

Circuit Court for Montgomery County
Case No.: 382518V

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2296

September Term, 2023

KAMAL MUSTAFA

v.

CARRIE M. WARD, *et al.*

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

JJ.

PER CURIAM

Filed: November 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 October 2013, the appellees, acting as Substitute Trustees,¹ filed an Order to Docket, in the Circuit Court for Montgomery County, seeking to foreclose on real property owned by Kamal Mustafa, appellant. The property was ultimately sold to TransAm Holding, LLC, a Delaware company, at a foreclosure auction on May 14, 2014, and the sale was ratified three months later. Mustafa remained in possession of the property for the next nine years, however, while he pursued a series of appeals to this Court and initiated bankruptcy proceedings in the United States Bankruptcy Court for the District of Maryland.

In the meantime, the deed to the property was transferred to TransAm in April 2020. Soon after, Mustafa formed two LLCs in Maryland that, although entirely unrelated to TransAm, are almost identically named.² Eventually on August 28, 2023, once Mustafa’s appeals were exhausted and his bankruptcy dismissed, TransAm moved for possession of the property. After a hearing, the circuit court entered a judgment of possession on February 1, 2024. This appeal followed.

The scope of an appeal from an order granting or denying possession is quite limited. *See Manigan v. Burson*, 160 Md. App. 114, 119 (2004). “The appeal must pertain to the issue of possession . . . and may not be an attempt to relitigate issues that were finally resolved in a prior proceeding.” *Id.* A party may not raise issues in an appeal of an order granting possession that could have been properly raised in a motion to stay or dismiss a foreclosure or in timely filed exceptions. *Id.* More, the ratification of the foreclosure sale

¹ Substitute Trustees are Carrie M. Ward, Howard N. Bierman, and Jacob Geesing.

² Mustafa has tried this maneuver before without success. *See Mustafa v. Omaha Prop. Manager, LLC*, No. 796, Sept. Term, 2022 (filed Oct. 4, 2024) (*per curiam*).

is res judicata as to the validity of the foreclosure sale. *See Jones v. Rosenberg*, 178 Md. App. 54, 72 (2008).

“To invoke [Maryland Rule 14-102], the purchaser must show that (1) the property was purchased at a foreclosure sale, (2) the purchaser is entitled to possession, and (3) the person in possession fails or refuses to relinquish possession.” *G.E. Cap. Mortg. Servs., Inc. v. Edwards*, 144 Md. App. 449, 457 (2002). “[G]enerally, a purchaser of property at a foreclosure sale may be entitled to seek possession of that property when the sale is ratified by the [c]ircuit [c]ourt.” *Empire Props., LLC v. Hardy*, 386 Md. 628, 651 (2005).

Mustafa’s sole argument on appeal is that TransAm was not entitled to possession. He contends that, because TransAm is a Delaware LLC, it “legally doesn’t exist” in Maryland. According to Mustafa, TransAm is not entitled to possess the property, or even move for possession, without first registering with the State to do business here. Instead, Mustafa claims, one of his Maryland-registered copycat entities is the owner of the property entitled to possession because its name is on the deed. Not so.

Purchasing property at a foreclosure sale is not “doing business in this State[.]” Md. Code Ann., Corps. & Ass’ns § 4A-1009(a)(6). Neither is holding a property to later sell or rent it.³ Md. Code Ann., Corps. & Ass’ns § 4A-1009(a)(7). And neither is “[m]aintaining, defending, or settling an action, suit, claim, [or] dispute,” such as a motion for judgment of possession. Md. Code Ann., Corps. & Ass’ns § 4A-1009(a)(1). Accordingly, TransAm was not required to register with the State, and Mustafa’s argument lacks merit.

³ Nor would it be doing business to actually rent or sell the property. Md. Code Ann., Corps. & Ass’ns § 4A-1009 (a)(7) & (8).

At bottom, TransAm purchased the property at a valid foreclosure sale, and the circuit court ratified that sale. TransAm then received the deed to the property after the ratification order was entered. And there is no evidence in the record indicating that the property was being occupied by bona fide tenants. As a result, TransAm had the right to obtain possession of the property under Maryland Rule 14-102. The circuit court thus did not err or abuse its discretion in awarding the company a judgment of possession.

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