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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

BETHEL PENTECOSTAL CHURCH)	Appeal from the Circuit Court
OF GOD,)	of Cook County.
)	
)	
Plaintiff and)	
Counterdefendant-Appellee,)	
)	
v.)	No. 10 CH 12152
)	
LAKWOOD CHAPEL,)	
)	
)	Honorable
Defendant and)	Claire E. McWilliams,
Counterplaintiff-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Hall and Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal from trial court's denial of judgment notwithstanding the verdict will be affirmed where the defendant/counterplaintiff failed to provide a record or transcript of the trial so as to substantiate its claims of error.

¶ 2 The plaintiff and counterdefendant, Bethel Pentecostal Church of God (Bethel), filed suit against the defendant and counterplaintiff, Lakewood Chapel (Lakewood), alleging, *inter alia*, that Lakewood breached a contract for the sale to Bethel of a partial interest in property owned and occupied by Lakewood. Lakewood counterclaimed contending that, *inter alia*, Bethel had improperly defaulted on the installment payments due under the contract, and had also defaulted on payments due under a second and related real estate contract between the parties. A jury awarded damages to Bethel for breach of contract and ruled against Lakewood on its counterclaims. Lakewood filed a motion for judgment notwithstanding the verdict (JNOV), which was denied by the trial court. Lakewood now appeals. We affirm, based upon Lakewood's failure to file a sufficiently complete record to enable a review of this case.

¶ 3 This case proceeded to trial on count II of the Bethel's complaint (complaint) and on two of Lakewood's amended counterclaims. The complaint alleged that in January 2008, the parties, both non-profit religious congregations, entered into an installment agreement (agreement) under which Bethel was to purchase a one-half interest in property owned by Lakewood (church property). The church property, which was to be shared by the parties, contained a church sanctuary and parking lot along with other improvements. Bethel alleged that, under the agreement, the parties intended that the sanctuary would be divided equally into two separate worship areas with two separate entrances, one for Bethel and the other for Lakewood. Attached to the agreement was a site plan, approved by Lakewood, setting forth in detail the division of the sanctuary into two separate worship areas with separate entrances, and also providing for the division of the remaining improvements to the church property.

¶ 4 According to Bethel, at the time of the agreement, it was the parties' intent to divide the sanctuary by constructing a "permanent partition" between the two congregations. In support of

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this assertion, Bethel relied upon language in the contract, the site plan, and an email attached to the complaint from Lakewood's president to Bethel's secretary and president. In addition, Bethel alleged that the agreement expressly required Lakewood to develop a "recordable declaration" governing the parties' shared interests in the property. Accordingly, Bethel claimed that Lakewood breached the agreement by failing to permanently divide the sanctuary into two separate worship areas as depicted in the site plan, and failing to develop a recordable declaration controlling the parties' respective interests in the property.

¶ 5 In response, Lakewood filed an answer and eleven affirmative defenses, and later its amended counterclaims. In its answer, Lakewood admitted that the agreement and site plan called for the division of the sanctuary into separate worship areas, but disputed that the parties contracted to construct a "permanent partition" in order to accomplish that division. In its affirmative defenses, Lakewood proceeded to enumerate its ongoing efforts throughout the ensuing year to construct various types of partitions to "carry out the agreement of the parties," all of which, according to Lakewood, were thwarted in one way or another by Bethel. Lakewood also alleged "additional agreements" that it claims were reached between the parties regarding the shared use and division of the sanctuary space. In one affirmative defense, Lakewood asserted that it commenced construction of a floor-to-ceiling permanent dividing wall, but that this undertaking was again frustrated by Bethel, which asserted potential problems with the village building code and Lakewood's apparent failure to obtain a permit. In its counterclaims, Lakewood alleged that Bethel had improperly ceased making installment payments under the agreement, and also that it had defaulted on payments required under a second agreement between the parties, known as the parsonage agreement, for the purchase of a related residential property.

¶ 6 Following trial, the jury awarded damages to Bethel on its breach of contract claims, and found against Lakewood on its counterclaims. Thereafter, Lakewood filed a motion for a JNOV which the trial court denied. This appeal followed.

