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FIRST DIVISION
October 17, 2016

No. 1-15-2440
2016 IL App (1st) 152440-U

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

U.S. BANK NATIONAL ASSOCIATION,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CH 35567
)	
MAURICE CROSS,)	Honorable
)	Michael F. Otto,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE CONNORS delivered the judgment of the court.
Justice Harris and Justice Simon concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal dismissed for lack of jurisdiction where defendant filed a notice of appeal 13 days after the circuit court entered an order for judgment for foreclosure and sale, which is not a final and appealable order; dismissed.

¶ 2 Defendant, Maurice Cross, appeals the circuit court's order that entered judgment for foreclosure and sale. Plaintiff, U.S. Bank National Association (U.S. Bank), contends that without language pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010), the judgment is not final and appealable. We agree with plaintiff and dismiss this appeal for lack of jurisdiction.

¶ 3 On September 20, 2012, U.S. Bank filed its complaint to foreclose a mortgage against defendant, Maurice Cross, for the property located at 1517 Freeland Avenue in Calumet City.

According to the affidavit of the special process server that was filed with the circuit court on October 17, 2012, Cross was personally served with the summons and complaint on September 26, 2012. Acting *pro se*, Cross filed his answer to the complaint on April 1, 2013, admitting some of the complaint's allegations and denying others. Cross did not file any affirmative defenses. The record on appeal reflects that Cross did not file his *pro se* appearance until August 14, 2013. Thereafter, U.S. Bank filed a motion for summary judgment and for judgment of foreclosure. Rather than filing a response to the motion, Cross filed a document titled "emergency motion to cancel sale/ vacate default judgement [*sic*] and request an evidentiary hearing." Cross's "emergency motion" argued that U.S. Bank lacked standing to bring suit and asserted that he was never properly served. This case then remained dormant for some time.

¶ 4 On June 26, 2014, U.S. Bank was given leave to substitute attorneys. On August 14, 2014, U.S. Bank re-filed its motion for summary judgment and a motion for entry of an order of default and for judgment of foreclosure and sale. These motions were originally set for hearing on November 6, 2014, but were entered and continued generally and then subsequently re-noticed for June 23, 2015. On June 19, 2015, Cross filed a document titled "motion of response to cancel sale/vacate default judgement [*sic*] and request an evidentiary hearing," which was substantially similar to the document Cross filed in response to U.S. Bank's first set of dispositive motions. The circuit court entered a briefing schedule on both parties' motions. U.S. Bank filed a response to Cross's motion to cancel sale on July 17, 2015.

¶ 5 On August 13, 2015, the circuit court entered an order granting U.S. Bank's motion for summary judgment and ordered summary judgment and judgment of foreclosure and sale entered in favor of U.S. Bank and against Cross. In another order entered on August 13, 2015, the terms of the judgment for foreclosure and sale were set forth. In a third order dated August 13, 2015,

the circuit court denied Cross's motion to cancel sale/vacate default judgment and request an evidentiary hearing, stating: "The court finding that there was no showing of lack of standing and that service was waived due to [d]efendant Maurice Cross having previously filed an [a]nswer and [a]pppearance." None of the orders entered on August 13, 2015, contained language pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010).

¶ 6 Cross filed his notice of appeal on August 26, 2015, stating that he was seeking to the appeal the judgment entered on August 13, 2015. On the line titled "relief sought from Reviewing Court," Cross wrote "plaintiff seeking dismissal of foreclosure judgment." The record on appeal does not contain any orders or pleadings from the circuit dated thereafter.

¶ 7 On appeal, Cross, still acting *pro se*, argues that he was never properly served in this case. In response, U.S. Bank asserts that this court lacks jurisdiction over this appeal because Cross attempts to appeal the circuit court's August 13, 2015, order that granted judgment of foreclosure and sale, which is a non-appealable order. Cross did not file a reply brief. We agree with U.S. Bank and therefore dismiss this appeal.

