2016 IL App (1st) 151509-U

FOURTH DIVISION
August 4, 2016

No. 1-15-1509

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

RISTIC ELECTRIC, LLC,	)	
	)	Appeal from the
Plaintiff,	)	Circuit Court of
	)	Cook County.
v.	)	
	)	
AH HOLDINGS, LLC SERIES A; GAYNOR DEVELOPMENT CORPORATION; DORIN BUJDEI; FINEST MARBLE & GRANITE CORP.; CLYBOURN INVESTMENT GROUP, LLC; GEORGE WASHINGTON SAVINGS BANK; MOORY SOCHAT d/b/a MDS MORTGAGE; MONGOOSE CAPITAL, INC.; DEEKE CONSTRUCTION SERVICES, INC.; UNKNOWN OWNERS and NON-RECORD CLAIMANTS,	)	
	)	
Defendants.	)	Nos. 11 CH 19553
	)	12 CH 14454
———————————————	)	
	)	
DAVID FROUD and KRISTIN PHILBIN,	)	
	)	
Plaintiffs-Appellants,	)	
	)	
v.	)	
	)	
SCHICK PARTNERS, LLC; AH HOLDINGS, LLC SERIES A; RISTIC ELECTRIC LLC; MORTGAGE DELIVERY SPECIALISTS, LLC; MONGOOSE CAPITAL, INC.; MIGEL A. PEREZ; HEATHER WILLIAMS; MICHAEL GAYLOR AARON WILLIAMS; 1264 N. SCHICK PLACE CONDOMINIUM ASSOCIATION; UNKNOWN OWNERS and NON-RECORD CLAIMANTS;	)	

	)	
Defendants,	)	Honorable
	)	Lisa R. Curcio,
(AH Holdings, LLC Series A; Heather Williams; and Aaron Williams; Defendants-Appellees.)	)	Judge Presiding.
	)	

JUSTICE ELLIS delivered the judgment of the court.
Presiding Justice McBride and Justice Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: Summary judgment for defendants affirmed where deed conveying property to defendants, on which plaintiffs sought to establish lien, was not void due to vague description of property or unauthorized signature by agent of grantor.

¶ 2 In this appeal, we address the validity of the 2008 transfer of two condominium units by Schick Partners, LLC (Schick)—the company that built the 3-unit condominium building—to a related business entity, defendant AH Holdings, LLC, Series A (AH Holdings). After Schick transferred the two condominium units to AH Holdings, plaintiffs David Froud and Kristin Philbin obtained a default judgment against Schick in a lawsuit concerning construction defects in the third condominium unit in that building, which plaintiffs had purchased. Having apparently no other way to collect on their judgment from Schick, they recorded the memorandum of judgment against Schick but could not attach a lien on the other two units because Schick had already conveyed them to AH Holdings.

¶ 3 In this case, plaintiffs sought to attach their judgment lien to those two condo units by challenging the validity of the Schick-to-AH-Holdings conveyance. Specifically, plaintiffs allege that the sale was void for two reasons: (1) the deed conveying the condo building was void because it lacked a legal description and had incorrect permanent index numbers (PINs) for the condos; and (2) defendant Heather Williams, who signed the deed on behalf of Schick, lacked authority to do so because she was not a manager of Schick, which was a member-managed

limited liability company. According to plaintiffs, because no sale ever actually occurred, Schick still owned the units and plaintiffs could attach their judgment lien to the condos.

¶ 4 For the reasons that follow, we affirm the trial court's award of summary judgment for defendants. The description of the property in the deed was not so vague as to render the deed void. To the contrary, the deed accurately listed the addresses of both condos. Nor would Heather's lack of authority to sign the deed render the deed void. And plaintiffs cannot challenge the deed on the basis that it is merely voidable because plaintiffs had no interest in the property at the time the deed was executed.

