

¶ 3 The parties were married on September 14, 2002, and Peter filed his petition for dissolution of marriage on May 8, 2015. The circuit court entered a judgment dissolving the marriage on January 18, 2017, and reserved ruling on the financial issues. The documents filed in this case indicate that petitioner owned a taxi medallion and worked as a taxi driver. In addition, petitioner and respondent purchased two parcels of real estate (among other assets) during the course of their marriage, including a parcel located at 323 Dover Drive in Des Plaines, Illinois. The record on appeal also includes an “excerpt” from the January 18, 2017, report of proceedings that was attached to petitioner’s subsequent motion to reconsider. The excerpt of that transcript reveals that the court made the following comments:

“I must say that I have heard the testimony of both parties.

I find that the testimony of the Respondent was clear and unimpeached and that the testimony of the Petitioner lacked coherence, credibility, and was contradictory and leads the Court to believe that he has not been forthcoming with the Court.

* * *

[Respondent] claims his income from driving a cab is \$908 gross per month. I find that that is amazingly not credible. ***.

***. So the Court has to conclude that [Respondent’s] total income was at least \$4,500 per month just from driving the cabs and probably far in excess of that.”

¶ 4 The circuit court further noted that two parcels of property on Dover Drive were purchased during the marriage and paid for solely by income earned during the marriage. The

court recounted that a contract was entered into for the purchase of those properties by petitioner individually, and he then assigned his interest to his corporation. The court, however, found that “there was no evidence of any consideration” exchanged in the transfer of the marital property to the corporation. The court further stated, “And certainly, transferring the property from himself in one capacity to himself in another capacity would not be considered an arm’s-length transaction.” Noting that the rental agreement for one of the properties was entered into with petitioner individually (and not as president of his corporation) and that “payment would be made by mail to the petitioner at his home address,” the court stated that those facts “would support the Respondent’s position that the use of [petitioner’s corporation] was a shell for hiding the ownership interest of the petitioner.” The court concluded that “the properties on Dover were both marital properties in total, although title in the corporate name.”

¶ 5 On March 29, 2017, the court issued a memorandum opinion and order noting that it “had the opportunity to hear and consider the testimony of the parties, to review the exhibits admitted into evidence[,] and to determine the credibility of the parties,” which the court stated it had carefully considered in addition to the parties’ arguments. The court further stated that its order was based upon the “reasons stated on the record, a transcript of which shall be prepared[] and presented for the court’s review.”

¶ 6 On July 17, 2017, petitioner’s counsel filed multiple motions, including the following: (1) a motion to either require respondent’s attorney to sign the March 29, 2017, report of proceedings or permit the filing of the transcript without the signature; and (2) a motion to withdraw as petitioner’s attorney. On July 26, 2017, the circuit court directed respondent’s attorney to review and sign or object to the March 29, 2017, transcript “within 7 days,” and granted petitioner’s attorney’s motion to withdraw, directing petitioner to either retain another

attorney or file a *pro se* appearance within 21 days. On that same day (July 26), petitioner filed his *pro se* appearance. This appeal followed.

¶ 7 Petitioner contends that the circuit court erred in finding that certain real estate parcels were marital property and not nonmarital property. We cannot reach the merits of plaintiff's claim, however, because he failed to provide a sufficient record.

¶ 8 The burden of providing a sufficient record on appeal rests with the appellant (here, petitioner). *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005); *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001); *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). In the absence of such a record, we must presume the trial court acted in conformity with the law and with a sufficient factual basis for its findings. *Id.* Furthermore, any doubts arising from an incomplete record will be resolved against the appellant. *Id.*

¶ 9 Supreme Court Rules 321 and 324 require an appellant to provide a complete record on appeal, including a certified copy of the report of proceedings. See Ill. S. Ct. R. 321 (eff. Feb. 1, 1994); Ill. S. Ct. R. 324 (eff. July 1, 2017). If a verbatim transcript is unavailable, the appellant may file an acceptable substitute, such as bystander's report or an agreed statement of facts, as provided for in Rule 323. See Ill. S. Ct. R. 323 (eff. July 1, 2017).

¶ 10 In this case, petitioner's claim depends upon what transpired at the trial. This court has long held that the circuit court's characterization of property as either marital or nonmarital will be sustained unless it is against the manifest weight of the evidence. *McBride v. McBride*, 2013 IL App (1st) 112255, ¶ 24 ("A circuit court's classification of property as marital or nonmarital will only be disturbed if the classification is against the manifest weight of the evidence.") (citing *In re Marriage of Weisman*, 2011 IL App (1st) 101856, ¶ 20). A decision is considered against

the manifest weight of the evidence only where the opposite conclusion is clearly evident or if the finding is unreasonable, arbitrary or not based on the evidence presented. *Id.*

¶ 11 Without a transcript or acceptable substitute, we are in the dark as to what took place at trial. To determine whether the circuit court's finding was against the manifest weight of the evidence, we must examine whether its decision was arbitrary, unreasonable, not based upon the evidence, or where the opposite conclusion is clearly evident. The absence of a report of proceedings, however, prevents us from doing so. We cannot determine whether petitioner established his burden to show that, although the two properties at issue were bought during the marriage and paid for (at least in part) with marital income, the assignment of petitioner's interest in the properties to his closely-held corporation was nonetheless an arm's-length transaction, which would support his claim that the properties are his nonmarital assets.

¶ 12 Since we are unable to determine whether the circuit court erred in finding that the properties were nonmarital assets, we must presume the court acted in conformity with the law and with a sufficient factual basis for its findings. See *id.*; see also *People v. Majer*, 131 Ill. App. 3d 80, 84 (1985) (holding that, when the record is incomplete, a reviewing court must indulge "every reasonable presumption" in favor of the judgment that is appealed, "including that the trial court ruled or acted correctly").

¶ 13 In sum, without a complete record of the proceedings below, petitioner's claim of error is merely speculative. In the absence of a record as to what took place at trial, we cannot determine whether petitioner established that the real estate parcels at issue were nonmarital assets. Where, as here, the record is incomplete, we may not speculate as to what errors may have occurred below. *Foutch*, 99 Ill. 2d at 391-92; see also *People v. Edwards*, 74 Ill. 2d 1, 7 (1978) (holding that a reviewing court may not "guess" at the harm to an appellant where a record is incomplete;

No. 1-17-1916

rather it must “refrain from supposition and decide accordingly”). Accordingly, we are compelled to affirm the court’s judgment.

¶ 14 Affirmed.