

2018 IL App (1st) 180121-U

No. 1-18-0121

Order filed December 27, 2018

Fourth 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

CPCA TRUST 1,)	Appeal from the
)	Circuit Court of
Plaintiff and Counterdefendant-Appellee,)	Cook County
)	
v.)	
)	
EDITH BROWN; ELIZABETH BROWN;)	
MARCELLOUS BROWN; MADALLE BROWN;)	
CHARLES BROWN; and ALL UNKNOWN)	
OCCUPANTS,)	
)	
Defendants,)	
)	No. 13 M1 700651
(Edith Brown, Defendant and Counterplaintiff-Appellant))	16 CH 691 (cons.)
)	
v.)	
)	
BEVERLY MAHARAJ; PROPERTY ASSET)	
MANAGEMENT, INC.; SELENE FINANCE LP; ALL)	
UNKNOWN OWNERS; and ANY NON-RECORD)	
CLAIMANTS,)	
)	
Counterdefendants,)	Honorable
)	James P. Flannery
(Property Asset Management, Inc., Selene Finance LP,)	David A. Skryd,

and Beverly Maharaj, Counterdefendants-Appellees).) Judges presiding.

JUSTICE BURKE delivered the judgment of the court.
Presiding Justice McBride and Justice Gordon concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm the circuit court's judgments entered against defendant-counterplaintiff Edith Brown, which denied her relief in a quiet title and declaratory judgment action and ordered her to vacate the premises of a property in a forcible entry and detainer action.

¶ 2 I. BACKGROUND

¶ 3 This case originated because a property in Chicago that had belonged to Elizabeth Brown was sold to Beverley Maharaj, who subsequently defaulted on her mortgage payments, resulting in the property undergoing foreclosure and eventually becoming owned by CPCA Trust 1.

¶ 4 CPCA Trust 1 filed a forcible entry and detainer action against Edith Brown, Elizabeth Brown, Marcellous Brown, Madalle Brown, Charles Brown and any unknown occupants, seeking to obtain possession only of the property. Edith Brown, the daughter of Charles and Elizabeth Brown, then filed a *pro se* complaint, which she amended twice, against Beverly Maharaj, Property Asset Management, Inc., CPCA Trust 1, Selene Finance LP, any unknown owners and any non-record claimants, bringing quiet title and declaratory judgment causes of action. Ultimately, Edith Brown sought to void several transfers of the property and restore ownership in the property back to Elizabeth Brown, who Edith Brown alleged had been legally incompetent at the time she sold the property to Beverly Maharaj. The circuit court consolidated the cases on Edith Brown's motion. Eventually, the court entered summary judgment in favor of CPCA Trust 1, Selene Finance LP and Property Asset Management, Inc., in the quiet title and declaratory judgment matter as well as denied her relief against Maharaj. And in the eviction

matter, after a trial, the court found in favor of CPCA Trust 1 and granted it immediate possession of the property. Edith Brown subsequently appealed.

¶ 5 On appeal, Edith Brown contends that the circuit court erred by: (1) denying her motion to dismiss based on CPCA Trust 1, as a non-resident of Illinois, failing to post security for the costs associated with the litigation; (2) denying her motion for a substitution of judge for cause and by not referring the motion to another judge for a hearing; (3) denying her a jury trial despite a timely demand; (4) not ruling on her declaratory judgment action; (5) consolidating her two cases; (6) not finding that CPCA Trust 1's notice of intent to file a forcible entry and detainer action failed to comply with Illinois law; and (7) by granting CPCA Trust 1 summary judgment during an *ex parte* hearing. For the reasons that follow, we affirm.

¶ 6 A. Background of the Property

¶ 7 Prior to 1997, Charles and Elizabeth Brown owned a property located on the 5500 block of West Gladys Avenue (the property) in Chicago. Edith Brown, their daughter, also lived at the property for a significant period of time.¹ On September 8, 1998, a quit claim deed purportedly executed by Charles Brown conveying the property to Edith on August 26, 1996, was recorded with the Cook County Recorder of Deeds.

