

NOTICE
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2018 IL App (5th) 170432-U

NO. 5-17-0432

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

ROBINSON TOWNSHIP,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Crawford County.
)	
v.)	No. 10-ED-1
)	
THE ESTATE OF GARY L. WILSON,)	Honorable
)	Kimbara G. Harrell,
Defendant-Appellant.)	Judge, presiding.

JUSTICE CHAPMAN delivered the judgment of the court.
Justices Goldenhersh and Cates concurred in the judgment.

ORDER

¶ 1 *Held:* Where the Crawford County circuit court retained jurisdiction to enforce its previously-entered judgment, the trial court’s order granting Robinson Township’s motion to enforce the August 2012 judgment was correct, and where the trial court did not abuse its discretion in denying the estate of Gary L. Wilson’s request for sanctions against Robinson Township, we affirm the order.

¶ 2 The estate of Gary L. Wilson (Estate) appeals the trial court’s order granting Robinson Township’s motion to enforce the August 2012 final judgment in an eminent domain case. The order directed the Crawford County treasurer to pay the Estate for .7 acre of land based on the per acre property valuation set in the August 2012 judgment, to specify the property’s legal description, to declare that Robinson Township is the lawful

owner of the property, and to direct the Crawford County circuit clerk to record the judgment with the Crawford County recorder of deeds. At issue in this appeal is whether the trial court had jurisdiction to enter an order more than 30 days after the August 2012 final judgment was entered. For the reasons contained in this order, we find that the trial court retained jurisdiction and affirm the trial court's judgment. Because we conclude that the trial court retained jurisdiction and properly enforced its August 2012 judgment, we also find that the trial court did not abuse its discretion in denying the Estate's request for sanctions against Robinson Township.

¶ 3 **BACKGROUND**

¶ 4 This appeal is the third time that this eminent domain case has been before our court. We briefly review the underlying facts.

¶ 5 Robinson Township determined that a portion of a township road was unsafe and required modification. The planned modification included straightening that section of the road. In order to straighten the road, Robinson Township needed to obtain .7 acre from Gary L. Wilson (Wilson), who owned the land adjacent to the unsafe section. Unable to reach an agreement on the purchase of the property, Robinson Township filed an eminent domain action against Wilson in August 2010 to determine the value of Wilson's property. After a bench trial, the trial court entered its initial judgment in April 2012 setting the value for the property, but then recalculated its value and entered a subsequent judgment in August 2012. Neither party appealed from the August 2012 judgment. However, in a separate case Wilson sought review of the Crawford County superintendent of highways' administrative decision that granted Robinson Township's

petition to alter the township road. The trial court affirmed the superintendent of highways' decision in February 2013. Wilson appealed from this order.

¶ 6 In his first appeal to this court, Wilson claimed that Robinson Township did not formally initiate proceedings at the township level before filing its eminent domain action. He argued that the procedural process taken by Robinson Township rendered the taking of his land void *ab initio*. We held that Robinson Township's eminent domain action was not void *ab initio* because the trial court had both subject matter and personal jurisdiction in the eminent domain case. *Wilson v. Robinson Township*, 2014 IL App (5th) 130134-U, ¶¶ 19-21 (citing *In re Marriage of Mitchell*, 181 Ill. 2d 169, 174, 692 N.E.2d 281, 283-84 (1998)). We pointed out that although the eminent domain judgment may have been voidable if attacked directly, the judgment was not void and could not be collaterally attacked in the administrative review proceeding. *Id.* ¶ 21.

¶ 7 Wilson then returned to the trial court and filed a motion for summary judgment in the eminent domain case raising the identical issue he argued in the first appeal—that Robinson Township did not take the appropriate administrative action prior to filing its eminent domain case and thus the taking of his land was void *ab initio*. The trial court denied the motion in August 2014, stating that the August 2012 judgment was final and appealable and that Wilson did not appeal from that judgment. Wilson then filed his second appeal to this court. Subsequently, Wilson passed away in early 2015, and his estate was substituted as the defendant-appellant.

¶ 8 In the second appeal, this court affirmed the trial court's denial of the Estate's motion for summary judgment and concluded that the motion "was not warranted by

existing law or a good faith argument for the extension, modification, or reversal of existing law.” *Robinson Township v. Estate of Wilson*, 2016 IL App (5th) 140451-U, ¶ 33. We held that the underlying judgment was final on August 21, 2012, because the judgment established the property’s value and “thereby disposed of the litigation on its merits leaving no matter of substantial controversy to be decided.” *Id.* ¶ 23.

