2011 IL App (1st) 102724

SECOND DIVISION
September 20, 2011

No. 1-10-2724

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

WILLIAM AND VALERIE VESELY,	)	Appeal from
	)	the Municipal Court
Plaintiffs-Appellees,	)	of Cook County
	)	
v.	)	No. 09 M 113110
	)	
UNION LOFTS CONDOMINIUM ASSOCIATION,	)	Honorable
	)	Joseph Panarese,
Defendant- Appellant.	)	Judge Presiding

PRESIDING JUSTICE QUINN delivered the judgment of the court.
Justices Neville and Murphy concurred in the judgment.

O R D E R

¶ *1* *Held:* The judgment of the trial court following a bench trial that Union Loft Condominium Association was responsible for the damage to the Veselys' unit following a rainstorm is affirmed despite the Association's claim that the provision in the rules and regulations that unit owners are responsible for general maintenance and repairs precluded plaintiffs' claim.

¶ 2 Defendant-appellant, Union Lofts Condominium Association appeals the trial court's

judgment following a bench trial that it is responsible for the damage to a condominium unit following a rainstorm. We affirm.

¶ 3 At the onset, we note that plaintiffs-appellees, William and Valerie Vesely, have failed to file

an appellees' brief. Because this case is clear and the issues raised by appellant may be decided without the aid of appellees' brief, we decide the appeal on its merits. *First Capital Mortgage Corp. V. Talandis Construction Corp*., 63 Ill. 2d 128 (1976) .

¶ 4 Condominium unit #410, located at 3500 S. Sangamon, Chicago, Illinois and owned by William and Valerie Vesely, plaintiffs-appellees, was damaged following a rainstorm. The Veselys filed a two-count complaint against the condominium association, Union Lofts Condominium Association, defendant-appellant, alleging negligence and breach of fiduciary duty in failing to maintain the roof. Trial was held and judgment was entered in favor of the Veselys and against Union Lofts Condominium Association. This appeal followed which requests this court to reverse the trial court's decision. For the following reasons, the decision of the trial court is affirmed.

¶ 5 As a preliminary matter, it appears that this court was provided an incomplete record on appeal. There are no trial transcripts or other record of the trial court's findings of fact or conclusions of law. Case precedent dictates that when the record on appeal is incomplete, this court should apply every reasonable presumption favorable to the trial court's judgment, *Wackrow v. Niemi*, 231 Ill. 2d 418 (2008), including that the proceedings were regular, that the cause of action was fairly tried, that the trial court ruled correctly and its ruling conformed with established legal principles and that the trial court had a sufficient factual basis to rule. *Smolinski v. Vojta*, 363 Ill.

App. 3d 752 (2006); *Lisowski v. MacNeal Memorial Hosp. Ass'n*, 381 Ill. App. 3d 275 (2008).

¶ 6 Appellant raises no factual dispute in his appellate brief, only the legal effect of a certain section of the condominium association's rules and regulations, specifically Section 4.1 of the Rules and Regulations which states as follows:

> Under the provisions of the Declaration, the unit owner is responsible for the maintenance, repair and replacement of the following at his own expense:
> 1. All maintenance, repair and replacements within his own unit including all interior doors, all screens, all appliances, all lighting, electrical and plumbing fixtures, fireplaces, and any portion of any utility service located within the unit.
> 2. All of the decorating, both initial and subsequent, including painting, wallpapering, washing. Cleaning, paneling, floor covering and refinishing, window treatments and other interior decorating.
> 3. All maintenance, repair, and replacements of the limited common elements benefitting the unit in whole or in part. Each unit owner is responsible for the repair, replacement, and maintenance of all interior doors, window locks, and hardware.

¶ 7 In other words, generally, a unit owner is responsible for the maintenance, repair and/or replacement of items located within the unit. Appellant invites us to hold that this section of the rules and regulations, in all instances, immunizes them from any responsibility for damage to an individual unit regardless of negligence or fault. However, a reading of any legal document must be judged wholly within its four corners and sections cannot be viewed in isolation. Appellant requests that we decide this case in a vacuum, looking only to those sections of the rules, regulations, bylaws and declaration it deems controlling and ignoring the remainder of those documents and an entire trial that rendered a judgment against them. The documents provided to this court show that the defendant-appellant had a duty to maintain the common elements of the building, such as the roof, so as to protect the individual units and carry adequate insurance in the event of damage or loss. *See* Bylaws, Article VI , Sect.1 (a) (duty of the association to operate, care, upkeep,

maintain, replace and improve the common elements and limited common elements) and Sect. 1((f) (duty to carry adequate insurance) and Declaration of Condominium for Union Lofts, Sect. 9 (covering the Association's obligations regarding insurance, repair and reconstruction).

¶ 8 Under state court precedent, this court can only reverse a legal finding if we find the judgment of the trial court to be clearly erroneous and we are left with the definite and firm conviction that a mistake has been made. *Pancoe v. Singh*, 376 Ill. App. 3d 900 (2007); *Quinlan v. Stouffe*, 355 Ill. App. 3d 830 (2005). Such is not the case in the instant appeal.

¶ 9 Affirmed.

¶ 10