¶ 5 I. BACKGROUND

¶ 6 In 2006, Heather and Aaron Williams formed Schick to acquire and develop a 3-unit condominium building at 1264 North Schick Place in Chicago. In March, 2008, Schick sold unit 2 in that building to plaintiffs. On November 21, 2008, Schick executed a quitclaim deed purporting to convey the other two units, units 1 and 3, to AH Holdings, another entity that Heather and Aaron owned. The deed contained no legal description of the units, and the PINs listed as corresponding to the units were incorrect. The deed did list the addresses of the units as "1264 N. Schick Place, Unit 1 and Unit 3, Chicago Illinois 60610," which are the correct addresses of the units. The deed was recorded on March 3, 2009.

¶ 7 Shortly after that deed was recorded, plaintiffs sued Schick for breach of contract and fraud, claiming construction defects in the unit they purchased (unit 2), primarily based on water infiltration and mold. On May 26, 2010, the trial court entered judgment in favor of plaintiffs and against Schick for $312,122.95. Plaintiffs recorded the memorandum of judgment on October 27, 2011.

¶ 8 While plaintiff's action against Schick was pending, Ristic Electric, LLC (Ristic) initiated this case against AH Holdings under case number 11 CH 19553, to foreclose on a mechanic's lien it claimed to hold on the condominiums.

¶ 9 On April 19, 2012, plaintiffs, attempting to collect on the $312,122.05 judgment they had obtained against Schick in their contract and fraud action, filed a new suit against AH Holdings to foreclose on their judgment lien on units 1 and 3, the condos that Schick had conveyed to AH Holdings. Plaintiff's action was assigned case number 12 CH 14454. At plaintiff's request, the trial court consolidated plaintiff's suit with the mechanic's lien action (case number 11 CH 19553). This consolidated action is the case presently before this court.

¶ 10 Shortly after the cases were consolidated, plaintiffs moved for a default judgment against Ristic because Ristic failed to file a timely appearance. The court granted plaintiffs' motion. Months later, the court entered an order stating, "Ristic *** is defaulted for want of prosecution in its case number 11 CH 19553." From the record, it appears that Ristic did not participate in the case from that point.

¶ 11 Defendants moved to dismiss plaintiffs' suit to foreclose on the judgment lien, alleging that plaintiffs had no valid lien because they "merely obtained a judgment against the [condos'] former owner [Schick], long after that former owner transferred title to the properties to the current owner [AH Holdings]." The trial court denied defendants' motion to dismiss.

¶ 12 Plaintiffs then moved for summary judgment, arguing that their judgment attached to units 1 and 3 because the quitclaim deed purporting to convey those properties from Schick to AH Holdings was void. Specifically, plaintiffs argued, "The conveyance of the Units from Schick to AH Holdings was never validly effectuated because of the failure of Schick and AH [Holdings] to include a legal description in the Deed purportedly conveying the Units." Plaintiffs

attached a commitment for title insurance from Chicago Title Insurance Company, which contained a legal description of the condos. Along with the description of the metes and bounds of the condos themselves, that legal description included "the exclusive right to the use of parking space P-1 and P-3" and "easements for ingress and egress."

¶ 13 In response to plaintiffs' motion for summary judgment, defendants argued that the quitclaim deed adequately described the property, noting that "case law in Illinois overwhelmingly favors upholding the validity of deeds." According to defendants, because the deed was not void, plaintiffs could not attach their judgment lien to the condos.

¶ 14 The trial court denied plaintiffs' motion for summary judgment.

¶ 15 Defendants then filed their own motion for summary judgment, arguing that the deed was effective to transfer title from Schick to AH Holdings long before plaintiffs prevailed in their lawsuit against Schick and recorded that memorandum judgment. Thus, defendants argued, plaintiffs held no valid lien on the condos.

¶ 16 In response, plaintiffs maintained that the deed was defective for failing to sufficiently describe the property. Plaintiffs also argued that the deed was defective because Heather Williams, who had signed the deed on Schick's behalf, lacked the authority to do so. Plaintiffs noted that Schick, which was a manager-managed limited liability company, had only one manager listed on its filings with the Illinois Secretary of State: Michael Gaylor. According to plaintiffs, because Heather was not Schick's manager, she had no authority to convey real property on its behalf.

