Circuit Court for Prince George's County
Case No. CAL21-13611

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1854

September Term, 2023

GARY CARROLL

v.

VICTOR AKINJISE

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 1, 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.

Following a bench trial in the Circuit Court for Prince George's County, the court entered a judgment against Gary Carroll, appellant, and in favor of Victor Akinjise, appellee, in the amount of $30,175.00. Appellant now appeals, raising a single issue: whether the court abused its discretion in denying his motion to vacate that judgment. For the reasons that follow, we shall affirm.

Appellant contracted with Adolphus Grant, a real estate agent working for Re/Max Allegiance, to sell real property located at 13501 United Lane, Bowie, Maryland. The home was purchased by appellee. Shortly after the sale, appellee filed a complaint for breach of contract, fraud, and conspiracy against appellant, Grant, and Re/Max, alleging that they had failed to inform him that a tenant resided at the property, failed to ensure that the tenant was no longer living in the property at the time of settlement, and intentionally removed items from the property that were supposed to be included in the sale prior to settlement. Appellee's claims against Grant and Re/Max were subsequently dismissed for insufficient service of process.

The case proceeded to a bench trial, which appellant did not attend. The court ultimately found appellant liable for breach of contract and entered a judgment against him, in the amount of $30,175.00. Eight days after the judgment was entered, appellant filed a timely motion to vacate, wherein he alleged that the last correspondence he had received from the court prior to trial was a Notice of Contemplated Dismissal, which caused him "to believe th[e] matter was pending termination." He further alleged that appellee's claims against him were "patently false[,]" and that appellee had "not presented any proof showing that [he] owe[d] [appellee] $30,0000 dollars or any other amount." The court

denied the motion, finding that the scheduling order with the trial date had been mailed to appellant's last known address and that the Notice of Contemplated Dismissal had been directed solely to Re/Max "for lack of service, and not [appellant] who has not challenged service or service of process in this case."

On appeal, appellant contends that the court erred in denying his motion to vacate the judgment because, although he was mistaken, it was his understanding "that [he] was included in this dismissal contemplation and thought that the case would be dismissed for the entire defendant parties." He further alleges that "important information was not heard by the court in its ruling" and that, had the court heard that information, it would not have entered a judgment against him.[1]

A trial court's decision to deny a motion to alter or amend its judgment is reviewed pursuant to Maryland Rule 2-534 for an abuse of discretion. *See Schlotzhauer v. Morton*, 224 Md. App. 72, 84 (2015). The circuit court "'has broad discretion whether to grant motions to alter or amend filed within ten days of the entry of judgment[.]'" *Id.* (quoting *Benson v. State*, 389 Md. 615, 653 (2005)). Thus, our examination is "typically limited in scope." *Id.* (citing *Cent. Truck Ctr., Inc. v. Cent. GMC, Inc.*, 194 Md. App. 375, 397 (2010)). A court abuses its discretion when "'no reasonable person would take the view

[1] Appellant does not specifically contend that the court erred in entering the underlying judgment against him based on the evidence that was presented at the hearing. In any event, such a claim would not be preserved as appellant did not attend the hearing and, therefore, did not make a motion for judgment at the close of the evidence. *See Baltimore Cnty. v. Quinlan*, 466 Md. 1, 15 (2019) ("The consequence of failing to make a motion for judgment is that the party claiming insufficiency of evidence fails to preserve that issue for appeal.").

adopted by the [ ] court' or where the court acts 'without reference to any guiding rules or principles.'" *Johnson v. Francis*, 239 Md. App. 530, 542 (2018) (quoting *Powell v. Breslin*, 430 Md. 52, 62 (2013)). Reversal of the lower court's decision is warranted in cases where there is "both an error and a compelling reason to reconsider the underlying ruling." *Schlotzhauer*, 224 Md. App. at 85.

Following a pre-trial conference, the court mailed a copy of the scheduling order to appellant's address of record, which provided that the Alternative Dispute Resolution (ADR) Conference had been set for July 14, 2023, and the trial date had been set for August 31, 2023. However, appellant failed to appear at both the ADR Conference and at trial. In his motion to vacate appellant asserted that he believed the matter was going to be dismissed because the "last correspondence that [he] received from [the] Court regarding [the case] was a Notice of Contemplated Dismissal." But the court found that this did not warrant vacating the judgment, as the Notice of Contemplated Dismissal clearly stated that it only applied to Re/Max, and not to appellant. In light of the unambiguous language in the Notice of Contemplated Dismissal we cannot say that "no reasonable person" would have taken the view adopted by the court. This is especially true given that appellant did not deny that he had received the scheduling order and did not take any steps to confirm with the court that the case had been dismissed prior to the scheduled trial date. Moreover, other than generally claiming in the motion to vacate that the appellee's claims were "false," appellant did not indicate what evidence he would have sought to introduce had he

been present at the trial.[2] Consequently, we cannot say that the court abused its discretion in denying appellant's motion to vacate the judgment.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[2] In his brief, appellant refers to certain evidence obtained from an investigation performed by the Maryland Real Estate Commission following a complaint by appellee against Mr. Grant. However, appellant did not submit this evidence as part of his motion to vacate and, therefore, we may not consider it for the first time on appeal.