

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2016

September Term, 2023

DORIS N. MONGO, *et al.*

v.

LAURA H.G. O’SULLIVAN, *et al.*

Berger,
Shaw,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 5, 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.

Laura H.G. O’Sullivan and Michael T. Cantrell, appellees, acting as substitute trustees, filed an Order to Docket foreclosure in the Circuit Court for Montgomery County seeking to foreclose on real property owned by Moses Mongo and Doris N. Mongo, appellants.¹ The property was sold at a foreclosure auction on June 15, 2023, and thereafter appellants filed timely exceptions to the sale. On July 27, 2023, the court entered an order denying appellants’ exceptions and ratifying the foreclosure sale. The same day the court referred the case to an auditor.

In October 2023, the foreclosure purchaser accepted a Trustees’ Deed for the Property and filed a motion for judgment awarding possession. Appellants did not file an opposition, and a judgment awarding possession was entered on December 13, 2023. Appellants filed a notice of appeal two days later.

In November 2023, the auditor filed his report with circuit court, which accounted for the proceeds from the foreclosure sale and stated a deficiency in the proceeds of the sale less than the amount required to pay the debt. Appellants filed exceptions to the auditor’s report, which generally challenged appellees’ right to foreclose but did not address the auditor’s report. The court denied the exceptions and ratified the auditor’s report on December 20, 2023. Appellants appealed from that judgment on December 27, 2023, and the appeal was consolidated with their previous appeal from the judgment awarding possession of the property. On appeal, appellants contend that the lender intentionally breached the terms of the original loan agreement, that a 2016 modification

¹ Although the notice of appeal and brief list Doris N. Mongo as an appellant, we note that there is a death certificate attached to the brief indicating that she is deceased.

to the loan agreement was invalid, and that the lender wrongfully refused to accept loan payments from 2020 until 2022. For the reasons that follow, we shall affirm.

Appellants’ contentions on appeal relate to the validity of the underlying foreclosure sale, not the validity of the auditor’s report or the judgment awarding possession to the foreclosure purchaser. However, in a foreclosure action, an order ratifying a foreclosure sale constitutes the “final judgment as to any rights in the real property, even if the order refers the matter to an auditor to state an account.” *Huertas v. Ward*, 248 Md. App. 187, 205 (2020). That is because the “process of referring the case to an auditor and resolving any exceptions to the auditor’s report is collateral to the foreclosure proceeding, and . . . does not affect the finality of an order ratifying the foreclosure sale.” *Id.* at 206. Rather, “[w]hen a court adjudicates exceptions to an auditor’s report, its decision represents a second judgment,” relating only to the expenses of the sale and the distribution of the proceeds which must be separately appealed. *Id.* Thus, for this court to consider the merits of an order ratifying a foreclosure sale, an appeal must be filed within 30 days from the entry of that order. *See* Maryland Rule 8-202(a).

Here, the court entered the order ratifying the foreclosure sale in June 2023. As such, appellants’ notices of appeal were untimely as to that order, and they may not challenge the validity of the foreclosure sale in this appeal. Rather, the scope of the appeal is limited to whether the court erred in ratifying the auditor’s report, and in granting the motion for judgment of possession, the only orders that were timely appealed.

However, appellants do not raise any issues with respect to those orders in their brief. Therefore, we need not consider them on appeal. *Klauenberg v. State*, 355 Md. 528,

552 (1999) (stating that “arguments not presented in a brief or not presented with particularity will not be considered on appeal”). In any event, we note that the contentions raised in appellants’ exceptions to the auditor’s report were not set forth with particularity, as required by Maryland Rule 2-543(g). Moreover, those exceptions challenged the validity of the foreclosure sale rather than the findings of the auditor. And, we have held that 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*, 248 Md. App. at 206. Therefore, the court did not err in denying appellants’ exceptions to the auditor’s report. Moreover, because appellants did not file an opposition to the motion for judgment of possession, we can also discern no error in the court’s decision to grant that motion.

Because appellants have not demonstrated that the court erred in either ratifying the auditor’s report or granting the motion for judgment of possession, the only orders that are properly before us in this appeal, we shall affirm those judgments.

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