¶ 17 In its reply in support of the motion for summary judgment, defendants argued that Heather was a manager of Schick, even though the Secretary of State's documentation indicated otherwise. Defendants attached portions of depositions from Heather, where she described

herself as "[a] managing partner" of Schick, and Eric Feldman, Schick's attorney, who said that Heather had replaced Gaylor as Schick's manager before the transfer of the condos to AH Holdings. Defendants also attached Schick's operating agreement, which listed Aaron and Heather as Schick's members and Gaylor as Schick's manager.

¶ 18 The trial court granted defendants' motion for summary judgment. The record contains only a brief, written order memorializing the court's judgment; there is no report of proceedings of the hearing on the motion. Plaintiffs filed a timely appeal.

¶ 19 II. ANALYSIS

¶ 20 Plaintiffs appeal from the trial court's award of summary judgment for defendants, and the denial of their own summary judgment motion. Summary judgment is proper where, when viewed in the light most favorable to the nonmovant, the pleadings, depositions, admissions, and affidavits on file reveal that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Hall v. Henn*, 208 Ill. 2d 325, 328 (2003). We construe the pleadings, depositions, admissions, exhibits, and affidavits strictly against the moving party and liberally in favor of the non-movant. *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989). Our standard of review is *de novo*. *Hall*, 208 Ill. 2d at 328.

¶ 21 A. Appellate Court Jurisdiction

¶ 22 Before reaching the merits of plaintiffs' appeal, we must address our jurisdiction. AH Holdings argues that we lack jurisdiction to consider this case because the award of summary judgment in defendants' favor was an interlocutory order, not a final, appealable order.

¶ 23 Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) provides that "[e]very final judgment of a circuit court in a civil case is appealable as of right." An order is final if it terminates the litigation between the parties on the merits or disposes of the rights of the parties either on the

entire controversy or on some definite part of it. *American Service Insurance Co. v. Pasalka*, 363 Ill. App. 3d 385, 394 (2006). An order granting summary judgment is a final order (*Diggs v. Suburban Medical Center*, 191 Ill. App. 3d 828, 836 (1989)) unless that order "does not dispose of all the issues as to plaintiffs and defendants." *Pasalka*, 363 Ill. App. 3d at 394.

¶ 24 Here, the trial court's order granting defendants summary judgment stated that "judgment [was] entered in favor of Defendants and against Plaintiffs on *all claims in this case*." (Emphasis added.) By granting defendants' motion for summary judgment, the trial court concluded that, as a matter of law, plaintiffs could not foreclose on its judgment against Schick. That conclusion disposed of all issues related to plaintiff's suit in case number 12 CH 14454.

¶ 25 But AH Holdings claims that we lack jurisdiction to consider this appeal because, in the trial court, plaintiff's action was consolidated with another case (11 CH 19553), and the trial court's award of summary judgment for defendants did *not* dispose of Ristic's mechanic's lien claim in case number 11 CH 19553. Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010) governs appeals from final judgments in multiparty and multiclaim cases. That rule provides that we may hear an appeal "from a final judgment as to one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both." Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010). "The purpose of Rule 304(a) is to discourage piecemeal appeals in the absence of a just reason, and to remove the uncertainty which exists when a final judgment is entered on less than all the matters in the controversy." (Internal quotation marks omitted.) *Puleo v. McGladrey & Pullen*, 315 Ill. App. 3d 1041, 1046 (2000). Thus, AH Holdings argues, because the order of summary judgment did not pertain to Ristic, and because the order contained no Rule 304(a) language, the order under review was not a final and appealable order.

¶ 26 We disagree. The trial court found Ristic to be in default in case number 11 CH 19553 on October 2, 2012 and entered an order on March 12, 2013, which said, "Ristic *** is defaulted for want of prosecution in its case number 11 CH 19553." Once the court had dismissed Ristic's mechanic's-lien case for want of prosecution, Ristic had two options.