¶ 8 In January 1999, Elizabeth Brown filed an action to quiet title to the property, alleging that the quit claim deed from Charles Brown had been forged. Following a trial, the circuit court determined that the quit claim deed was fraudulent, without legal effect and very likely forged by Edith. In the court's order, it also detailed that, in 1983 pursuant to a quit claim deed, Charles and Elizabeth Brown conveyed the property to Charles Brown, individually. But the court found

¹ In this appeal, we will refer to all members of the Brown family by their first and last name, except Edith Brown, who we will refer to as Edith.

this transfer was subject to a constructive trust in favor of Elizabeth Brown, which arose simultaneously with the quit claim deed and continued until Charles Brown passed away, which occurred in 1997. The court concluded that the legal effect of the constructive trust preserved the undivided one-half interest in joint tenancy of Elizabeth Brown.

¶ 9 In June 2003, Elizabeth Brown conveyed the property into Trust Number 131359 pursuant to a deed in trust that was recorded with the Cook County Recorder of Deeds. In February 2007, Elizabeth Brown executed a power of attorney for property and appointed her son, Madalle Brown, as her agent to act on her behalf.² Later that month, both Elizabeth and Madalle Brown executed a direction to convey, directing Chicago Title Land Trust Company as trustee of Trust Number 131359 to issue a trustee's deed for the property to Beverly Maharaj, who subsequently purchased the property pursuant to that deed. In order to purchase the property, Maharaj took out a mortgage from BNC Mortgage, Inc. (BNC). The following month, the trustee's deed was recorded with the Cook County Recorder of Deeds.

¶ 10 In October 2007, BNC assigned the mortgage to Property Asset Management, Inc., (PAMI), and the assignment was recorded with the Cook County Recorder of Deeds two months later. Also in October 2007, PAMI instituted a foreclosure action on the property because Maharaj defaulted on her loan. Four months later, PAMI obtained a judgment of foreclosure. But in May 2009, prior to a sale of the property, PAMI voluntarily dismissed the foreclosure action without prejudice.

² Madalle Brown's first name is spelled various different ways in the record, including Midell, Madall and Madalle. We will utilize the spelling of Madalle, which was the spelling of his name on his driver's license which was attached to a joint motion for summary judgment filed by CPCA Trust 1 and Selene Finance LP.

¶ 11 In January 2010, PAMI obtained leave from the circuit court to reinstate the foreclosure action with the prior judgment of foreclosure in full effect. Four months later, Maharaj received an emergency postponement of the sheriff's sale until June 22, 2010.

¶ 12 On June 16, 2010, Edith filed a motion to vacate the foreclosure judgment and a petition to intervene, asserting that the property had been deeded to her by Elizabeth Brown pursuant to a quit claim deed recorded with the Cook County Recorder of Deeds the prior month. That deed purportedly granted by Elizabeth Brown conveyed the property to Edith on May 25, 2010, and was recorded the same day as document number 1014528006. The circuit court denied the motion and petition without prejudice when neither Edith nor an attorney representing her appeared at a scheduled hearing.

¶ 13 Although the record is unclear exactly what happened, there was no sale of the property in June 2010 and for many months afterward.

¶ 14 In August 2010, Edith filed an action in probate court, seeking an adjudication of Elizabeth Brown's competency and to be named the plenary guardian over her estate and finances. Later, Edith filed a physician's report dated September 10, 2010, wherein Dr. Elizabeth Hartman stated that Elizabeth Brown needed assistance with finances and decision-making. In December 2010, the circuit court adjudged Elizabeth Brown disabled and named Edith her plenary guardian.

¶ 15 In January 2012, Edith filed another petition to intervene and a motion to stay the sale of the property, asserting that Elizabeth Brown had lacked the capacity to convey the property to Maharaj. The circuit court denied Edith relief two days later. The following week, Edith filed a third petition to intervene in which she sought to vacate the foreclosure judgment, intervene in order to file a counterclaim to quiet title and stay the sale of the property. Edith again argued that

Elizabeth Brown had lacked the capacity to convey the property to Maharaj. The court denied this petition as well and explicitly granted PAMI leave to sell the property. In April 2012, the property was conveyed to CPCA Trust 1 (CPCA Trust), by assignment, pursuant to a judicial sales deed, which was later recorded with the Cook County Recorder of Deeds. In August 2012, the circuit court entered an order approving the judicial sale.

