

2018 IL App (1st) 170195-U

No. 1-17-0195

Order filed June 18, 2018

First Division

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 DISTRICT

MAXIMO CUEVAS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 16 M1 111198
)	
ADAMS AUTO SALES,)	Honorable
)	Jessica A. O'Brien,
Defendant-Appellee.)	Judge, Presiding.

PRESIDING JUSTICE PIERCE delivered the judgment of the court.
Justices Mikva and Griffin concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the circuit court's judgment in favor of defendant because plaintiff's brief was insufficient to ascertain his claims and he failed to furnish a sufficient record such that error can be determined.

¶ 2 Following a trial in this fraud action filed by plaintiff, Maximo Cuevas, against defendant, Adams Auto Sales, the court found in favor of defendant. Plaintiff, *pro se*, appeals, arguing that his interpreter failed to adequately present his claims at trial. We affirm.

¶ 3 The limited record on appeal shows that, on March 12, 2016, plaintiff purchased a 2012 BMW X6 35i from defendant. Subsequently, plaintiff took the car to a mechanic for an oil change where he was informed that there was an issue with the car. He returned the car to defendant, who promised to fix the problem. A month later, defendant returned the car to plaintiff, who again took the car to a mechanic for an inspection. The mechanic informed plaintiff the problem had not been fixed and, in fact, there was further damage to the car.

¶ 4 On May 5, 2016, plaintiff filed a *pro se* complaint, alleging that defendant committed fraud by selling him a damaged car. Defendant filed a motion to dismiss plaintiff's complaint, arguing, *inter alia*, that plaintiff's complaint failed to separate his causes of action into separate counts and paragraphs. On July 28, 2016, the court granted defendant's motion to dismiss, but granted plaintiff 28 days to file an amended complaint. On August 16, 2016, plaintiff filed an amended complaint that included separate paragraphs alleging fraud, discrimination, and intimidation against defendant.

¶ 5 The matter proceeded to trial on January 16, 2017. According to the record, plaintiff communicated with the aid of a Spanish language interpreter. Following trial, the court entered judgment in favor of defendant.

¶ 6 On appeal, plaintiff argues that his interpreter failed to adequately present his case. Specifically, plaintiff maintains that the interpreter did not know several words that plaintiff used at trial and, therefore, he was unable to present all of his evidence.

¶ 7 On April 26, 2018, this court entered an order taking the case for consideration on the record and plaintiff's brief only. Thus, we consider plaintiff's appeal without the benefit of defendant's brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d

128, 131-33 (1976) (setting forth the principles for the disposition of appeals in cases where the appellees have not filed their briefs).

¶ 8 As a threshold matter, we note that our review of plaintiff's appeal is hindered by his failure to comply with supreme court rules. It is well established that a court of review is entitled to briefs that conform with the supreme court rules governing appellate review. *Schwartz v. Great Central Insurance Co.*, 188 Ill. App. 3d 264, 268 (1989) (explaining that appellants' briefs are to provide cohesive legal arguments in conformity with supreme court rules). This court may, in its discretion, strike a brief and dismiss an appeal based on the failure to comply with the applicable rules of appellate procedure. *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77.

¶ 9 Here, plaintiff's brief is devoid of any citations to legal authority to support his argument. See Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017) (appellant's brief "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on."). Rather, plaintiff's entire argument section consists of him asking this court to review the bill of sale that does not indicate that the car was sold "as is." Plaintiff also argues that his interpreter did not give him the chance to present all of his evidence. While we acknowledge plaintiff's *pro se* status, he is not excused from complying with applicable supreme court rules governing appellate procedure, which are designed to establish order and procedural normalcy in the appellate process. *Coleman v. Akpakan*, 402 Ill. App. 3d 822, 825 (2010).

¶ 10 That said, even if we were to attempt to review plaintiff's appeal on the merits, the deficiencies in the record would prevent us from so doing. Plaintiff appeals from the trial court's entry of judgment in favor of defendant following trial. On his *pro se* appellate brief form, he indicated that his argument is that "the trial court * * * made a mistake in deciding the facts."

However, the record does not contain a transcript, report of proceedings, bystander's report, or an agreed statement of facts regarding the January 16, 2017 trial. See S. Ct. R. 323 (eff. July 1, 2017). As a result, we have no way of determining what facts the trial court relied upon in making its determination or if it erred in doing so.

¶ 11 On appeal, it is an appellant's, in this case plaintiff's, burden to present a sufficiently complete record of the trial proceedings to support a claim of error. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001). If no such record is provided, "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 (1984). This is so because in order to determine whether there was in fact an error, the appellate court must have the record to review before it. *Id.* We do not have the benefit of transcripts, bystander's reports, or an agreed statement of facts, and the trial court's order does not provide us with the court's reasoning for finding in defendant's favor. Thus, in the absence of a report of proceedings or other record of the trial, we have no basis for disturbing the trial court's judgment. *Id.* at 391-92.

¶ 12 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 13 Affirmed.