¶ 27 First, Ristic could have sought to vacate the dismissal within 30 days. See 735 ILCS 5/2-1301(e) (West 2012) (party "may on motion filed within 30 days after entry thereof set aside any final order or judgment upon any terms and conditions that shall be reasonable"); *Belluomini v. Lancome*, 207 Ill. App. 3d 583, 586 (1990) (party may seek to vacate dismissal for want of prosecution within 30 days under section 2-1301). Ristic filed no such motion.

¶ 28 Second, Ristic could have refiled its case within one year or the remaining limitations period, whichever was greater. See 735 ILCS 5/13-217 (West 2012) (party may refile action dismissed for want of prosecution within one year or within remaining limitations period). At the time Ristic's complaint was dismissed, the two-year limitations period on its mechanic's-lien suit had expired, as Ristic completed the work on the condos in 2008. See 770 ILCS 60/9 (West 2010) (suit to enforce mechanic's lien must be filed within two years of completion of contract). Thus, Ristic had one year from March 12, 2013 in which to refile its suit. But Ristic did not do so.

¶ 29 Thus, the record shows that Ristic never took any further action in the case after it had been dismissed for want of prosecution. Once the period for refiling expired, the dismissal for want of prosecution became a final and appealable order. *S.C. Vaughan Oil Co. v. Caldwell, Troutt & Alexander*, 181 Ill. 2d 489, 502 (1998); *Mann v. Upjohn Co.*, 324 Ill. App. 3d 367, 375 (2001).

¶ 30 The trial court awarded defendants summary judgment on April 22, 2015, more than a year after Ristic's dismissal for want of prosecution. Thus, at the time the court entered summary judgment in defendants' favor in this case, the dismissal of Ristic's claim for want of prosecution was already a final and appealable order. Accordingly, the summary judgment order under review was final and appealable, as it disposed of all issues in plaintiff's suit (case number 12 CH 14454) and because the other suit (case number 11 CH 19553) had already concluded in a separate final and appealable order.

¶ 31 We have jurisdiction to review this case under Rule 301. We now turn to the merits of plaintiffs' appeal.[1]

¶ 32 B. Validity of Deed

¶ 33 Plaintiffs first contend that the transfer of the property from Schick to AH Holdings was void because the deed was defective. Plaintiffs note that the deed lacked a legal description of the property to be conveyed or correct PINs for the condos.

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[1] In its brief, AH Holdings raises two additional arguments relating to our jurisdiction. First, it argues that we should not reach the merits of this appeal because plaintiff failed to include a copy of defendants' motion for summary judgment in the record on appeal. But on December 9, 2015, this court allowed plaintiffs' motion to supplement the record on appeal with the missing motion for summary judgment, over defendants' objection. Thus, AH Holdings' argument concerning the insufficiency of the record is now moot.

Second, AH Holdings contends that we lack jurisdiction to review the trial court's denial of plaintiffs' motion for summary judgment because it was not a final order. See *Clark v. Children's Memorial Hospital*, 2011 IL 108656, ¶ 119 ("Ordinarily, the denial of summary judgment is not appealable, because such an order is interlocutory in nature."). But, in light of our holding that the trial court properly granted defendants' summary judgment motion—an order that is, without doubt, properly before us—and given that both motions concerned the same issues, we need not consider the denial of plaintiffs' motion for summary judgment further.

¶ 34 Section 1 of the Conveyances Act (765 ILCS 5/1 (West 2008)) requires that a deed intended to convey title to a piece of real property specify the estate being conveyed, be in writing, and be signed by the grantor, who may not be under duress, a minor, or of unsound mind. *City of Virginia v. Mitchell*, 2013 IL App (4th) 120629, ¶ 29. Our supreme court has further required that a deed be delivered to, and accepted by, the grantee. *Gallagher v. Girote*, 23 Ill. 2d 170, 174 (1961).

¶ 35 If a deed is void, it "passes no title and cannot be made the foundation of a good title even under the application of the equitable doctrine that protects bona fide purchasers." *Logue v. Von Almen*, 379 Ill. 208, 223 (1941). By contrast, a *voidable* deed "passes title to the grantee" and may only be set aside by "the suit of the grantors." *Id.* at 224.

