

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1316

September Term, 2023

HARMEET BAWA, *et al.*

v.

CARRIE M. WARD, *et al.*

Wells, C.J.,
Beachley,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 4, 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 appeal, Harmeet and Jaswant Bawa, appellants, appeal from an order issued by the Circuit Court for Montgomery County ratifying the auditor’s report. On appeal, they claim that the court erred in denying their exceptions to the auditor’s report because the auditor used figures obtained from an invalid Home Affordable Modification Agreement that was not signed by Harmeet Bawa. For the reasons that follow, we shall affirm.

In 2006, appellant Jaswant Bawa executed a promissory note in her individual capacity in the amount of \$681,180.00. The same day, appellants, who are husband and wife, both executed a Deed of Trust, which secured the loan with a mortgage lien against their home. Notably, in the Deed of Trust appellants agreed that Jaswant Bawa could modify the loan in the future without Harmeet Bawa’s consent.

In 2016, Ms. Bawa entered into a Home Affordable Modification Agreement (the modification agreement) with the lender, which among other things lowered the interest rate on the loan and deferred a portion of the loan’s principal balance. As part of the modification agreement, Ms. Bawa agreed that “all terms and provisions of the [original] Loan Documents, except as expressly modified . . . [would] remain in full force and effect” and that nothing in the modification agreement would be “construed to be a satisfaction or release in whole or in part of the obligations contained in the Loan Documents[.]”

After Ms. Bawa defaulted on the modified loan agreement, appellees filed an Order to Docket seeking to foreclose on the property. The property was sold to a third-party bona fide purchaser at a foreclosure auction. The sale was subsequently ratified on April 19, 2023, and the case was referred to an auditor. On August 8, 2023, the auditor filed a report

with the court finding that: (1) the unpaid amount of the debt was \$1,074,910.11, and (2) that after factoring in the amount of the sale, the adjustment of taxes, the costs of expenses of the sale, and interest, the total deficiency was \$459,307.57. Appellants filed exceptions claiming that the report should be stricken because it was “NOT based on the numbers from the Note and Deed of Trust of 2006.” They further asserted that under the terms of the 2006 loan, the principal loan amount could not “exceed more than 115% of the original loan amount,” or \$783,357.

The auditor filed a response, noting that the unpaid amount of the loan in his report included not only the unpaid principal, but also deferred principal and interest in the amount of \$447,213.90 owed under the modification agreement. Appellants then filed supplemental exceptions, claiming that, because the modification agreement was not signed by Mr. Bawa, it was invalid and could not make Mr. Bawa liable for the loan. Appellants further contended that because it was not signed by both of them and was not recorded, it created an unsecured loan and “destroyed the terms of the Note and Deed of Trust signed in 2006.” The court denied appellants’ exceptions and ratified the auditor’s report without a hearing. This appeal followed.

On appeal, appellants contend that the court erred in denying their exceptions to the auditor’s report because “the entire calculation was based on the wrong documentation[.]” Specifically, they assert that the modification agreement was invalid because it was not

signed by Mr. Bawa, and therefore that the auditor should not have relied on the modification agreement to calculate the unpaid amount of the debt.¹ We disagree.

The record indicates that the Deed of Trust, which was signed by both parties, pledged appellants' interest in the property as security for the 2006 promissory note that was signed by Ms. Bawa. Moreover, the Deed of Trust specifically stated that Ms. Bawa could “extend, modify, forebear or make any accommodations with regard to the terms of this Security Instrument or the Note” without Mr. Bawa's consent. Thus, Ms. Bawa and the lender were contractually permitted to modify the terms of that promissory note without Mr. Bawa's agreement or signature.² Here, the modification agreement altered the terms of the original loan, but otherwise provided that it should not be “understood or construed to be a satisfaction or release in whole or in part of the obligations contained in the Loan Documents[.]” Thus, Ms. Bawa's new loan, as set forth in the modification agreement, was secured by the Deed of Trust, and the auditor properly relied on the numbers obtained from that agreement in calculating the unpaid debt in his report.

¹ Appellants also appear to contend that appellees lacked standing to foreclose because the modification agreement somehow extinguished the lien against their property and created an unsecured loan. We need not consider that claim, however, as the foreclosure sale has already been ratified and the “opportunity to file exceptions to the auditor's report is not an additional opportunity to challenge the adjudication of rights in the real property that occurs in the ratification of the foreclosure sale.” *Huertas v. Ward*, 248 Md. App. 187, 206 (2020). In any event, for the reasons set forth herein, this claim is meritless.

² Because Mr. Bawa was not required to sign the modification agreement there is no merit to appellants' claims that the absence of his signature violated the Statute of Frauds or Section 5-104 of the Real Property Article.

Finally, appellants appear to be under the misconception that the ratification of the auditor's report created a deficiency judgment against them. However, a deficiency judgment is only created when a motion for a deficiency judgment is filed pursuant to Maryland Rule 14-216(a), which has not occurred here. And in any event, although the modification agreement created a lien against appellants' jointly titled property, we agree that Mr. Bawa would not be personally liable for the repayment of the loan to the extent that he did not sign the modification agreement.

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