COURT OF APPEALS OF VIRGINIA

Record No. 0523-25-3

BRUCE A. BUREN, ET AL.
v.
LAKEVIEW LOAN SERVICING, LLC

Present: Judges Causey, Raphael and Duffan
Argued at Lexington, Virginia

Opinion Issued October 13, 2026[*]

FROM THE CIRCUIT COURT OF ROCKBRIDGE COUNTY
Christopher B. Russell, Judge

James V. Doss, III, for appellants.

Ronald J. Guillot, Jr. (Samuel I. White, P.C., on brief), for appellee.

MEMORANDUM OPINION BY
JUDGE DORIS HENDERSON CAUSEY

Bruce and Maria Buren appeal the circuit court's order granting Lakeview Loan Servicing, LLC summary judgment in their dispute over possession of a foreclosed home. The Burens contend that the circuit court lacked subject matter jurisdiction to grant summary judgment. We disagree and affirm the circuit court.

[*] This opinion is not designated for publication. *See* Code § 17.1-413(A).

BACKGROUND[1]

In 2018, the Burens purchased three parcels of land and a home in Rockbridge County. They partially financed the purchase with a $367,860 loan guaranteed by the Government National Mortgage Association and secured by a Veterans Administration deed of trust. The Administration assigned the security instrument to Lakeview, the loan servicer. Following a foreclosure sale in October 2022, a trustee's deed transferred ownership of the home to Lakeview. Lakeview then transferred title to the Administration in April 2023, who reconveyed ownership back to Lakeview by a quitclaim deed in October 2023.

In September 2023, the Burens sued Lakeview, the substitute trustee, and the Administration; they served only Lakeview with their complaint. They challenged Lakeview's title, claiming that Lakeview had agreed to a forbearance of their loan payments. According to the Burens, the forbearance agreement deferred their missed payments to the end of the loan, allowing them to resume payments at the end of the COVID-19 pandemic. They also claimed that they had not received notice of the foreclosure sale and that the trustee's deed only assessed the value of one of the three parcels. For these reasons, they claimed the foreclosure sale was void. In the fall of 2024, the circuit court sustained Lakeview's demurrer and dismissed the suit against Lakeview with prejudice. The lawsuit remained pending against the unserved defendants.

In October 2024, Lakeview sought possession of the home and provided the Burens with a three-day notice to vacate. After the notice expired, the Burens continued to possess the home. Lakeview then filed an unlawful detainer action in the General District Court (GDC) of Rockbridge

[1] "Under well-settled principles, we review the record applying the same standard a trial court must adopt in reviewing a motion for summary judgment, accepting as true those inferences from the facts that are most favorable to the [Burens], unless the inferences are forced, strained, or contrary to reason." *Neal v. Sec'y of the Dep't of Veterans Affairs*, 79 Va. App. 1, 3-4 (2023) (quoting *Fultz v. Delhaize Am., Inc.*, 278 Va. 84, 88 (2009)).

County. The GDC entered judgment for Lakeview, awarding it possession of the property. The Burens timely appealed to the circuit court.

In circuit court, Lakeview moved for summary judgment. Lakeview argued that it had a right to possession, as shown by the duly recorded quitclaim deed, its dismissal from the Burens' lawsuit, and the notice to vacate. Lakeview also argued that the Burens had not responded to Lakeview's requests for admissions nor objected to Lakeview's exhibits. The Burens argued that the circuit court lacked jurisdiction to grant summary judgment because their suit challenging title remained pending against the unserved defendants. The circuit court granted summary judgment to Lakeview, awarding it possession of the property. The Burens appeal.

ANALYSIS

Subject matter jurisdiction "is a question of law we review de novo." *Parrish v. Fannie Mae*, 292 Va. 44, 49 (2016) (quoting *Glasser & Glasser, PLC v. Jack Bays, Inc.*, 285 Va. 358, 369 (2013)). General district courts have statutory authority to try actions for unlawful detainer, but they have no authority to try issues of title. *Id.* at 50. "[W]hen exercising its appellate jurisdiction in a de novo appeal, the circuit court's subject matter jurisdiction is derivative of the court not of record from which that appeal is taken." *Id.* at 49. Thus, a circuit court also has no authority to resolve issues of title in an unlawful detainer action appealed from general district court. *Id.*