¶ 36 Here, Schick conveyed the condos to AH Holdings via a quitclaim deed which described the property as follows:

> "[T]he following described real estate situated in the County of Cook in the State of Illinois, to wit:
>
> See Exhibit A attached hereto;
>
> * * *
>
> PERMANENT INDEX NO.: 17-04-130-089-000 and 17-04-130-090-0000
>
> ADDRESS OF PROPERTY: 1264 N. Schick Place, Unit 1 and Unit 3, Chicago Illinois 60610."

There was no "Exhibit A" attached to the deed, and the PINs listed in the deed were not the PINs attributable to the condos. Plaintiffs claim that this description of the property was so insufficient that the deed was void.

¶ 37 We disagree. There is no dispute that the addresses listed in the deed were the correct addresses for the condos transferred to AH Holdings. An inaccurate or insufficient description of the property in a deed will only render the deed void if " 'the land intended to be conveyed can not [*sic*] be located from the description *** in the deed.' " *Mitchell*, 2013 IL App (4th) 120629, ¶ 32 (quoting *Alleman v. Hammond*, 209 Ill. 70, 71 (1904)). And a " 'deed will be sustained if it is possible from the whole description to ascertain and identify the land intended to be conveyed.' " *People ex rel. Barrett v. Anderson*, 398 Ill. 480, 493 (1947) (quoting 2 Devlin on Real Estate, § 1012). By providing the correct addresses for the condos, the deed sufficiently described the property that Schick intended to convey to AH Holdings.

¶ 38 We find *Mitchell*, 2013 IL App (4th) 120629, to be instructive on the sufficiency of the quitclaim deed's description in this case. In *Mitchell*, the City of Virginia, Illinois, sued the defendant for various building code violations. *Id.* ¶ 1. The defendant alleged that he was not the owner of the building at issue because he had sold it years earlier. *Id.* ¶¶ 2, 9. The quitclaim deed evidencing the alleged sale of the property described the property simply as " '220 East Beardstown Rd. Virginia, Il. 62691 Parcel ID 11-042-15-00.' " *Id.* ¶ 9. There was no legal description, and the property was actually located at "220 East Beardstown *Street* in Virginia and associated with the parcel ID number 11-042-*01500*." (Emphases in original.) *Id.* The trial court found that, in light of these discrepancies, the deed was void, and the defendant still owned the building. *Id.* ¶ 12. This court reversed, finding that the deed was not void because "the address and parcel ID number in the deed *** ma[d]e identification of the property [the] defendant intended to convey readily apparent." *Id.* ¶ 33.

¶ 39 Here, as in *Mitchell*, the address listed in the quitclaim deed between Schick and AH Holdings made identification of the two condo units readily apparent. In fact, in this case, the

addresses listed in the quitclaim deed were precise, something that could not be said of the addresses in the deed in *Mitchell*. As shown by *Mitchell*, a legal description for the property is unnecessary, so long as the property can be located by the description in the deed.

¶ 40 We recognize that the discrepancy in the PINs in this case was greater than the discrepancy in the PINs in *Mitchell*. But section 35d of the Conveyances Act (765 ILCS 5/35d (West 2008)), which requires that a grantor of real property include the correct PIN in the deed, also states, "The grantor's failure to provide the [PIN] or [PINs] shall not invalidate the deed or instrument of conveyance." Thus, the absence of correct PINs on the deed does not render the conveyance void.

¶ 41 Plaintiffs maintain that the inclusion of the address alone in the deed was insufficient to convey the units because, according to the legal description of the units in the title commitment they attached to their motion for summary judgment, parking spaces and common areas are included with the units. Thus, plaintiffs argue, by using the addresses of the units alone, the deed "could at most convey only the condominium units and not the common areas and parking spaces."

