

THIRD DIVISION  
March 16, 2011

No. 1-10-1575

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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NATIONSTAR MORTGAGE LLC,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 09 CH 11459
	)	
PAVEL MORALES RAMIREZ,	)	
	)	
Defendant-Appellant	)	Honorable
	)	Thomas R. Mulroy, Jr.,
(Unknown Owners and Nonrecord Claimants,	)	Judge Presiding.
Defendants).	)	

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JUSTICE STEELE delivered the judgment of the court.

Presiding Justice Quinn and Justice Neville concurred in the judgment.

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**O R D E R**

**HELD:** Where defendant failed to provide a sufficient record to show that the circuit court erred in entering a judgment for foreclosure and judicial sale of his property, the circuit court's order was affirmed.

In this mortgage foreclosure action, *pro se* defendant Pavel Morales Ramirez appeals from an order of the circuit court

approving and confirming the judicial sale of his real property. On appeal, defendant contends that plaintiff, Nationstar Mortgage LLC, falsely appeared as the creditor in this case and unlawfully foreclosed on his property. Defendant further contends that plaintiff intentionally concealed the mortgage's foreclosure clauses from him and took his property without giving him notice of its "power of sale," violating defendant's right to due process. We affirm.

Documents contained in the record show that on February 22, 2007, defendant secured a \$345,000 mortgage for a Chicago property and agreed to make monthly payments of \$2,209.07, due on the first day of each month. On March 13, 2009, plaintiff filed a complaint to foreclose on that mortgage alleging that defendant had failed to make his monthly payments as of October 1, 2008, or for six months. Plaintiff alleged that the principal balance due was \$339,256.28, plus interest, costs, advances, and fees. Plaintiff also stated that it was bringing the foreclosure action as the mortgagee pursuant to section 15-1208 of the Illinois Code of Civil Procedure (Code) (735 ILCS 5/15-1208 (West 2008)). A copy of the mortgage, attached to the complaint, states that the lender and its successors have the right to foreclose and sell the property if defendant defaulted on his payments.

Multiple attempts to serve defendant with a mortgage foreclosure summons at the property's address were unsuccessful.

In April 2009, it was discovered that defendant was an absentee owner who was renting the house to another family. The current resident telephoned defendant for the process server. Defendant allegedly informed the server that he no longer owned the home, but refused to name the new owner and referred the server to the recorder's office. Plaintiff then proceeded with service by publication pursuant to section 2-206 of the Code (735 ILCS 5/2-206 (West 2008)). In June 2009, plaintiff moved for a default judgment of foreclosure and sale against defendant, who had failed to appear or answer the complaint. Defendant then appeared in court. The circuit court treated plaintiff's motion as a motion for summary judgment. On October 14, 2009, the circuit court granted summary judgment in favor of plaintiff and entered a judgment for foreclosure and judicial sale of defendant's property.

Two days later, defendant filed a *pro se* "Affidavit of Negative Averment, Opportunity to Cure and Counterclaim," arguing that he did not have a contract with plaintiff and that plaintiff had three days to cure its "dishonor" by dismissing its claims against him. Defendant further asserted that, if plaintiff failed to meet the "requirements" stated in his "Opportunity to Cure," then plaintiff would owe him several million dollars in damages for fraud, racketeering, theft of public funds, dishonor in commerce, and several other such claims. In addition,

defendant denied the allegations in plaintiff's complaint and claimed that the mortgage and promissory note were void because they were not supported by "lawful consideration." Defendant stated that he was "seeking a remedy in Admiralty." Defendant filed this same document with the Cook County Recorder of Deeds.

Plaintiff moved to strike defendant's pleading from the court record and expunge it from the Recorder of Deeds records arguing that it was nonsensical with no basis in law or fact. The circuit court granted plaintiff's motion.

Defendant's real property was sold at public auction on March 5, 2010. On May 3, 2010, the circuit court entered an order approving and confirming the sale of the premises. The order expressly stated that all notices required by the Code were properly given, and that the sale was fairly and properly made. The order further stated that the successful bidder was entitled to possession of the property 30 days after entry of the order, and that the Cook County Sheriff was directed to evict defendant from the property at that time. A handwritten notation on the order states that defendant appeared in court and indicated that he would not be leaving the subject property. On June 2, 2010, defendant filed a 98-page notice of appeal.