¶ 16 B. The Current Litigation

¶ 17 It is unclear exactly when, but at some point after the circuit court entered the order approving the judicial sale of the property, Edith began living at the property again.

¶ 18 In October 2012, Edith, through an attorney, and as guardian of Elizabeth Brown's estate, filed a complaint against Maharaj, PAMI, CPCA Trust and Selene Finance LP (Selene), wherein she sought to quiet title to the property and void all transactions of the property since 1997, the year that Elizabeth Brown had been allegedly diagnosed with dementia and lacked the capacity to enter into any property transfers, and ultimately restore title back to Elizabeth Brown. Selene was the mortgage loan servicer for CPCA Trust.

¶ 19 In January 2013, CPCA Trust filed a complaint in forcible entry and detainer (case number 13 M1 700651) against Edith, Elizabeth Brown, Marcellous Brown, Madalle Brown, Charles Brown and any unknown occupants, seeking possession only of the property. Two months later, a new attorney filed an appearance on Edith's behalf in the eviction matter, but did not demand a jury trial. It is unclear from the record what happened to Edith's first attorney. Through her second attorney, Edith filed a motion to stay the eviction proceedings pending the resolution of her quiet title action. In July 2013, the circuit court granted Edith's second attorney leave to withdraw, and the following month a third attorney filed an appearance on her behalf in

the eviction matter, again without demanding a jury trial. In December 2013, the circuit court stayed the eviction proceedings pending the resolution of Edith's quiet title action.

¶ 20 In February 2015, Edith was removed as the guardian of Elizabeth Brown's estate for waste, mismanagement and failing to file an accounting. Close to seven months later, the circuit court, on its own motion, dismissed Edith's quiet title action due to her removal as guardian and the failure of Elizabeth Brown's successor guardian to appear in the quiet title action.

¶ 21 In January 2016, Edith filed a *pro se* complaint, as the purported guardian of Elizabeth Brown's estate, seeking to quiet title against Maharaj, PAMI, CPCA Trust and Selene (case number 16 CH 691) and raising similar allegations as she had made in her previous filings regarding the competency of Elizabeth Brown and the legality of the transfers of the property. Additionally, because Edith's original quiet title action had been dismissed, she filed another motion to stay the eviction proceedings against her. The following day, the circuit court denied her motion to stay. On January 30, 2016, Elizabeth Brown passed away.

¶ 22 In April 2016, Edith's third attorney was granted leave by the circuit court to withdraw. Later that month, Edith filed a *pro se* amended complaint, again as the purported guardian of Elizabeth Brown's estate, to quiet title and continued to raise similar allegations that she had made in her previous filings. Edith subsequently hired her fourth attorney, who entered an appearance in both cases, but filed no jury demand. Edith, through that attorney, then filed an emergency motion to consolidate CPCA Trust's eviction matter and her quiet title action. The court granted the motion to consolidate and subsequently stayed the eviction proceedings.³ In August 2016, the circuit court granted Edith's fourth attorney leave to withdraw.

³ Judge James P. Flannery entered this order. All other orders relevant to this appeal were entered by Judge David A. Skryd.

¶ 23 On October 20, 2016, Edith filed a second amended *pro se* complaint, but only in her name, to quiet title and for a declaratory judgment against Maharaj, PAMI, CPCA Trust, Selene, any unknown owners and any non-record claimants. In the complaint, Edith claimed that she held title to the property based on two recorded documents, number 0010018988 and number 1014528006. The former document was the judgment order, wherein the circuit court found that the quit claim deed conveying the property from Charles Brown to Edith was fraudulent, without legal effect and very likely forged by Edith. The latter document was the quit claim deed purportedly executed by Elizabeth Brown on May 25, 2010, that conveyed the property to Edith. In her quiet title action, Edith alleged that Maharaj had Elizabeth Brown sign documents transferring the property despite knowing Elizabeth Brown did not have the mental capacity to do so. In her declaratory judgment action, Edith similarly alleged that Maharaj knew Elizabeth Brown did not have the mental capacity to enter into a legal contract and violated the Illinois Conveyances Act (765 ILCS 5/0.01 *et seq.* (West 2016)) by entering into the contract with her. Edith sought a declaration that: (1) Elizabeth Brown did not have the mental capacity to transfer the property beginning in 2007; (2) all transfers of the property without Edith's knowledge were void; and (3) the acts committed by Maharaj in 2007 were voidable.