¶ 42 We disagree. Under section 7 of the Condominium Property Act (765 ILCS 605/7 (West 2008)), reference to a condo unit's number alone is sufficient to convey the owner's interest in the common areas:

> "Every deed, lease, mortgage or other instrument may legally describe a unit by its identifying number or symbol as shown on the plat and as set forth in the declaration, and every such description shall be deemed good and sufficient for all purposes, and shall be deemed to convey, transfer, encumber or otherwise affect the owner's corresponding

> percentage of ownership in the common elements even though the same is not expressly mentioned or described therein."

And the parking spaces corresponding to the condo units constituted "common elements" under section 7. See 765 ILCS 605/2(e) (West 2008) (defining " 'Common Elements' " as "all portions of the property except the units, including limited common elements unless otherwise specified"); 765 ILCS 605/2(s) (West 2008) (defining " 'Limited Common Elements' " as including "parking spaces"). Thus, Schick conveyed parking spaces and other common elements corresponding to each unit simply by referencing the unit numbers in the deed. No further description was necessary to convey those additional portions of the property.

¶ 43 Plaintiffs also argue that the absence of a legal description rendered the deed void. Plaintiffs claim that section 10 of the Conveyances Act (765 ILCS 5/10 (West 2008)), which relates to quitclaim deeds, requires that a quitclaim deed contain a legal description in order to be valid. We disagree for three reasons.

¶ 44 First, section 10 simply provides a sample form for quitclaim deeds, stating that "[q]uitclaim deeds *may* be, in substance, in the following form." (Emphasis added.) *Id.* Section 10 does not state that the items listed in the sample form *must* be included in order to make a valid quitclaim deed, nor does it say that any quitclaim deed omitting a legal description is void.

¶ 45 Second, even assuming that section 10 did list requirements for a quitclaim deed, nowhere does it require that a quitclaim deed contain a legal description of the property being conveyed. Rather, it states that a quitclaim deed should say that the grantor is giving the grantee "all interest in the following described real estate (here insert *description*)." (Emphasis added.) *Id.* Notably, other sections of the Conveyances Act use the phrase "legal description." See 765 ILCS 5/7a (West 2008) (" 'Conveyance' expressly excludes a road, street, highway, or alley if the

legal description of the property uses the boundary of the road, street, highway, or alley closest to the property being conveyed as a boundary of the property being conveyed or expressly states that the road, street, highway, or alley is excepted from the property being conveyed." (Emphasis added.)); 765 ILCS 5/35d (West 2008) ("[T]he grantor of residential property shall provide the grantee of the property with an individual permanent index number or numbers that specifically represent the *legal description* provided for in the deed or instrument of conveyance." (Emphasis added.)). Had the legislature intended the word "description" in section 10 to mean "legal description," it would have used the phrase "legal description." But it did not, suggesting that the word "description" in section 10 was simply meant to require a description of the property, not a formal legal description. See *Board of Education of Park Forest Heights School District No. 163 v. State Teacher Certification Board*, 363 Ill. App. 3d 433, 444 (2006) ("[T]he legislature intend[s] different results where it uses certain words in one instance and different words in another.").

¶ 46 Third, case law has established that "a deed may be good without [a] description [of the property by metes and bounds] if the property can be definitely located from the description in the deed." *Brenneman*, 296 Ill. at 147; see also *Mitchell*, 2013 IL App (4th) 120629, ¶ 33 (deed valid despite absence of legal description). As we explained above, the addresses of the units were sufficient to show Schick's intent to convey its interest in those units to AH Holdings. The mere absence of a legal description describing the metes and bounds of the property does not render it void.

¶ 47 By listing the correct addresses for the units, the quitclaim deed sufficiently identified the property that Schick conveyed to AH Holdings. Thus, the deed was not void for containing a vague description.

¶ 48 Plaintiffs also argue that, even if the deed was not void, the defects in the deed rendered the conveyance of the property voidable. And plaintiffs contend that they have standing to challenge the voidable deed because they are claiming an interest in the property via the judgment lien.

