Circuit Court for Prince George's County
Case No. CAL19-35904

UNREPORTED *

IN THE APPELLATE COURT

OF MARYLAND

No. 1144

September Term, 2023

The Council of Unit Owners, Chelsea Woods Courts Condominiums

v.

Gates BF Investors, LLC, et al.

Berger,
Leahy,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: September 23, 2024

The Council of Unit Owners of Chelsea Woods Courts Condominium ("Chelsea Woods") appeals from an order entered in the Circuit Court for Prince George's County on July 31, 2023, in its case against Gates BF Investors, LLC and twelve other limited liability companies ("Gates" or "Appellees"). The order granted Chelsea Woods's request to stay the circuit court's earlier order entered on February 13, 2023, declaring, among other things, that "the date by which [Chelsea Woods] acting with reasonable expeditiousness, shall obtain an independent WSSC connection is no later than the outside date of July 31, 2023," and that Gates could disconnect the water and sewer lines on August 1, 2023. The order stayed execution of the February 13, 2023 order pending Chelsea Woods's appeal from that order taken on March 8, 2023 (Appeal No. 0053). Chelsea Woods does not challenge that portion of the court's order granting the stay, but rather, seeks to challenge only the bond requirements contained in the order. For the reasons explained below, we must dismiss this appeal for lack of jurisdiction as the order to stay was not a final appealable order.

BACKGROUND

The underlying case concerns a dispute over whether, and when, to cut the sewer and water connection between two properties. *Chelsea Woods Courts Condominium v. Gates BF Investor, LLC*, No. 847, slip op. at *1 (Md. App. July 6, 2022) ("*Chelsea Woods I*"). In *Chelsea Woods I*, we found that Appellees were entitled to sever the connection and directed Chelsea Woods to obtain an independent water and sewer connection with "reasonable expeditiousness." *Id.* at *61. On remand, the trial court ordered that Chelsea

Woods "shall obtain an independent WSSC connection . . . no later than the outside date of July 31, 2023," and that Appellees "are entitled to disconnect their water and sewage lines from [Chelsea Woods's] water and sewage lines on August 1, 2023." Chelsea Woods timely appealed that order on March 8, 2023. *See Chelsea Woods Courts Condominium v. Gates BF Investor, LLC*, No. 53, slip op. at *1 (Md. App. Feb. 1, 2024) ("*Chelsea Woods II*").

On June 21, 2023, while the trial court's order setting a disconnect date was on appeal in *Chelsea Woods II*, Chelsea Woods filed a motion in the trial court for a stay pending appeal. On July 27, 2023, the trial court granted Chelsea Woods's motion in an order entered on July 31, finding "there is a likelihood that [Chelsea Woods] will succeed on the merits[.]" The trial court also ordered:

> [U]ntil the final disposition of [Chelsea Woods's] pending appeal in Case No. 0053, September Term 2023, [Chelsea Woods] shall post a $5,000 bond each month on the first day of the month for the upcoming month, payable to the Court's registry for purposes of compensating [Appellees] for the use of their pipes in the event [Chelsea Woods] does not prevail in its appeal."

Chelsea Woods then filed the instant appeal on August 10, 2023—six months after the "pending appeal" in *Chelsea Woods II* was filed—arguing that the trial court erred by imposing the $5,000-per-month bond.

This Court issued its decision in *Chelsea Woods II* on Feb. 1, 2024. There, we held that the trial court did not abuse its discretion in ordering the earlier August 1, 2023 disconnect date. *Id.* at *34. We determined that at the previous hearing on remand, Chelsea Woods failed to demonstrate that it had moved expeditiously to obtain an independent

water and sewer connection. Furthermore, we observed that "[n]ow one year and seven months after our decision in *Chelsea Woods I* was filed, Chelsea Woods cannot say it has completed the necessary [WSSC service connection permit] application. *Id.* However, recognizing the important interests of the occupants of the condominium units to obtain an independent water and sewer connection, we held that our decision and order would not take effect until ninety days after our opinion was issued. *Id.* at *34-35. The clerk therefore held our mandate ninety days. *Id.*

Before us now is Chelsea Woods's appeal of the stay order entered by the trial court during the pendency of *Chelsea Woods II*—which, as explained above, is no longer pending. Appellees argued in their brief that we should dismiss this appeal because Chelsea Woods, for the third time, disregarded Maryland Rule 8-501, which requires parties to an appeal to confer regarding the contents of the record extract. *Chelsea Woods II*, No. 53, slip op. at 35. However, before we can consider those grounds for dismissal—or the parties' contentions—we must evaluate whether this Court has jurisdiction over the instant appeal.

