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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

1246 PRATT, LLC,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 13-M1-718287
)	
CHARLES ROTH,)	Honorable
)	George F. Scully, Jr.,
Defendant.)	Judge, presiding.
<hr/>)	
LAWYERS' COMMITTEE FOR BETTER)	
HOUSING and VICTORIA OGUNSANYA,)	
Third-Party-Appellant.)	

JUSTICE COBBS delivered the judgment of the court.

Presiding Justice McBride and Justice Ellis concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court's imposition of sanctions was presumed to be in full accordance with the law and have sufficient evidentiary support where appellants failed to present a complete record on appeal.

¶ 2 Appellants Lawyers' Committee for Better Housing and attorney Victoria Ogunsanya appeal the trial court's imposition of sanctions pursuant to Illinois Supreme Court Rule 137 (eff. July 1, 2013). They contend that the trial court's ruling was an abuse of discretion

because the cited conduct could not possibly have occurred and was likely a misrecollection by the court. We affirm.

¶ 3

BACKGROUND

¶ 4

This matter arises from an eviction action between 1246 Pratt, LLC (Pratt), the property owner, and Charles Roth, a tenant. After the lower court granted Pratt an order of possession for the property in question, appellants undertook Roth's representation. As part of that representation, appellants filed an emergency motion to stay the order of possession on December 12, 2013, and a hearing on the motion was set for December 16, 2013. However, on December 13, 2013, a sheriff's officer evicted Roth. Later that day, appellants filed an amended emergency motion requesting that possession be returned to Roth.

¶ 5

The record reflects that a hearing was held on December 16, 2013. A court reporter was not present, and consequently there is no transcript of the proceedings. There is also no bystander's report recounting the proceedings. Following the hearing, the trial court entered an order giving Roth until the following day to "amend [his] pleadings."

¶ 6

On December 17, 2013, appellants filed a second amended emergency motion, again requesting that the trial court stay its order of possession and return possession to Roth. The second amended motion contained, *inter alia*, the following allegation: "Plaintiff has many connections in this City and has used these connections to force the sheriff's office to execute evictions in this manner." Neither this assertion nor any similar statement was included in the original emergency motion or in the first amended motion.

¶ 7

Subsequently, Roth died and appellants withdrew the pending motions as moot. On December 26, 2013, Pratt filed a motion for sanctions alleging that the first and second amended motions were "frivolous and defamatory." The motion cited, *inter alia*, the second

amended emergency motion's references to Pratt's "connections." In appellants' response to the sanctions motion, Ogunsanya explained that the statements regarding Pratt's connections were based upon representations made by other tenants. She acknowledged that she should have noted the assertion's source in the motion.

¶ 8 Following arguments on the motion for sanctions, the trial court issued a written order granting the motion on February 6, 2014. In the order, the court noted:

"The Court specifically recalls that on December 13, 2013,¹ the Defendant's emergency motion was presented to the Court. At that time, [Pratt's attorney] specifically alleged in open court that the emergency motion signed by Attorney Ogunsanya contained false statements. *** Attorney Ogunsanya specifically stated to the Court that she personally knew the facts to be true. The Court told Attorney Ogunsanya at that time that if the facts were not true, she would be sanctioned. Attorney Ogunsanya repeated that she had *personal knowledge* of the truthfulness of her statements." (Emphasis in original.)

The court further noted that it now knew Ogunsanya's statements were false because she had acknowledged that the assertion regarding Pratt's connections was based not upon personal knowledge, but upon statements from other individuals. It explained that had Ogunsanya stated that the assertion was based on "double hearsay," her actions would not be sanctionable. A subsequent order entered sanctions in the amount of \$2,025.² Appellants now appeal.

¶ 9 ANALYSIS

¹ The parties acknowledge that the written order's reference to December 13 is a typographical error or other minor mistake that is not dispositive in the current appeal.

² Appellants do not challenge the amount of the sanctions on appeal.