¶ 9 Following this court’s order, the case returned to the trial court. On September 8, 2017, Robinson Township filed a motion seeking to enforce the August 2012 judgment. Robinson Township confirmed that it had made a \$2864.40 payment to the Crawford County treasurer representing the value of the .7 acre. Robinson Township asked the trial court to direct the Crawford County treasurer to make payment to the Estate, to set out the full legal description of the condemned property, to state that Robinson Township is the lawful owner of the property, and to direct the Crawford County circuit clerk to record the judgment with the Crawford County recorder of deeds.

¶ 10 In response, the Estate asked the trial court to dismiss Robinson Township’s motion on the basis that Robinson Township was attempting to alter a final judgment, and because more than 30 days had elapsed since the trial court entered its judgment in August 2012, the trial court did not have jurisdiction to hear the motion. The Estate’s attorney argued that Robinson Township’s motion did not merely seek enforcement of the August 2012 judgment, but sought to alter the judgment by adding the property’s legal description. The Estate also asked for an award of attorney fees and costs, arguing that Robinson Township’s motion was not legally supported. At the motion hearing, Robinson Township made an oral motion for attorney fees and costs against the Estate for

filing its responsive motion without a good faith basis in the law. The trial court denied the Estate's responsive motion, finding that the court had jurisdiction because Robinson Township's motion sought to enforce the August 2012 judgment, not to alter it. The trial court also denied both sanctions requests.

¶ 11 On October 10, 2017, the trial court entered its order enforcing the August 2012 judgment. The Estate timely appealed from this order.

¶ 12 ANALYSIS

¶ 13 On appeal, the Estate contends that the trial court's October 10, 2017, order is void for lack of jurisdiction because the court lost its jurisdiction due to the passage of more than 30 days after entry of the court's August 2012 judgment. If we find that the trial court did not have jurisdiction, the Estate also claims that the trial court should have awarded it attorney fees and costs as a sanction against Robinson Township.

¶ 14 A. Jurisdiction

¶ 15 Questions involving jurisdiction are reviewed on a *de novo* basis. *Deutsche Bank National Trust Co. v. Hall-Pilate*, 2011 IL App (1st) 102632, ¶ 12, 957 N.E.2d 924; *Arthur v. Catour*, 216 Ill. 2d 72, 78, 833 N.E.2d 847, 851 (2005).

¶ 16 A trial court typically retains jurisdiction over a pending case until a final judgment is entered that terminates the case between the parties. *County of Cook v. Illinois Fraternal Order of Police Labor Council*, 358 Ill. App. 3d 667, 671, 832 N.E.2d 395, 400 (2005). "It is well established that a trial court loses jurisdiction over a case and the authority to vacate or modify its judgment 30 days after the entry of judgment, unless a timely postjudgment motion is filed." *Longo v. Globe Auto Recycling, Inc.*, 318 Ill.

App. 3d 1028, 1033, 743 N.E.2d 667, 671 (2001) (citing *Gegenhuber v. Hystopolis Production, Inc.*, 277 Ill. App. 3d 429, 431, 660 N.E.2d 107, 109 (1995)). If a timely postjudgment motion is filed, a trial court loses jurisdiction over the case when 30 days pass from the date of the order resolving the postjudgment motion. *Won v. Grant Park 2, L.L.C.*, 2013 IL App (1st) 122523, ¶ 20, 2 N.E.3d 595; *Bell v. Hill*, 271 Ill. App. 3d 224, 228, 648 N.E.2d 170, 172-73 (1995); *Faust v. Michael Reese Hospital & Medical Center*, 79 Ill. App. 3d 69, 72, 398 N.E.2d 287, 288 (1979).

¶ 17 Here, the Estate is correct that the August 2012 judgment was a final judgment as previously determined in the Estate's second appeal. *Wilson*, 2016 IL App (5th) 140451-U, ¶ 23. The two essential matters of controversy in an eminent domain proceeding had been adjudicated—whether Robinson Township had the authority to condemn the Estate's property, and the value of the property. *Id.* At issue in this appeal is whether Robinson Township was attempting to alter or modify a final judgment. Any attempt to alter or modify the judgment would fail because the trial court would not have jurisdiction over that judgment. Robinson Township contends that it was not seeking to have the August 2012 judgment altered or modified, instead, it was seeking to enforce the judgment.