On appeal, defendant contends that plaintiff falsely appeared as the creditor in this case and unlawfully foreclosed on his property because it was not the lawful lien holder and was

not a genuine holder in due course of the original promissory note. Defendant further contends that plaintiff intentionally concealed the mortgage's foreclosure clauses from him and took his property without giving him notice of its "power of sale," violating his right to due process. Defendant also claims that using legalese in documents constitutes "theft by unlawful conversion" and that the documents in this case are evidence of plaintiff's felonious acts. In addition, defendant asserts that the mortgage is paid in full and that plaintiff is attempting to fraudulently convert his real property through a conspiracy involving numerous parties unknown to defendant.

Plaintiff first contends that this court should strike defendant's brief for violating Supreme Court Rule 341 (Ill. S. Ct. R. 341 (eff. July 1, 2008)) and Rule 342 (Ill. S. Ct. R. 342 (eff. Jan. 1, 2005)). We observe that defendant's brief fails to conform with many of the requirements delineated in Rules 341 and 342. The brief does not contain a paragraph regarding the nature of the action, a jurisdictional statement, the standard of review, or the required certificate of compliance. His statement of facts is convoluted, fails to cite to the record, and is mainly comprised of improper argument. Defendant has neither included an appendix with his brief nor attached a copy of his notice of appeal or the order from which he appeals. Based upon defendant's noncompliance with these rules, his appeal is subject

to dismissal. *LaGrange Memorial Hospital v. St. Paul Ins. Co.*, 317 Ill. App. 3d 863, 876 (2000). We decline, however, to impose such a harsh sanction here.

Plaintiff next contends, and we agree, that defendant has failed to demonstrate any error by the circuit court in this case. We find that our review of this appeal is impeded by an incomplete record. An appellant has the burden of presenting a sufficiently complete record of the circuit court proceedings to support any claim of error, and in the absence of such a record, this court will presume that the circuit court's order conformed with the law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Furthermore, any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

Pursuant to Supreme Court Rule 323 (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)), in lieu of a circuit court transcript, an appellant may file a bystander's report (Ill. S. Ct. R. 323(c) (eff. Dec. 13, 2005)) or an agreed statement of facts (Ill. S. Ct. R. 323(d) (eff. Dec. 13, 2005)). In this case, however, the record does not contain a report of the circuit court proceedings in any format.

Here, the record before this court consists of one volume of common law documents. There is no indication in the record of what occurred in the circuit court on any of the court dates,

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including October 14, 2009, when the court granted summary judgment in favor of plaintiff and entered a judgment for foreclosure and judicial sale of defendant's property, and May 3, 2010, when the court entered an order approving and confirming the sale of the premises. Consequently, this court has no knowledge of what, if any, evidence was presented, what arguments were made, what findings the court made, or the reasoning and rationale that provided the bases for the circuit court's rulings.

We have reviewed all of the documents contained in the common law record submitted to this court and have found nothing to substantiate any of defendant's numerous claimed errors. There is no indication in the record that plaintiff was not the proper creditor in this case or that it unlawfully foreclosed on defendant's property. Plaintiff expressly stated in its complaint that it was bringing this foreclosure action as the mortgagee pursuant to section 15-1208 of the Code. The mortgage document states that the lender had the right to foreclose and sell the property if defendant defaulted on his payments. Plaintiff alleged in its complaint that defendant had failed to make a mortgage payment for six months, thereby defaulting and allowing plaintiff to properly invoke its right to foreclose.

Furthermore, we find that the record belies defendant's claim that his property was taken from him without the proper

notice, violating his right to due process. The record shows that multiple attempts were made to serve defendant with the mortgage foreclosure summons. During the last attempt, the process server spoke with defendant on the telephone, and defendant allegedly claimed that he no longer owned the home. Plaintiff then proceeded with service by publication, as permitted by section 2-206 of the Code. When plaintiff moved for a default judgment, defendant then appeared in court to challenge the foreclosure action. We further note that in its May 3, 2010, order approving the sale of the premises, the circuit court expressly stated that all notices required by the Code were properly given, and that the sale of the property was fairly and properly made.

Finally, defendant's claims that the use of legalese in the documents constituted "theft by unlawful conversion" and that this foreclosure action was the result of a conspiracy against him by numerous unknown parties are illogical and meritless. Based upon the record presented to this court, it appears that defendant defaulted on his mortgage payments, and that plaintiff then conducted a proper foreclosure proceeding and judicial sale of defendant's property pursuant to the Code. Under these circumstances, this court must presume that the circuit court acted in conformity with the law and ruled properly after



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considering the evidence before it. *Webster v. Hartman*, 195 Ill. 2d 426, 433-34 (2001); *Foutch*, 99 Ill. 2d at 391-92.

For these reasons, we affirm the judgment of the circuit court of Cook County.

Affirmed.