

Circuit Court for Prince George's County
Case No.: CAEF19-30241

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1519

September Term, 2022

ALAN M. LANCASTER

v.

CLARKE, DYSON, MENAPACE

Graeff,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 28, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

** 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 2019, Clarke, Dyson, Menapace, appellee, acting as Substitute Trustee, filed an Order to Docket, in the Circuit Court for Prince George’s County, seeking to foreclose on real property owned by Alan M. Lancaster, appellant. Lancaster filed a motion to stay or dismiss the foreclosure action, which was denied, and his property was ultimately sold at a foreclosure auction on June 1, 2022. Thereafter, Lancaster filed an “Objection to Ratification,” which the circuit court denied under Rule 14-305(d)(1) for failure to raise, with particularity, any procedural irregularity as to the sale. Lancaster then filed a Motion for Reconsideration, which the circuit court also denied. The sale was ratified, and this appeal followed.

On appeal, Lancaster raises six issues, which we have rephrased and rearranged: (1) that the Substitute Trustee was not the titleholder of the mortgage; (2) that the titleholder of a mortgage is required to produce the original note to prove ownership, which the Substitute Trustee did not do; (3) that his bankruptcy discharged the debt, thereby preventing foreclosure; (4) that fraud was committed by allowing the mortgagee to purchase the property at the sale; (5) that outstanding discovery and sanctions motions prevented ratification of the sale; and (6) that the transfers of the note were not registered on the Mortgage Electronic Registration System (MERS). Of these issues, Lancaster raised only the first four in the circuit court prior to this appeal. The last two issues, therefore, are not properly before us, and we will not consider them. *See* Md. Rule 8-131(a). For the following reasons, we find that the remaining issues, though preserved, are without merit. We will therefore affirm.

Lancaster first contends that the Substitute Trustee lacked standing because they were not the titleholder of the mortgage. The record, however, reflects that the Substitute Trustee complied with the requirements of Maryland Rule 14-207 when they filed the Order to Docket. The Order contained, among other things, (1) a copy of the Note supported by an affidavit that it was a true and accurate copy, (2) a copy of the Deed of Trust and assignment supported by an affidavit that it was a true and accurate copy and certifying ownership of the debt instrument, and (3) an affidavit that the Substitute Trustee had the right to foreclose and a statement of the debt remaining due and payable. *See* Md. Rule 14-207(b); *see also Anderson v. Burson*, 424 Md. 232, 236 n.6 (2011). The Substitute Trustee thus demonstrated that they had standing to proceed with the foreclosure action. Further, Rule 14-207(b)(1) expressly permitted the use of a certified copy of the Note instead of the original. Thus, Lancaster’s second contention also lacks merit.

Lancaster next contends that his debt was discharged after his bankruptcy filing, so the Substitute Trustee could not foreclose on the property. But a bankruptcy discharge releases the debtor from only *personal* liability for pre-petition debts. *See* 11 U.S.C. § 524(a)(1). The discharge does not affect *in rem* claims, however. *See Rhoads v. Sommer*, 401 Md. 131, 158 (2007). The right to foreclose on mortgaged real property is not extinguished. *See Johnson v. Home State Bank*, 501 U.S. 78, 84 (1991) (holding that, in a case involving a mortgage on real property, a bankruptcy discharge “extinguishes only one mode of enforcing a claim—namely, an action against the debtor *in personam*—while leaving intact another—namely, an action against the debtor *in rem*.”). Thus, Lancaster’s third contention also lacks merit.

Finally, Lancaster contends that it was fraud to permit the creditor to “credit bid” at the foreclosure sale. Not so. In Maryland, “a mortgagee may purchase the mortgage property at a foreclosure sale by applying the mortgage debt to the purchase price, rather than by paying with cash or a certified check.” *Citibank Fed. Sav. Bank v. New Play Realty Tr.*, 131 Md. App. 44, 52 (2000). Therefore, because the circuit court did not err in denying Lancaster’s motions and objections, we affirm its judgments.

**JUDGMENTS OF THE CIRCUIT
COURT FOR PRINCE GEORGE’S
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**