¶ 24 In December 2016, Edith moved for a default judgment against Maharaj, asserting that Maharaj had been served, but had failed to file an answer. On January 5, 2007, Edith filed a *pro se* appearance and jury demand, wherein she listed the property as her current address. The following month, the circuit court denied Edith's motion for a default judgment against Maharaj and allowed an alias summons to issue for Maharaj.

¶ 25 In April 2017, Edith filed another motion for a default judgment against Maharaj and a motion to dismiss the eviction action against her. In Edith's motion for a default judgment, she

asserted that, after an alias summons had been issued, Maharaj still had not filed an answer. Edith attached to the motion a special process server affidavit from Randy Marcus, who averred that he personally served Maharaj on February 13, 2017, at a residence in Glen Ellyn, Illinois. In Edith's motion to dismiss, she continued to raise the same allegations as before, but also asserted that CPCA Trust, as an out-of-state entity, was required to post security for costs, but failed to, which warranted dismissal of the eviction action against her.

¶ 26 On April 27, 2017, the circuit court denied Edith's motion for a default judgment against Maharaj and her motion to dismiss following a hearing. The following week, Edith filed a motion for a substitution of judge for cause (Judge David A. Skryd) based on the circuit court's alleged prejudice, which the circuit court denied. Edith subsequently moved the court to reconsider, which it also denied. The judge whom Edith sought to remove from her consolidated case began presiding over the case in April 2017, and he considered and denied both the motion for a substitution of judge and the motion to reconsider. In October 2017, the circuit court set a trial date in both matters.

¶ 27 On November 13, 2017, CPCA Trust and Selene filed a joint motion for summary judgment, asserting that, because the only adjudication of Elizabeth Brown's competency occurred in December 2010, all transactions of the property before then were valid, including the one to Maharaj. Furthermore, they argued that Edith had only been appointed legal guardian of Elizabeth Brown in December 2010, meaning Edith did not need to have any role in Elizabeth Brown's actions or decisions prior to then. In light of these facts, and because there was no evidence that Edith ever had a legitimate interest in title to the property, CPCA Trust and Selene argued that there was no genuine issue of material fact regarding the chain of title of the property and they were entitled to judgment on her quiet title and declaratory judgment causes of action.

CPCA Trust and Selene's notice of motion was sent to Edith at the address of the property and stated that the motion was to be heard on December 6, 2017.

¶ 28 At the December 6, 2017, hearing, Edith did not appear, and the circuit court granted CPCA Trust and Selene's motion for summary judgment in a written order without explanation. The record does not contain a transcript from this hearing. The court's written order further stated that the upcoming trial remained with respect to the other parties and matters.

¶ 29 Five days later, Edith filed a motion for clarification, seeking to understand why the circuit court denied her alleged timely jury demand and denied her motion for an entry of a default judgment against Maharaj. She did not mention the court's grant of summary judgment in favor of CPCA Trust and Selene.

¶ 30 At a hearing on December 21, 2017, the circuit court denied Edith's motion for clarification, finding that both issues raised in her motion had already been heard, argued and decided. That same day, PAMI filed a motion for summary judgment in the quiet title and declaratory judgment actions, arguing that its interest in the property long ago dissipated and therefore, it was not a proper party in the lawsuit. Additionally, PAMI argued the undisputable facts established that Edith never had a legitimate interest in title to the property and there was no genuine issue of material fact regarding the chain of title of the property.

¶ 31 The following week, CPCA Trust requested, and obtained, leave from the circuit court to amend its complaint in the eviction matter in order to correct the address of the property.