¶ 49 "Only a party claiming an interest in title to property may request a deed to be found voidable." *Mitchell*, 2013 IL App (4th) 120629, ¶ 19. Here, plaintiffs claim they have an interest in the condos because they have a judgment against Schick. But plaintiffs concede that they did not obtain that judgment, much less record it, before Schick had conveyed the condos to AH Holdings. See 735 ILCS 5/12-101 (West 2008) ("[A] judgment is a lien on the real estate of the person against whom it is entered *** only from the time a transcript, certified copy or memorandum of the judgment is filed in the office of the recorder in the county in which the real estate is located."). The only way that plaintiffs could have attached the lien to the property is if the sale had never occurred, *i.e.*, if the conveyance to AH Holdings was void *ab initio*. Declaring the deed voidable would do nothing to validate plaintiffs' lien and give them standing because, even if the deed was voidable, AH Holdings would still have obtained title to the condos years before plaintiffs recorded their judgment against Schick. See *Mitchell*, 2013 IL App (4th) 120629, ¶ 19 ("[A] voidable deed passes title and 'is good against everyone, including the grantor, until it has been set aside by a court of competent jurisdiction.' " (quoting *Logue*, 379 Ill. at 224)).

¶ 50 And, leaving plaintiffs' lack of any interest in the property aside, plaintiffs would still not have standing to challenge the deed because they are not the party injured by the alleged vagueness of the description of the property. See 26A Corpus Juris Secundum § 155 ("[A] deed which is merely voidable may only be attacked directly, and only the *injured party* has standing

to ask the court to set it aside." (Emphasis added.)). Any vagueness in the description of the property would have injured AH Holdings, the grantee, not plaintiffs. The alleged injury to plaintiffs was the conveyance itself—the conveyance prevented plaintiffs from attaching their lien to the condos—not any ambiguity created by the poor description of the property in the deed.

¶ 51 With respect to plaintiffs' standing, we find *White Hen Pantry, Inc. v. Cha*, 214 Ill. App. 3d 627 (1991), instructive. In that case, the owner and tenant of a piece of property had entered into a lease with an option to purchase that gave the tenant the right of first refusal during the lease period. *Id.* at 630. The tenant had an agreement with White Hen Pantry, Inc. (White Hen) that it would exercise its option to purchase, then sell the property to White Hen. *Id.* But two individuals also interested in buying the property attempted to purchase it from the owner. *Id.* In White Hen's declaratory judgment action, the trial court ordered specific performance of both the tenant's option and White Hen's purchase agreement with the tenant. *Id.* at 631.

¶ 52 On appeal, the individuals who sought to buy the property from the owner alleged that the trial court erred in awarding specific performance of the option because the option was missing material terms. *Id.* at 634. This court noted that "only a party to the contract or those in privity with a party may sue on the contract, [citation] except that a third-party beneficiary may sue on a contract made for his benefit." *Id.* at 635. Because the individuals were not parties to the option, and "the [option] contract was obviously not made for their benefit," they lacked standing to challenge the alleged vagueness of the option. *Id.*

¶ 53 Here, like the two individuals in *White Hen Pantry*, plaintiffs are attempting to challenge allegedly vague terms of a contract to which they were neither a party nor an intended beneficiary. In fact, plaintiffs claim that the deed between Schick and AH Holdings was made

for their *detriment*, not for their benefit. Thus, they lack standing to challenge the terms of the deed as vague insofar as such vagueness would simply render the deed voidable.

¶ 54 We note that plaintiffs have not argued that the conveyance between Schick and AH Holdings was a fraudulent attempt to avoid paying the judgment. See 740 ILCS 160/5(a) (West 2008) (providing for circumstances where transfer of property by debtor will be considered fraudulent). When a judgment debtor fraudulently conveys property in order to avoid a judgment lien, the judgment creditor may seek to undo the sale. See *Gayton v. Kovanda*, 368 Ill. App. 3d 363, 368 (2006) (where fraudulent conveyance made, "the court should treat the property as if the fraudulent transfer had not been made"). Plaintiffs would certainly have standing to raise such a claim, as a fraudulent conveyance would have injured their ability to attach their lien to the condos. But plaintiffs have not made such a claim in the trial court or this court, and we offer no opinion on whether the conveyance that occurred here was fraudulent.[2] See *Hollywood Boulevard Cinema, LLC v. FPC Funding II, LLC*, 2014 IL App (2d) 131165, ¶ 37 (party forfeited claim he arguably would have had standing to make where he failed to raise it on appeal).