¶ 7 On appeal, Lakewood first argues that JNOV should have been granted as to Bethel's claim for breach of contract. With regard to the apportionment of the sanctuary, Lakewood contends that, although the agreement mandates that it be divided equally into two worship areas, it does not require the construction of a "permanent partition." Accordingly, as there has been no proof that Lakewood failed or refused to divide the sanctuary, Lakewood could not reasonably be found to have breached the agreement. With regard to the alleged failure to develop a recordable declaration, Lakewood asserts, with no citation to the agreement or the record, that there could have been no recordable interest "until the parties required a document which would survive the [agreement] and govern the shared premises." Because they never reached this point, there was no breach of contract. Lakewood also argues that JNOV should have been granted as to Bethel's alleged default under the parsonage agreement because, although Bethel alleged that the agreement was executed by an unauthorized party, no reasonable jury could have accepted this position.

¶ 8 In response, Bethel contends that Lakewood has failed to provide this court with a record of proceedings, which included five days of trial, testimony from approximately ten witnesses, motions *in limine*, dozens of exhibits, arguments of counsel, verdict forms submitted by both parties, and special interrogatories submitted by Lakewood. We agree.

¶ 9 The purpose of a motion for a JNOV is to test the legal sufficiency of the evidence underlying the jury's verdict. On review from the trial court's determination on such a motion, we undertake the same analysis as did the court in considering the motion in the first instance.

Harris v. Thompson, 2012 IL 112525, ¶ 14, 976 N.E.2d 999. The allowance of a JNOV will be upheld only if all the evidence and inferences to be drawn from the evidence, viewed in the light most favorable to the nonmoving party, so overwhelmingly favor the movant that no contrary verdict based upon the evidence could ever stand. *Harris*, 2012 IL 112525, ¶ 14 (citing *Pedrick v. Peoria & Eastern R.R. Co.*, 37 Ill. 2d 494, 510, 229 N.E.2d 504 (1967)); see also *Gaffney v. City of Chicago*, 302 Ill. App. 3d 41, 48, 706 N.E.2d 914 (1998). We review the decision on a motion for a JNOV under a *de novo* standard. *Harris*, 2012 IL 112525, ¶ 14.

¶ 10 In this case, Lakewood has failed to provide this court with the evidence at trial. In making its arguments on appeal, it relies upon the pleadings, which are of scant relevance at this stage, and upon unsupported assertions of facts in its brief. Even Lakewood's motion for JNOV was omitted from the record and attached to its brief as an appendix. As appellant, Lakewood bore the responsibility to present a sufficiently complete record of the proceedings below to support its claim of error. In the absence of such a record, we presume that the order entered by the trial court was in conformity with law and had a sufficient factual basis. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92, 459 N.E.2d 958 (1984). Any doubts arising from the incompleteness of the record will be resolved against the appellant. *Id.* at 392. Further, it is obvious that any issue relating to the court's factual findings and the basis for its legal conclusions cannot be reviewed without a record of that proceeding. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156, 839 N.E.2d 524 (2005); see also *Pikovsky v. 8440–8460 North Skokie Boulevard Condominium Ass'n, Inc.*, 2011 IL App (1st) 103742, ¶ 16, 964 N.E.2d 124 (reviewing court will not supplement record with documents attached to brief as appendix in the absence of stipulation between parties or motion to so supplement record).

¶ 11 Lakewood suggests that this case can be reviewed without the trial record because the agreements at issue are unambiguous. This argument is misplaced at best, because the theory of Lakewood's case below, as evidenced by its affirmative defenses, turned upon arguments and evidence extrinsic to the four corners of the agreements themselves. With regard to the division of the sanctuary, Lakewood admits that the parties agreed that it must be split in half, but contends that they reserved the manner in which this was to be done for a later date. Lakewood cannot now argue that the terms governing such division in the original agreement were unambiguous. This case proceeded to trial on a substantial amount of issues of disputed fact. As Lakewood has failed to provide a record of the evidence presented, we will assume that there was sufficient factual basis to support the jury's verdict in favor of Bethel, and that the rulings of the trial court were legally sound.

¶ 12 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 13 Affirmed.