¶ 32 Following a January 4, 2018, hearing, the circuit court granted PAMI's motion for summary judgment in a written order without explanation and further ordered: Edith's "petition to quiet title is denied." That same day, following a bench trial on the eviction matter, the court found in favor of CPCA Trust and granted it immediate possession of the property. The record

contains no transcript from either the hearing on PAMI's motion for summary judgment or the trial on the eviction matter.

¶ 33 Edith Brown timely filed a notice of appeal, seeking review of the circuit court's January 4, 2018, judgments and seeking the following relief: "Reverse and remand CPCA Trust 1 as a non-resident corp. Violation of statute. [Her] constitutional rights were violated. The court denied timely file jury demand and SOJ for cause."

¶ 34

II. ANALYSIS

¶ 35 In this appeal, from what we can glean from Edith's brief, she primarily contends that the circuit court erred by: (1) denying her motion to dismiss based on CPCA Trust, as a non-resident of Illinois, failing to post security for the costs associated with the litigation; (2) denying her motion for a substitution of judge for cause and by not referring the motion to another judge for a hearing; (3) denying her a jury trial despite a timely demand; (4) not ruling on her declaratory judgment action; (5) consolidating her two cases; (6) not finding that CPCA Trust's notice of intent to file a forcible entry and detainer action failed to comply with Illinois law; and (7) by granting CPCA Trust summary judgment during an *ex parte* hearing.

¶ 36 Initially, CPCA Trust argues that we do not have jurisdiction to review some of Edith's contentions of error, specifically any contentions related to the circuit court's grant of summary judgment in its favor or PAMI, or the court's judgment on the forcible detainer action, because her notice of appeal did not specify those judgments.⁴ Supreme Court Rule 303(b)(2) (eff. July 1, 2017) provides that a notice of appeal "shall specify the judgment or part thereof or other orders

⁴ Although CPCA Trust and Selene were represented by the same law firm in the circuit court in connection with Edith's quiet title and declaratory judgment actions, both are appellees in this appeal and the same law firm representing them below filed an appearance on both of their behalves in the appellate court, only CPCA Trust is the party named in the appellee brief.

appealed from and the relief sought from the reviewing court.” The notice of appeal confers jurisdiction to review only the judgments or parts of judgments specified therein (*General Motors Corp. v. Pappas*, 242 Ill. 2d 163, 176 (2011), but it should be liberally construed. *Maywood-Proviso State Bank v. Village of Lisle*, 234 Ill. App. 3d 206, 215 (1992). The purpose of the notice is to inform the successful party that the unsuccessful party seeks review of the court’s decision. *General Motors*, 242 Ill. 2d at 176. “The notice of appeal should be considered as a whole and will be deemed sufficient to confer jurisdiction on an appellate court when it fairly and adequately sets out the judgment complained of and the relief sought, thus advising the successful litigant of the nature of the appeal.” (Internal quotation marks omitted.) *Id.* When the deficiency of the notice of appeal is of form rather than substance, and the appellee is not prejudiced by that deficiency, “the failure to comply strictly with the form of notice is not fatal.” *Maywood-Proviso State Bank*, 234 Ill. App. 3d at 215.

¶ 37 In this case, we find that there is no jurisdictional bar to Edith challenging the circuit court’s grant of summary judgment in its favor or PAMI, or the court’s judgment on the forcible detainer action. Regarding summary judgment for PAMI and the forcible detainer action, both those judgments occurred on January 4, 2018, which was the date of the judgments Edith sought review of in her notice of appeal. Liberally construed, she sought review of those judgments. With regard to the court’s grant of summary judgment in favor of CPCA Trust, that occurred on December 6, 2017. But based on Edith’s notice of appeal requesting review of the court’s January 4, 2018, judgments, one of which was a judgment in favor of CPCA Trust and the other a grant of summary judgment, we believe that, under a liberal construction of her notice of appeal, CPCA Trust would know that she was also challenging the court’s grant of summary judgment in its favor. Now we will address Edith’s contentions of error.

