

Circuit Court for Anne Arundel County
Case No. C-02-CV-23-000752

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2004

September Term, 2023

JEAN VENEL ALADIN

v.

KOONS OF ANNAPOLIS, INC.

Beachley,
Albright,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 8, 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.

Jean Venel Aladin, appellant, purchased a 2011 Toyota Sienna from Koons of Annapolis, Inc., appellee, for \$10,615.88. In April 2023, he filed a complaint in the Circuit Court for Anne Arundel County, claiming that appellee had used its “economic power to defraud [him during the] car sale transaction by forcing [him] to accept fake services against his will for a very large amount of money[.]” Based on the existence of an arbitration agreement in the purchase contract, appellee filed motions to either dismiss the case or to compel arbitration. On July 14, 2023, the court entered an order granting the motion to compel arbitration. Later the same day, it entered a second order setting a hearing date on the motion to dismiss. Because the court granted its motion to compel arbitration, appellee subsequently withdrew its motion to dismiss, and the hearing was cancelled.

On November 2, 2023, appellant filed a “motion to request that the [] case proceeds in the court of law” (motion to proceed), wherein he contended that the court had erred in ordering arbitration because there was no binding arbitration agreement between the parties. He further claimed that the case should proceed in court, rather than arbitration, because the court’s order setting the hearing on the appellee’s motion to dismiss had superseded its order granting its motion to compel arbitration. The court denied the motion to proceed without a hearing on November 15, 2023. Appellant filed his notice of appeal on December 14, 2023.

On appeal appellant contends that the court erred in granting the motion to compel arbitration and in denying his motion to proceed. Appellee disagrees and has filed a motion to dismiss the appeal as having been untimely filed. For the reasons that follow, we shall deny the motion to dismiss and affirm the judgment of the circuit court.

Maryland Rule 8-202 provides that a party must file his or her notice of appeal “within 30 days after entry of the judgment or order from which the appeal is taken.” That 30-day deadline may be tolled when a motion to alter or amend judgment under Md. Rule 2-534 is filed within ten days of the entry of judgment. *See* Md. Rule 8-202(c).

Here, the court entered its final judgment compelling arbitration on July 14, 2023. *See Ford v. Antwerpen Motorcars, Ltd.*, 443 Md. 470, 476 (2015). And appellant did not file a motion to alter or amend the judgment within 10 days of that order being entered. Appellant therefore had until August 14, 2023, to file a notice of appeal from that judgment. Because he did not file his notice of appeal until December 14, 2023, it was untimely as to the court’s order compelling arbitration. Consequently, the validity of that order is not properly before us in this appeal.

Because appellant did not timely appeal from the order compelling arbitration, appellee has filed a motion to dismiss the appeal. However, appellant’s notice of appeal was timely as to the court’s denial of his motion to proceed. Therefore, we shall deny the motion to dismiss. Nevertheless, we are persuaded that there is no merit to appellant’s claim that the court erred in denying his motion to proceed. We explain.

Appellant’s motion to proceed was filed more than 30 days after the final judgment compelling arbitration was entered. Therefore, to the extent he was requesting the court to revise that judgment, the court could only do so pursuant to Maryland Rule 2-535(b). *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 366 (2013) (noting that after 30 days have passed after the entry of a final judgment, a court may only modify its judgment upon a motion filed pursuant to Rule 2-535(b)). To vacate or modify an enrolled judgment pursuant to

Rule 2-535(b), a movant must establish the existence of either fraud, mistake, or irregularity. But appellant’s motion to proceed did not mention Rule 2-535(b). Moreover, none of appellant’s claims raised in that motion, even if true, demonstrated the existence of fraud, mistake, or irregularity, as those terms are used in Rule 2-535(b). *See generally Peay v. Barnett*, 236 Md. App. 306, 321 (2018) (“Maryland courts have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity, in order to ensure finality of judgments.” (quotation marks and citation omitted)).¹ Consequently, the court did not err in denying his motion to proceed. As that is the only order properly before us on appeal, we shall affirm.

**APPELLEE’S MOTION TO DISMISS
DENIED. JUDGMENT OF THE CIRCUIT
COURT FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

¹ We note that there is no merit to appellant’s claim that the court’s order setting a hearing date on appellee’s motion to dismiss overruled its prior order compelling arbitration.