Yet issues of title may arise in unlawful detainer actions. "An unlawful detainer is an action brought against 'a defendant who lawfully entered into possession of real property but whose right to lawful possession has since expired.'" *Neal v. Sec'y of the Dep't of Veterans Affairs*, 79 Va. App. 1, 5-6 (2023) (quoting *Parrish*, 292 Va. at 50). The out-of-possession plaintiff must show that he "has a superior right of possession to the defendant." *Id.* at 6. When the unlawful detainer is based on a foreclosure sale, the plaintiff's right of possession is acquired

after the defendant's entry and is "derivative of the title received at the foreclosure sale." *Id.* at 6, 8. Generally, a foreclosure-purchaser plaintiff establishes a right of possession by producing a trustee's deed. *Id.* at 6. But as the Supreme Court explained in *Parrish*, a defendant alleging sufficient facts challenging the validity of the trustee's deed may rebut the plaintiff's prima facie case for possession. 292 Va. at 51 n.2. In that situation, the "general district court's lack of subject matter jurisdiction to try title supersedes its subject matter jurisdiction to try unlawful detainer[,] and the court must dismiss the case without prejudice." *Id.* at 52.

Even so, not "any naked allegation" of invalidity places "the deed in doubt, thereby divesting the general district court of jurisdiction." *Id.* The allegation must be legitimate. *Id.* To be legitimate, "the allegations must be sufficient to survive a demurrer had the homeowner filed a complaint in circuit court seeking such relief." *Id.* The general district court may assess whether the defendant has made a legitimate allegation. *Id.* at 51 n.2. If the allegations are insufficient, then subject matter jurisdiction is retained, and the unlawful detainer case may be resolved on the merits. *Id.* at 53.

The Burens contend that Lakeview was not entitled to summary judgment because the circuit court lacked subject matter jurisdiction to adjudicate the unlawful detainer while their lawsuit challenging title remained pending.[2] However, the Burens' argument to this effect is merely conclusory. "We have many times pointed out that on appeal the judgment of the lower court is presumed to be correct and the burden is on the appellant to present to us a sufficient record from

[2] In a separate assignment of error, the Burens assert that the taking of their private property violated due process. An opening brief must contain "[t]he standard of review and the argument (including principles of law and authorities) relating to each assignment of error." Rule 5A:20(e). "Unsupported assertions of error 'do not merit appellate consideration.'" *Bartley v. Commonwealth*, 67 Va. App. 740, 744 (2017) (quoting *Jones v. Commonwealth,* 51 Va. App. 730, 734 (2008)). The Burens provided no argument on brief to support the due process claim, and we find that failure significant. *Jay v. Commonwealth*, 275 Va. 510, 520 (2008). As a result, the due process argument is waived, and we limit our analysis to the jurisdictional question. *Winters v. Winters*, 73 Va. App. 581, 597 (2021).

which we can determine whether the lower court has erred in the respect complained of." *Bon Secours-DePaul Med. Ctr., Inc. v. Rogakos-Russell*, 304 Va. 1, 16 n.7 (2025) (quoting *Justis v. Young*, 202 Va. 631, 632 (1961)). Relatedly, under Rule 5A:20(e), "[t]he opening brief of appellant must contain . . . [t]he standard of review and the argument (including principles of law and authorities) relating to each assignment of error."

Here, the Burens provide no argument and cite no cases or principles of law that explain or bear on the potential relevance of *Parrish* on a simultaneously pending suit for declaratory judgment against unserved parties. The brief merely asserts that *Parrish* "still controls here" because the appellants' "complaint for declaratory judgment [has not] been dismissed as to all defendants." But they provide no explanation for why the fact that this complaint remains pending against some defendants means that allegations contesting the trustee's deed "sufficient to survive a demurrer" have been made. *Parrish*, 292 Va. at 52. It is not clear from the Burens' argument why these particular, unserved complaints should be regarded as "sufficient to survive a demurrer." *Id.* And the Burens make no argument—making the point impossible to reach on this appeal—that would elucidate the potential significance of *any* unserved complaint under the *Parrish* standard.

The Burens, bearing the burden of establishing error on appeal, have not provided this Court with sufficient argument to persuade us that the trial court erred in holding that the general rule in *Parrish* controlled. They have not shown that the trial court was wrong in holding that they failed to make allegations contesting the trustee's deed that are "sufficient to survive a demurrer." *Parrish*, 292 Va. at 52. *See Bon Secours-DePaul Med. Ctr.*, 304 Va. at 16 n.7 (noting the appellant bears the burden of showing both where in the record and how the lower court erred). Therefore, we will affirm the judgment of the circuit court.

CONCLUSION

The appellants have shown no error in the circuit court's exercise of jurisdiction over the unlawful detainer action. We affirm the circuit court's award of summary judgment to Lakeview.

Affirmed.