¶ 38

A. Posting of Security

¶ 39 Edith first contends that the circuit court erred in denying her motion to dismiss which was based on CPCA Trust's failure to post security for costs as an out-of-state entity in accordance with section 5-101 of the Code of Civil Procedure (Code) (735 ILCS 5/5-101 (West 2016)). In her motion, Edith did not specify what type of motion to dismiss she had brought.

¶ 40 There are two types of motions to dismiss directed at a complaint, one brought pursuant to section 2-615 of the Code (735 ILCS 5/2-615 (West 2016)) and one brought pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2016)). A motion to dismiss brought under section 2-615 challenges the legal sufficiency of the complaint by alleging defects apparent on its face. *In re Estate of Powell*, 2014 IL 115997, ¶ 12. In contrast, a motion to dismiss brought under section 2-619 admits the legal sufficiency of the complaint, but asserts that certain external defects or defenses defeat the claims. *Sandholm v. Kuecker*, 2012 IL 111443, ¶ 55. When analyzing either type of motion to dismiss, the circuit court is required to accept all well-pled facts in the complaint as true. *In re Estate of Powell*, 2014 IL 115997, ¶ 12; *Sandholm*, 2012 IL 111443, ¶ 55. We review both *de novo*. *Lutkauskas v. Ricker*, 2015 IL 117090, ¶ 29.

¶ 41 Regardless of the type of motion to dismiss she brought, her contention is meritless. Under section 5-101 of the Code (735 ILCS 5/5-101 (West 2016)), in all civil actions when the plaintiff is not a resident of Illinois, the plaintiff "shall, before he or she institutes such action, file, or cause to be filed, with the clerk of the court in which the action is to be commenced, security for costs." Section 5-103 of the Code (735 ILCS 5/5-103 (West 2016)) allows for the dismissal of a cause of action for failing to post the required security. However, a motion to dismiss for failing to post security for costs must be timely filed, otherwise it is waived. *Lease Partners Corp. v. R & J Pharmacies Inc.*, 329 Ill. App. 3d 69, 75 (2002).

¶ 42 In this case, CPCA Trust filed its forcible detainer action in January 2013, and Edith filed her motion to dismiss based on its failure to post security for costs in April 2017. Waiting more than four years after the initiation of the action is not timely raising the issue. Consequently, Edith waived the issue, and the circuit court properly denied her motion to dismiss.

¶ 43 B. Motion For A Substitution of Judge

¶ 44 Edith next contends that the circuit court erred in denying her motion for a substitution of judge primarily because the circuit court judge failed to refer the matter to another judge for a hearing to determine if cause existed.

¶ 45 Under section 2-1001(a)(3) of the Code (735 ILCS 5/2-1001(a)(3) (West 2016)), a litigant is entitled to a substitution of judge when cause exists. To make a motion, the party must file a petition stating “the specific cause for substitution.” *Id.* Although the Code provides for a hearing before another judge upon the filing of the petition (*id.*), the hearing is not automatic. *In re Estate of Wilson*, 238 Ill. 2d 519, 553 (2010). In order to trigger a hearing, the petition “must allege grounds that, if true, would justify granting substitution for cause.” *Id.* at 554. If the basis of cause is prejudice, “it must normally stem from an extrajudicial source, *i.e.*, from a source other than from what the judge learned from her participation in the case before her.” *Id.* And “[a] judge’s previous rulings almost never constitute a valid basis for a claim of judicial bias or partiality.” *Id.* We review the circuit court’s decision not to refer Edith’s motion for a hearing before another judge *de novo*. *Danhauer v. Danhauer*, 2013 IL App (1st) 123537, ¶ 22.

¶ 46 In Edith’s motion, many of her allegations of bias and prejudice were based on the circuit court’s adverse rulings against her, namely the motion for a default judgment against Maharaj and Edith’s motion to dismiss the eviction proceedings, which cannot support a finding of judicial bias or prejudice. See *In re Estate of Wilson*, 238 Ill. 2d at 554. Although Edith did

allege that the court had “a personal interest” in the case, “denied [her] a right to speak in court on her *pro se* motions” and told her “to go sit down in a harsh tone,” none of these allegations warranted a hearing before another judge. First, Edith failed to support her conclusory allegation about the court’s “personal interest” with any evidence. Second, although in this case, we do not have transcripts from many hearings, we do have one from the hearing of April 27, 2017, on Edith’s motion for a default judgment against Maharaj and her motion to dismiss the eviction proceedings. During that hearing, the court provided her an opportunity to argue on her behalf, thereby belying her claim otherwise. Finally, being told to sit down in a harsh tone alone is simply not evidence of bias or prejudice. Consequently, because Edith’s motion was insufficient on its face, the circuit court did not err in failing to refer Edith’s motion for a hearing before another judge and did not err in denying motion.