¶ 55 B. Heather Williams's Authority

¶ 56 Plaintiffs also argue that the deed was void because Heather Williams, who signed the deed on behalf of Schick, lacked the authority to convey property on Schick's behalf. Plaintiffs note that Schick's articles of organization listed Michael Gaylor as the sole manager of Schick, not Heather.

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[2] It appears that plaintiffs raised a fraudulent conveyance claim in one of their amended complaints in the 2009 breach-of-contract case against Schick, which was dismissed. But it is unclear whether plaintiffs reasserted that claim before they obtained the default judgment in that case. In any event, no claim of fraudulent conveyance has been presented to us.

¶ 57 Schick was a limited liability company organized under the Limited Liability Company Act (805 ILCS 180/1-1 *et seq.* (West 2008)). Limited liability companies may be either member-managed or manager-managed. 805 ILCS 180/15-1 (West 2008). In a manager-managed company like Schick, each manager has an equal right to manage and conduct the company's business (805 ILCS 180/15-1(b)(1) (West 2008)), and, generally, "any matter relating to the business of the company may be exclusively decided by the manager." 805 ILCS 180/15-1(b)(2) (West 2008).

¶ 58 In this case, Schick's articles of organization, which were filed on March 30, 2006, listed Michael Gaylor as the sole manager. Schick's operating agreement listed Heather and Aaron Williams as its members and Gaylor as its manager. And in annual reports dated February 27, 2007 and May 23, 2008, Gaylor was listed as the sole manager. But, in her deposition, Heather testified that she was a "managing partner" of Schick, and Schick's attorney said that Heather became Schick's manager before the transfer of the condos to AH Holdings.

¶ 59 We need not decide whether a genuine issue of material fact existed regarding Heather's authority because, even assuming that it did, Heather's lack of authority to execute the deed would merely render it voidable. Where a company's agent acts without authority in entering a contract, the company may later ratify the contract. See, *e.g.*, *Board of Supervisors of Henry County v. Winnebago Swamp Drainage Co.*, 52 Ill. 454, 458-60 (1869) (county ratified real estate contract entered into by agent without authority); *Bull v. Mitchell*, 114 Ill. App. 3d 177, 187 (1983) ("[W]here an agent who is not so authorized enters into a contract on behalf of his principal, the principal may nonetheless be bound by ratifying the contract ***."). And, like an unauthorized contract, "[a] voidable contract may be ratified." *Zirp-Burnham, LLC v. E. Terrell Associates, Inc.*, 356 Ill. App. 3d 590, 604 (2005). By contrast, a void contract cannot be ratified

because it has no legal effect whatsoever. See *State Bank of Blue Island v. Benzing*, 383 Ill. 40, 54 (1943) ("Where a contract is *** wholly void and of no legal effect [it] cannot be ratified ***."). Because unauthorized contracts may be ratified, they are not void.

¶ 60 Thus, even if Heather lacked the authority to convey the property on Schick's behalf, her lack of authority would not render the contract void. It would simply be voidable and capable of being ratified by Schick. And, as we explained above, plaintiffs cannot seek to rescind the deed as voidable where they were not parties to the contract and they had no interest in the property when it was conveyed.

¶ 61 Because plaintiffs have failed to show that any genuine issue of material fact exists regarding the deed's alleged voidness, we affirm the trial court's award of summary judgment for defendants.

¶ 62 III. CONCLUSION

¶ 63 For the reasons stated, we affirm the trial court's judgment. The deed transferring the condos from Schick to AH Holdings was not void because its description of the property was vague or because the individual who signed the deed lacked the authority to do so.

¶ 64 Affirmed.