In a show cause order on August 23, 2024, we directed the parties to answer three questions, including (1) "why this appeal should not be dismissed because the July 27, 2023 order staying the February Order pending appeal does not constitute a final appealable order;" and (2) "why this appeal can still be converted to a motion under Maryland Rule

8-422(c) when the appeal in case No. 0053 is no longer pending."[1] Having considered the parties' responses, we hold that this Court lacks jurisdiction and the instant appeal must be dismissed.

LEGAL FRAMEWORK

Appellate jurisdiction exists only by statute or by rule. *Wash. Suburban Sanitary Comm'n v. Lafarge North America, Inc.*, 443 Md. 265, 274 (2015); *Miller and Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 240 (2010); *see also* Kevin F. Arthur, *Finality of Judgments and Other Appellate Trigger Issues* 1 (3d ed. 2018). Section 12-301 of the Courts and Judicial Proceedings Article of the Maryland Code (1974, 2020 Repl. Vol.) ("CJP"), grants a right of appeal "from a final judgment entered in a civil or criminal case by a circuit court." In general, to qualify as a final judgment, an order "must be intended by the court as an unqualified, final disposition of the matter in controversy," and "adjudicate or complete the adjudication of all claims against all parties." *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989); *see* Md. Rule 2-602(a). An order staying proceedings is not a decision on the merits and, in most instances, is not an appealable final order. *Monarch Academy Balt. Campus, Inc. v. Balt. City Bd. of School Comm'rs*, 457 Md. 1, 48-49 (2017).

In civil cases, there are three exceptions to the general rule that a party can appeal only from a final judgment: (1) appeals from interlocutory orders specifically allowed by

[1] We also directed the parties to show cause "why this appeal should not be dismissed because the order from which [Chelsea Woods] has taken appeal was granted in [Chelsea Woods's] favor[.]"

statute; (2) immediate appeals permitted under Maryland Rule 2-602(b); and (3) appeals from interlocutory rulings allowed under the collateral order doctrine. *In re C.E.*, 456 Md. 209, 221 (2017). Maryland Rule 2-602(b) provides that a trial court may "direct in the order the entry of a final judgment . . . as to one or more but fewer than all of the claims or parties" if the court "expressly determines in a written order that there is no just reason for delay." Under the collateral order doctrine, an order may be appealed if it satisfies four requirements: "(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 unreviewable on appeal from a final judgment." *Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 284-85 (2009).

A stay pending appeal is governed by Maryland Rules 8-422 through 8-424. *See* Md. Rule 2-632(e). Maryland Rule 8-422(a) allows a party to stay the enforcement of a civil judgment from which an appeal is taken by filing a supersedeas bond. Maryland Rule 8-423(a) defines the conditions of a supersedeas bond:

> Subject to section (b) of this Rule, a supersedeas bond shall be conditioned upon the satisfaction in full of (1) the judgment from which the appeal is taken, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, or (2) any modified judgment and costs, interest, and damages entered or awarded on appeal.

Md. Rule 8-423(a).

Maryland Rule 8-423(b) provides for the amount of a supersedeas bond. When the appeal concerns a money judgment, "the amount of the bond shall be the sum that will cover the whole amount of the judgment remaining unsatisfied plus interest and costs,

except that the court, after taking into consideration all relevant factors, may reduce the amount of the bond after making specific findings justifying the amount." Md. Rule 8-423(b)(1). When the appeal concerns the disposition of property, "the amount of the bond shall be the sum that will secure the amount recovered for the use and detention of the property, interest, costs, and damages for delay." Md. Rule 8-423(b)(2). And "[i]n any other case, the amount of the bond shall be fixed by the lower court." Md. Rule 8-423(b)(3).