¶ 47

C. Denial of Jury Trial

¶ 48 Edith next contends that the circuit court violated her due process rights by denying her a jury trial in the eviction matter, where she was the defendant, despite her timely request.

¶ 49 Under section 2-1105 of the Code (735 ILCS 5/2-1105 (West 2016)), “[a] defendant desirous of a trial by jury must file a demand therefor not later than the filing of his or her answer. Otherwise, the party waives a jury.” However, at the time CPCA Trust initiated its forcible entry and detainer action against Edith, Supreme Court Rule 181(b)(2) (eff. Jan. 4, 2013) provided that, “[i]n actions for forcible detainer *** the defendant must appear at the time and place specified in the summons. If the defendant appears, he or she need not file an answer unless ordered by the court.” In light of section 2-1105 of the Code and Rule 181(b)(2), this court, in *First Bank of Oak Park v. Carswell*, 111 Ill. App. 3d 71, 73 (1982), determined that a

defendant in a forcible entry and detainer action must file her jury demand by the time she is required to appear.

¶ 50 In this case, although Edith had been represented by multiple attorneys throughout the litigation, none of them filed a jury demand in her forcible entry and detainer action. The first jury demand was filed by Edith in January 2017, well after she was required to appear in the matter. Edith's jury demand was therefore untimely, and she failed to obtain leave of court to file a late jury demand. As a result, the circuit court properly denied her a jury trial.

¶ 51 D. Declaratory Judgment Cause of Action

¶ 52 Edith next contends that the circuit court failed to rule on her declaratory judgment cause of action.

¶ 53 In CPCA Trust, Selene and PAMI's motions for summary judgment, they all moved for judgment on both the quiet title and declaratory judgment causes of action based on similar reasoning. In the circuit court's written orders, it granted their motions without explanation. Furthermore, the record on appeal does not contain transcripts from the hearings on those motions, so we do not know why the court ruled as it did or the extent of its rulings. The appellant has the burden to present a sufficiently complete record of the proceedings to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). In the absence of an adequate record, it will be presumed on appeal that the court's orders were in conformity with the law and had a sufficient factual basis. *Id.* at 392. Any doubts arising from the incompleteness of the record will be resolved against the appellant. *Id.* Consequently, we must presume the court's grant of summary judgment in favor of CPCA Trust, Selene and PAMI included the declaratory judgment cause of action. Regarding Maharaj, we must assume that, when the court denied Edith's quiet title cause of action, necessarily denying any relief against Maharaj, it also

implicitly dismissed Edith's declaratory judgment action as it was related to Maharaj. See *id.* Because of these assumptions we must make, we have no basis on this record to find that the circuit court failed to rule on Edith's declaratory judgment cause of action.

¶ 54

E. Motion to Consolidate

¶ 55 Edith next appears to contend that the circuit court erred in consolidating her two cases. The court consolidated Edith's cases based on a motion filed by her own attorney, who posited that consolidation was necessary because both cases involved the same subject matter, issues and parties, all primary based on the ownership of the property. Under the invited-error doctrine, a party may not request to proceed in one manner in the circuit court and then contend on appeal that the requested action was improper. *Gaffney v. Board of Trustees of Orland Fire Protection District*, 2012 IL 110012, ¶ 33. "The rationale for the rule is that it would be manifestly unfair to grant a party relief based on error introduced into the proceedings by that party." *Id.* Because Edith requested her two cases to be consolidated in the circuit court, she cannot complain on appeal that the court's order granting her motion was improper. See *id.* Consequently, our review of this contention of error is precluded by the invited-error doctrine.

