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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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CHAMPION MORTGAGE COMPANY,	)	Appeal from the
	)	Circuit Court of
	)	Cook County.
Plaintiff-Appellee,	)	
	)	No. 1-16-2217
v.	)	
	)	Honorable
KAREN S. GAINES,	)	Eve M. Riley,
	)	Judge, presiding.
Defendant-Appellant.	)	

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JUSTICE COBBS delivered the judgment of the court.  
Justices Lavin and Pucinski concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court did not err in granting plaintiff's motion for summary judgment and order for possession where defendant failed to establish a genuine issue of material fact.
- ¶ 2 Defendant, Karen Gaines, appeals from the grant of summary judgment in favor of plaintiff, Champion Mortgage Company. Defendant contends that summary judgment was improper because plaintiff acquired the property through a fraudulent sale and, as a result, cannot assert a rightful claim of possession. Plaintiff contends that the trial court did not err

in granting its motion because defendant did not present any claims that adequately challenged its right of possession. We affirm.

¶ 3

### BACKGROUND

¶ 4

Following a judicial sale, plaintiff acquired title to the subject property on November 6, 2014. On November 24, 2015, plaintiff filed two complaints for forcible entry and detainer against defendant in the circuit court of Cook County, which were later consolidated. Plaintiff alleged that it was the holder of the certification of sale and entitled to exclusive possession of the property.

¶ 5

On February 25, 2016, plaintiff filed a motion for summary judgment. Plaintiff argued that it was the record owner of the property pursuant to an order confirming its sale and the judicial sale deed. According to plaintiff, these facts established its superior right of possession. Defendant responded that plaintiff was not entitled to possession because the sale and transfer of the property was fraudulent. She attached five exhibits to her response, including a 1975 trust agreement which listed defendant as a beneficiary. Defendant maintained that she was the only living heir to the 1975 trust agreement, that title to the property transferred to her in 2009, and accordingly, she was the only person authorized to approve a sale or transfer of the subject property. On May 27, 2016, the circuit court granted plaintiff's motion for summary judgment and entered an order for possession of the property. Defendant appeals.

¶ 6

### ANALYSIS

¶ 7

Initially, we note that defendant's brief contains several deficiencies. When an appellant's brief contains numerous violations, this court has the discretion to strike the brief and dismiss the appeal for failure to comply with Illinois Supreme Court Rule 341(Ill. S. Ct. R. 341(h)

(eff. Jan. 1, 2016)). See *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77. Rule 341 requires that an appellant's brief contain a statement of facts "necessary to an understanding of the case, stated accurately and fairly without argument or comment"(Ill. S. Ct. R. 341(h) (6)), and an argument "which shall contain the contentions of the appellant and reasons therefor." (Ill. S. Ct. R. 341(h) (7)). First, defendant fails to provide a statement of facts. Second, her brief provides this court with a "summary of argument," without citing to pages of the record for factual references. Additionally, although defendant provides a list of authorities, she does not actually cite to these authorities in the "summary of argument."

¶ 8 Our supreme court rules governing appellant's briefs are not mere suggestions; they are mandatory rules of procedure. See *Menard v. Illinois Workers' Compensation Comm'n*, 405 Ill. App. 3d 235 (2010). As a *pro se* litigant, defendant is not excused from compliance with the rules nor is she entitled "to more lenient treatment than attorneys." *Holzrichter*, 2013 IL App (1st) 110287, ¶ 78. Despite defendant's deficiencies in briefing, this court has the discretion to entertain an appeal so long as the issues raised by an appellant can be understood from a "cogent brief of the appellee." *Tannenbaum v. Lincoln National Bank*, 143 Ill. App. 3d 572, 575 (1986). Here, plaintiff's brief provides this court a sufficient framework to discern all issues on appeal and articulates defendant's challenges to the lower court's ruling. Accordingly, we decide this case on the merits.

¶ 9 Defendant challenges the legitimacy of the foreclosure sale and asserts that title fraudulently passed to plaintiff. Plaintiff responds that it acquired title to the subject property via judicial sale deed; that defendant's assertion of title is not germane to the issue of possession in a forcible entry and detainer proceeding; and, that defendant has failed to offer evidence that there exists a genuine issue of material fact.

¶ 10 We review the trial court's grant of summary judgment *de novo*. *Adams v. Northern Illinois Gas Company*, 211 Ill. 2d 32, 43 (2004). "Summary judgment is appropriate where the pleadings, affidavits, depositions, and admissions on file demonstrate that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law." *West Bend Mutual Insurance v. Norton*, 406 Ill. App. 3d 741, 744 (2010); 735 ILCS 5/2-1005 (West 2014). "In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the [moving party] and liberally in favor of the opponent." *Adams*, 211 Ill. 2d at 43; see 735 ILCS 5/2-1005 (West 2014). "To prevent the entry of summary judgment, the nonmoving party must present a *bona fide* factual issue and not merely general conclusions of law." *Bank Financial, FSB v. Brandwein*, 2015 IL App (1st) 143956, ¶ 40. Additionally, the nonmoving party "must produce some competent, admissible evidence which, if proved, would warrant entry of judgment in her favor." *Id.*

¶ 11 Actions for forcible entry and detainer are summary, statutory proceedings that limit the court to deciding who is entitled to immediate possession. *Avenaim v. Lubecke*, 347 Ill. App. 3d 855, 861 (2004), 735 ILCS 5/art. IX (West 2016). To prevail, a defendant not only must assert facts that show he or she is entitled to immediate possession, but also must present a defense that defeats the plaintiff's assertion of possession. *First Illinois Bank & Trust v. Galuska*, 255 Ill. App. 3d 86, 90 (1993). Matters not germane to the issue of possession may not be litigated in a forcible entry and detainer proceeding. *Avenaim*, 347 Ill. App. at 861. Germane defenses include: (1) claims asserting a paramount right of possession; (2) claims denying the breach of the agreement vesting possession in the plaintiff; (3) claims challenging the validity or enforceability of the agreement on which the plaintiff bases the

right to possession; and (4) claims questioning the plaintiff's motivation for bringing the action. *Avenaim*, 347 Ill. App. at 862. Forcible entry and detainer actions are "unhampered and unimpeded by questions of title and other collateral matters not directly connected with the question of possession." *Rosewood Corp. v. Fisher*, 46 Ill. 2d 249, 255 (1970). This court has held, "[w]hile in some instances evidence of title may be shown for the purposes of showing the character or extent of possession, a serious title dispute is not properly decided in an action for forcible entry and detainer." *Continental Illinois National Bank & Trust Co. of Chicago v. Wilson*, 103 Ill. App. 3d 3570, 360 (1982).

¶ 12 Defendant's contention that she has title to the property is not germane to the issue of possession. Defendant references a 1975 trust agreement that identifies her as a beneficiary. She argues that any sale of the property required her authorization as its "rightful heir." However, the trust agreement does not indicate that defendant held a possessory interest in the property, nor does defendant provide other supporting documentation to prove that she held a superior right to possession. Rather, defendant uses the trust agreement for the sole purpose of proving title. Defendant's assertion that she was legally authorized, as "rightful heir," to grant foreclosure sale or transfer title to the property is beyond the scope of a forcible entry and detainer action, and not germane to the issue of possession. Defendant has not presented any issue of material fact. Thus, summary judgment is proper.

¶ 13 **CONCLUSION**

¶ 14 Accordingly, we find that the trial court did not err in granting summary judgment in favor of plaintiff.

¶ 15 Affirmed.