, Sept. Term 2020 (filed March 9, 2021). In doing so, we declined to consider appellant's claims that the court had erred in denying her motions to dismiss and overruling her exceptions to the sale because her notice of appeal was untimely as to the court's order ratifying the foreclosure sale. We subsequently affirmed the circuit court's denial of appellant's Maryland Rule 2-535(b) motions to revise the ratification order based on alleged fraud. *Gross v. Ward*, No. 717, Sept. Term 2021 (filed July 1, 2022).

Deutsche Bank received the deed to the property on January 30, 2020. And on February 6, 2020, it filed a motion for judgment awarding possession. Appellant filed an opposition, asserting that the foreclosure sale, and by extension Deutsche Bank’s possession of the deed, was null and void because she had obtained a default declaratory judgment in January 2020, which ordered and declared that the Deed of Trust and Note, as well as the subsequent assignment of the Note to Deutsche Bank, were null and void.

The court did not immediately rule on the motion for judgment of possession. Thereafter, Deutsche Bank intervened in the declaratory judgment action and filed a motion to vacate the declaratory judgment, claiming that appellant had committed extrinsic fraud by filing the action without notifying it, despite her knowing that it had an interest in the litigation as the noteholder and beneficiary of the Deed of Trust. As to the merits, Deutsche Bank further argued that the declaratory judgment action was barred by the doctrine of res judicata because the validity of the Deed of Trust and its subsequent assignment had been conclusively established in a 2010 declaratory judgment action involving the same parties. The circuit court subsequently vacated the default declaratory judgment and, following a hearing in July 2020, dismissed the declaratory judgment action as being barred by res judicata. In doing so, it also found that appellant’s claims that the signatures on the Deed of Trust had been forged were also barred by res judicata. This Court affirmed that judgment on direct appeal. *Gross v. First NLC Fin. Servs., LLC*, No. 581, Sept. Term 2020 (filed August 18, 2021).

On July 6, 2023, more than three years after it was filed, the court granted Deutsche Bank’s motion for judgment of possession. Appellant filed a motion for reconsideration, which was also denied. This timely appeal followed.

The scope of an appeal of an order granting or denying possession is quite 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 which could have been properly raised in a motion to stay or dismiss a foreclosure or in timely filed exceptions. *Id.* Moreover, the ratification of the foreclosure sale is res judicata as to the validity of the foreclosure sale. *See Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008).

In claiming that the court erred in issuing the possession order, appellant first asserts that: (1) the 2020 declaratory judgment “render[ed] the mortgage instruments” and the “transfer to the Purchaser” “null and void[;]” (2) the 2020 declaratory judgment deprived the circuit court of jurisdiction over the foreclosure action; and (3) the Deed of Trust contained forged signatures and was “not duly executed and recorded[.]” But these contentions all relate to the propriety of the underlying foreclosure action. And they were either raised or could have been raised prior to the ratification of the foreclosure sale. Consequently, we do not consider them on appeal.

Appellant further contends that the court erred in not issuing a ruling on the motion for judgment of possession until more than three years after it was filed. However, she cites no authority to support her claim that the court’s failure to rule on the motion earlier

constituted reversible error. And in any event, we note that she never requested a ruling on the motion and has not indicated how she was prejudiced by the court’s delay. Moreover, we find no support for appellant’s contention that the decision to grant the motion was improperly influenced by a judge in a separate civil case that appellant filed against the original lender and title company. Rather, based on our review of the record, it appears that when the existence of the pending motion came to that judge’s attention, he merely noted his concern that the motion had not yet been decided, and indicated that he would look into why that was the case.

Finally, we note that the trial court did not otherwise abuse its discretion in granting Deutsche Bank’s motion. Pursuant to Maryland Rule 14-102(a), “[i]f the purchaser of an interest in real property at a sale conducted pursuant to the Rules in this Title is entitled to possession and the person in actual possession fails or refuses to deliver possession, the purchaser or a successor in interest who claims the right of immediate possession may file a motion for judgment awarding possession of the property.” “To invoke [Rule 14-102], 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.*, 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 Circuit Court.” *Empire Props., LLC v. Hardy*, 386 Md. 628, 651 (2005). In the instant case, Deutsche Bank purchased the property at the foreclosure sale through a credit bid, and the circuit court ratified that sale. It also received the deed to the property from the substitute trustee after the ratification

order was entered. Also, there is no evidence in the record indicating that the property was being occupied by bona fide tenants. Consequently, Deutsche Bank had the right to obtain possession of the property under Maryland Rule 14-102.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**