¶ 56

F. Notice of Intent

¶ 57 Edith next contends that CPCA Trust's notice of intent to file a forcible entry and detainer action did not comply with section 9-211 of the Code (735 ILCS 5/9-211 (West 2016)), which provides that "[a]ny demand may be made or notice served by delivering a written or printed, or partly written and printed, copy thereof to the tenant, or by leaving the same with some person of the age of 13 years or upwards, residing on or in possession of the premises; or by sending a copy of the notice to the tenant by certified or registered mail, with a returned

receipt from the addressee; and in case no one is in the actual possession of the premises, then by posting the same on the premises.”

¶ 58 However, Edith never raised this issue in the circuit court. “It is well settled that issues not raised in the trial court are forfeited and may not be raised for the first time on appeal.” *Bank of New York Mellon v. Rogers*, 2016 IL App (2d) 150712, ¶ 72. Because Edith did not raise the notice issue in the circuit court, she has forfeited this contention on appeal. See *id.*

¶ 59 G. Summary Judgment for CPCA Trust

¶ 60 Edith lastly contends that the circuit court erred in granting CPCA Trust’s motion for summary judgment, primarily because it granted the motion during an *ex parte* hearing after she did not receive notice of the motion. Initially, we note that, again, Edith did not raise this issue in the circuit court. While she was not present for the hearing on CPCA Trust’s motion for summary judgment, she could have raised an argument about a lack of notice in a motion to reconsider. Because she failed to raise the issue below, we could find this argument forfeited. See *id.* Nevertheless, because *ex parte* hearings are disfavored as they can prevent one party’s side from being heard (see *Parks v. McWhorter*, 106 Ill. 2d 181, 185 (1985)), we will address Edith’s contention regarding the notice of the motion.

¶ 61 Under Supreme Court Rule 11(c) (eff. July 1, 2017), “[i]f a self-represented party so opts, *** service of documents may be made by any one of the following alternative methods: *** (3) United States Mail. Depositing the document in a United States post office or post office box, enclosed in an envelope to the party’s address, as identified by the party’s appearance in the matter, with postage fully prepaid.” Additionally, “[t]here is a presumption of delivery if sent by regular mail directed to a proper address.’ ” *CitiMortgage, Inc. v. Lewis*, 2014 IL App (1st) 131272, ¶ 39 (quoting *In re Marriage of Betts*, 159 Ill. App. 3d 327, 332 (1987)). Moreover,

“[s]ervice is complete when all the required acts are done. So, if all that the statute requires is done, it is immaterial that defendant in fact receives no actual notice thereof; and the fact that he does not thereafter personally receive the papers which were so served or that he receives them at a later date ordinarily does not affect the validity of the service.” (Internal quotation marks omitted.) *Id.*

¶ 62 In this case, the record shows that, on November 13, 2017, CPCA Trust and Selene filed their joint motion for summary judgment. The notice of motion, as sworn to under penalties of perjury by a representative of the attorney of CPCA Trust and Selene, was sent the same day to Edith at the address of the property, which was the address used in the appearance she filed in January 2017, and stated that the motion was to be heard on December 6, 2017. Although the notice of motion deemed the motion as a “Motion to Compel,” the actual motion for summary judgment was attached to the notice of motion. Based on the foregoing, we must presume that CPCA Trust gave proper notice to Edith of the hearing, and we cannot find error in the circuit court’s *ex parte* hearing and subsequent grant of summary judgment for CPCA Trust and Selene.

¶ 63 Lastly, to the extent that Edith has raised any challenges to the merits of the circuit court’s grant of summary judgment in favor of CPCA Trust, Selene or PAMI, or the court’s finding in favor of CPCA Trust in the eviction matter, we find those challenges forfeited by her failure to develop them sufficiently on appeal. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018). Regardless, there is no evidence that Edith had an interest in the property at the relevant time or that Elizabeth Brown was incompetent when she conveyed her interest in the property.

¶ 64 III. CONCLUSION

¶ 65 For the foregoing reasons, we affirm the judgments of the circuit court of Cook County.

¶ 66 Affirmed.