¶ 8 The Illinois Constitution confers on the appellate court jurisdiction to hear appeals from all final judgments entered in the circuit court. Ill. Const. 1970, art. VI, § 6. The Constitution also grants the Illinois Supreme Court the right to "provide by rule for appeals to the Appellate Court from other than final judgments." *EMC Mortgage Corp. v. Kemp*, 2012 IL 113419, ¶ 9 (quoting Ill. Const. 1970, art. VI, § 6). Therefore, without an applicable supreme court rule, this court is without jurisdiction to review judgments, orders, or decrees that are not final. *Id.* Illinois courts have long recognized that a judgment ordering the foreclosure of a mortgage is not final and appealable until the trial court enters an order approving the sale and directing the distribution. *Id.* ¶ 11. Unless the court makes a finding pursuant to Illinois Supreme Court Rule

304(a) (eff. Feb. 26, 2010), that there is no just reason for delaying enforcement or appeal, the judgment of foreclosure is not appealable. *In re Marriage of Verdung*, 126 Ill. 2d 542, 555-56 (1989).

¶ 9 In this case, Cross seeks to appeal the circuit court's August 13, 2015, order that entered a judgment of foreclosure and sale. This order did not approve the sale and direct distribution. Thus, in order for it to be appealable, it would have had to include Rule 304(a) language, which it did not. See *id.* There is no evidence in the record that Cross ever requested that the order include Rule 304(a) language. Additionally, although Cross proceeded *pro se*, it is well settled that a "*pro se* litigant must comply with the rules of procedure required of attorneys, and a court will not apply a more lenient standard to *pro se* litigants." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78. Therefore, we find that we do not have jurisdiction over this appeal and have not taken into consideration Cross's *pro se* status in making this determination.

¶ 10 U.S. Bank's response states that Cross's notice of appeal "did not become effective when the circuit court entered the final foreclosure order because the [n]otice of [a]ppeal falls outside the kinds of notices of appeal described in Rule 303." The reason we address this argument by U.S. Bank is twofold. First, we agree with U.S. Bank that Rule 303 does not apply here. Illinois Supreme Court Rule 303(a)(2) (eff. Jan. 1, 2015) allows for the tolling of the typical 30-day time period for appeals from final orders when a party has filed a timely postjudgment motion. However, there is no evidence in the record that shows that Cross ever filed a postjudgment motion, rendering this rule inapplicable. Second, we are unable to analyze the "final foreclosure order" that U.S. Bank references, because the last orders contained in the record on appeal are the courts orders dated August 13, 2015, which are not final and appealable orders. Although U.S. Bank alludes to the fact that the circuit court's "final foreclosure order" may have been the

proper order from which Cross should have appealed, the purported "final foreclosure order" is not listed in Cross's notice of appeal, it is not contained in the record on appeal, and it is, therefore, not properly before this court. "[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed 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 (1984). Because Cross has failed to supplement his notice of appeal and the record with any evidence of if and when the "final foreclosure order" that U.S. Bank references was entered, we do not address what, if any, consequences such an order would have on this appeal.

¶ 11 As a final and related matter, we find it pertinent to point out that even if we had jurisdiction over this appeal, which we do not, it would still be dismissed as Cross's appellate brief utterly fails to comply with numerous subsections of Illinois Supreme Court Rule 341 (eff. Feb. 6, 2013). "Supreme court rules are not mere suggestions; they are rules that must be followed." *North Community Bank v. 17011 South Park Avenue, LLC*, 2015 IL App (1st) 133672, ¶ 14. First, Cross's brief is single-spaced, rather than double spaced, in violation of Rule 341(a) (eff. Feb. 6, 2013). Cross's brief also fails to contain a certificate of compliance as required by Rule 341(c) (eff. Feb. 6, 2013). Additionally, Cross's brief does not contain a section of "Points and Authorities" as required by Rule 341(h)(1) (eff. Feb. 6, 2013). Perhaps this is because Cross's brief does not contain a single citation to any case law. Cross's brief contains a page titled "Table of Illinois Statutes," that lists five sections of the Illinois Compiled Statutes, but in the argument section of his brief these statutory citations consist of quotations of statute without any accompanying explanatory analysis, which violates Rule 341(h)(7) (eff. Feb. 6, 2013). Cross further violates Rule 341(h)(7) (eff. Feb. 6, 2013), because his brief does not

contain any reference to the pages of the record on appeal. In addition to these rule-based shortcomings, Cross's substantive arguments are, for the most part, incoherent.

¶ 12 Based on the foregoing, we find that this court does not have jurisdiction over this appeal and dismiss it.

¶ 13 Appeal dismissed.