¶ 10 Appellants solely contend that the trial court abused its discretion in awarding sanctions because the cited conduct could not possibly have occurred as remembered by the trial court. They note that the assertions regarding Pratt's connections were only included in the second amended emergency motion, which was not filed until December 17, 2013. They argue that it was therefore impossible for Ogunsanya to have told the court that the statements were based on personal knowledge in the hearing on December 16, 2013, because the written statements had not yet been filed. Appellants posit that any statements by Ogunsanya regarding personal knowledge could only have referred to either the original or first amended emergency motions, which did not contain the connections allegations, and the trial court erroneously conflated the various motions in its memory. They also argue that Ogunsanya's statements could not have been made after the December 16 hearing because the motions were rendered moot and withdrawn prior to any additional hearings.

¶ 11 Pratt responds that appellants have failed to present a complete record on appeal. It argues that without a transcript or bystander's report of the December 16 hearing, we must presume that the trial court had sufficient factual support to impose sanctions. It argues alternatively that sanctions were warranted because appellants did not present facts establishing that they conducted a reasonable investigation into their assertions regarding Pratt's connections.

¶ 12 Appellants were sanctioned under Illinois Supreme Court Rule 137 (eff. July 1, 2013). A trial court's decision to impose sanctions is entitled to great deference; we thus review the court's imposition of sanctions for an abuse of discretion. *Dowd & Dowd, Ltd., v. Gleason*, 181 Ill. 2d 460, 487 (1998). When reviewing a sanctions order, our main focus is "whether the circuit court's decision was informed, based on valid reasoning, and follows logically

from the facts." *Technology Innovation Center, Inc., v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 244 (2000). The court must "set forth with specificity the reasons and basis of any sanction *** either in the judgment order itself or in a separate written order." Ill. S. Ct. R. 137(d) (eff. July 1, 2013); see also *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 513 (2001). An appellate court may only affirm an imposition of sanctions based upon the reasons set forth by the trial court. *Sadler v. Creekmur*, 354 Ill. App. 3d 1029, 1045-46 (2004).

¶ 13 Appellants' failure to provide a complete record hinders our review of the merits of their claim. The logic and validity of the trial court's reasoning in imposing sanctions depends on the statements made by Ogunsanya during the hearing before the court on December 16, 2013. Yet nothing in the record sets forth the proceedings of that hearing. The appellant bears the burden of presenting a complete record of proceedings sufficient to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984); see also *Midstate Siding & Window Co. v. Rogers*, 204 Ill. 2d 314, 319 (2003). Under Illinois Supreme Court Rule 323 (eff. Dec. 13, 2005), a party may provide a report of the proceedings through (1) a verbatim transcript from a court reporter, (2) a bystander's report, or (3) an agreed statement of facts. When the record is incomplete, the reviewing court must presume that the lower court acted in full accordance with the law and that its findings had sufficient evidentiary support. *Foutch*, 99 Ill. 2d at 391. This court may not review an issue relating to the trial court's findings of fact or the basis of its legal conclusions without a record or report of the proceeding. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005).

¶ 14 Appellants have failed to meet their burden of producing a complete record. Without a transcript, bystander's report, or agreed statement of facts, we have no way of determining

what Ogunsanya said or in what context her statements were made. As such, we cannot adequately assess the trial court's determination that her statements in conjunction with the second amended emergency motion merited sanctions. Consequently, we have no way to adequately review plaintiff's claims. Without some indication of what occurred at the hearing, we must presume that the trial court's findings had sufficient evidentiary support and that the trial court acted in full accordance with the law in imposing sanctions. See *Foutch*, 99 Ill. 2d at 391.

¶ 15 Appellants argue that their failure to provide a bystander's report or an agreed statement of facts is not determinative because the rest of the record is sufficient to show that Ogunsanya could not have possibly stated that the allegations regarding Pratt's connections were based on personal knowledge a day before the allegations were actually filed. We disagree. It is entirely possible that the second amended emergency motion was written on December 16, 2013, despite not being filed until the following day and that Ogunsanya referenced its allegations prior to filing. This possibility is supported by the fact that the hearing in question resulted in an order allowing the filing of the second amended motion the next day. Given that order, it is clear that the parties and the court were at the very least aware that a second amended motion was to be filed. Without some record of the discussion during the hearing, we cannot find it is impossible that Ogunsanya made the comments discussed by the trial court and that those comments referred to the soon-to-be-filed allegations. In the absence of such a record, we must presume that the trial court's determination had sufficient factual support and consequently cannot find that the court abused its discretion.

¶ 16

CONCLUSION

1-15-2686

¶ 17 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 18 Affirmed.