

## Maryland Court of Special Appeals: When A Foreclosure Sale Is Challenged

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Noting that “in mortgage foreclosure law, as elsewhere, society’s interest in finality and repose is a weighty one,” in *Devan v. Bomar* the Maryland Court of Special Appeals ruled against a homeowner and found that her post-sale foreclosure challenge was too late. Mr. and Mrs. Bomar owned their marital home as tenants by the entireties, but only Mr. Bomar signed the promissory note secured against the home. After Mr. Bomar died, the lender, PNC Bank, rejected Mrs. Bomar’s monthly mortgage payments because her name was not on the loan. She ultimately went into default, and the bank foreclosed on the property. After the sale was consummated, Mrs. Bomar filed suit, arguing that under federal law she was protected from the bank’s due-on-sale option to foreclose, and the trial court agreed and set aside the foreclosure sale. In a scholarly opinion by retired Judge Moylan, the Court of Special Appeals reversed. Surveying foreclosure law, the Court held that challenges to the legitimacy of a foreclosure sale, as Mrs. Bomar was doing, needed to be brought prior to the sale. After the sale, the only challenges allowed would concern procedural irregularities in the sale itself. The Court also considered, in dicta, whether certain allegations of fraud could be brought post-sale, opining that “the rationale [behind the ultimate decision] may inhere not in Socrates but in Yogi Berra: ‘When you come to a fork in the road, take it.’” [A link to the October 1, 2015 published opinion is here.](#)

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