A party seeking a stay pending appeal may file a motion to reduce the amount of a supersedeas bond. CJP § 12-301.1(b). Maryland Rule 8-422(c) sets forth the procedure for challenging the bond amount set by a lower court. Specifically, it provides:

> After an appeal has been filed, on motion of a party who has first sought relief in the lower court, the Appellate Court, with or without a hearing, may (1) deny the motion; (2) increase, decrease, or fix the amount of the supersedeas or criminal appeal bond; (3) enter an order as to the surety or security on the bond, other security, or the conditions of the stay; or (4) enter an order directing further proceedings in the lower court.

Md. Rule 8-422(c). A motion for a stay satisfies the requirement to seek relief in the lower court. *See O'Donnell v. McGann*, 310 Md. 342, 346, 352-53 (1987) (deeming an application for a stay sufficient under a prior version of the rule); *see also* 2A M.L.E. Appeals § 124.

ANALYSIS

The underlying stay order is not a final judgment. To qualify as a final judgment, an order "must be intended by the court as an unqualified, final disposition of the matter in controversy," and "adjudicate or complete the adjudication of all claims against all parties."

Rohrbeck, 318 Md. at 41. At its core, the matter in controversy in the underlying action is Chelsea Woods's right to use Appellee's water and sewer connection. The trial court's stay order was not intended as an unqualified, final disposition of that question. Nor did the stay order resolve all claims—multiple motions in the underlying case remain pending. Therefore, the stay order is not appealable under CJP § 12-301.

The underlying stay order also does not fit any of the three exceptions to the general rule that only final judgments are appealable. *First*, a party may appeal from an interlocutory order if allowed by statute, *In re C.E.*, 456 Md. at 221, but Chelsea Woods does not point to any statute that would allow an interlocutory appeal from the stay order granted by the trial court. *Second*, Maryland Rule 2-602(b) provides that a trial court may "direct in the order the entry of a final judgment . . . as to one or more but fewer than all of the claims or parties" if the court "expressly determines in a written order that there is no just reason for delay." Here, the trial court made no such determination (and we are not suggesting that it could have). *Third*, interlocutory rulings may be appealed under the collateral order doctrine, which requires that the order be "effectively unreviewable" after a final judgment. *See Addison*, 411 Md. at 284-85 (2009). The stay order is not unreviewable—the amount and conditions of a supersedeas bond can be challenged under Maryland Rule 8-422(c). Because the stay order does not qualify as a final judgment or meet any exceptions, it is not reviewable on appeal.

For Chelsea Woods to challenge the trial court's imposition of the $5,000-per-month bond, the proper procedure would have been to file a motion in this Court under

Maryland Rule 8-422(c). Because the $5,000-per-month bond was filed to stay the enforcement of a civil judgment, it is classified as a supersedeas bond. *See* Md. Rule 8-422(a)(1). Chelsea Woods "sought relief in the lower court," Md. Rule 8-422(c), when it filed its initial motion for a stay pending appeal, see *O'Donnell*, 310 Md. at 346, 352-53. Therefore, after the appeal in *Chelsea Woods II* was filed and Chelsea Woods's motion to stay was granted, the appropriate procedure by which to request this Court to "increase, decrease, or fix the amount of the supersedeas . . . bond" would have been to file a motion under Maryland Rule 8-422(c).[2]

Accordingly, we are without jurisdiction to consider this appeal.

APPEAL DISMISSED; COSTS TO BE PAID BY APPELLANT.

[2] Certainly, once this Court issued the mandate in *Chelsea Woods II*, Chelsea Woods lost the ability to file a motion under Maryland Rule 8-422(c). The governing statute, CJP § 12-301.1(b), requires that the underlying judgment be "pending review" for a party to file a motion to reduce the amount of supersedeas bond.