¶ 18 In Illinois, trial courts may retain jurisdiction to enforce its own orders after the 30-day time period lapses. *Brigando v. Republic Steel Corp.*, 180 Ill. App. 3d 1016, 1020, 536 N.E.2d 778, 781-82 (1989); *County of Cook*, 358 Ill. App. 3d at 671-72 (citing *American Society of Lubrication Engineers v. Roetheli*, 249 Ill. App. 3d 1038, 1042, 621 N.E.2d 30, 32-33 (1993)). A trial court retains jurisdiction if the parties enter a consent

judgment approved by the court because the court may need to order the parties to continue performance of specific acts. *Comet Casualty Co. v. Schneider*, 98 Ill. App. 3d 786, 791-92, 424 N.E.2d 911, 915-16 (1981). Additionally, the trial court retains jurisdiction after the passage of 30 days if the judgment “contemplates or orders future performance by the parties.” *Brigando*, 180 Ill. App. 3d at 1020; *Director of Insurance v. A&A Midwest Rebuilders, Inc.*, 383 Ill. App. 3d 721, 723, 891 N.E.2d 500, 503 (2008).

¶ 19 In order to determine if a trial court has retained jurisdiction over a case, we must look at the nature and scope of the court’s order in context of the statutory provisions of the Eminent Domain Act (735 ILCS 30/1-1-1 *et seq.* (West 2010)). See *Brigando*, 180 Ill. App. 3d at 1020. The eminent domain process serves to allow a condemning authority to take land from a private citizen for a public use. 735 ILCS 30/5-5-5(a), (b) (West 2010). The Eminent Domain Act exists, in part, to ensure that “[p]rivate property shall not be taken or damaged for public use without just compensation” and that either a jury or the trial court determines what is “just compensation.” *Id.* § 10-5-5. In this case, the trial court entered its initial judgment order on April 17, 2012. The order is entitled “Order Re: Valuation.” The order provided a “per acre” valuation of \$8923. On August 21, 2012, the trial court granted a motion to reconsider the earlier order, and lowered the valuation per acre to \$4092. Section 10-5-70(a) of the Eminent Domain Act provides that if the court enters a finding of “just compensation,” the court “shall proceed to adjudge and make such order as to right and justice shall pertain, ordering that the plaintiff shall enter upon the property and the use of the property upon payment of full compensation as ascertained, within a reasonable time to be fixed by the court.” *Id.*

§ 10-5-70(a). The statute also provides that within the same eminent domain proceeding, the court “shall have exclusive authority to hear and determine all rights *** to just compensation and shall make findings as to the rights of the parties, which shall be paid by the county treasurer out of the respective awards deposited with him or her.” *Id.* After the court determines what is “just compensation,” the plaintiff may make payment to the county treasurer, “who shall receive and disburse the final compensation, subject to an order of the court” pursuant to section 10-5-70(a) of the Eminent Domain Act. *Id.* § 10-5-85. Finally, the court must “cause *** the judgment of the court to be filed of record.” *Id.* § 10-5-95.

¶ 20 Here, the August 2012 eminent domain case judgment was “final” in the sense that there was no substantial issue in controversy that was left open for future determination. *Joliet Federal Savings & Loan Ass’n v. O’Hare International Bank*, 12 Ill. App. 3d 1012, 1013-14, 299 N.E.2d 350, 351 (1973) (citing *Village of Niles v. Szczesny*, 13 Ill. 2d 45, 147 N.E.2d 371 (1958), and *LaVida, Inc. v. Robbins*, 33 Ill. App. 2d 243, 178 N.E.2d 412 (1961)). As contemplated by the Eminent Domain Act, the compensation per acre was determined in the August 2012 order.

¶ 21 While the compensation had been finalized in the eminent domain case, the procedural process to authorize the condemnation of the Estate’s land was still proceeding in the appropriate administrative action. On October 5, 2012, the Crawford County superintendent of highways granted a petition for alteration of the roadway, which necessarily included the taking of the Estate’s .7 acre of land. In a separate case

seeking review of the administrative decision, the Crawford County circuit court affirmed the county superintendent of highways' order on February 25, 2013.

¶ 22 When the Estate's last appeal ended in 2017, the case returned to Crawford County circuit court. The Eminent Domain Act unambiguously contemplates additional orders to finalize and "enforce" the judgment of compensation. See 735 ILCS 30/10-5-70(a), 10-5-85 (West 2010). Since Robinson Township was not then in possession of the land at issue, the court was required to enter an order "as to right and justice" to allow Robinson Township to use the property upon payment of the compensation previously determined. *Id.* § 10-5-70(a). While the August 2012 judgment contained no language specifically retaining jurisdiction, the judgment was not self-executing and an additional order was necessary to effectuate the payment to the Estate and transfer of ownership from the Estate to Robinson Township.

¶ 23 The court's October 10, 2017, order noted that Robinson Township had made full payment to the Crawford County treasurer for the .7 acre of land in the amount of \$2864.40. As authorized in section 10-5-70(a) of the Eminent Domain Act, the trial court stated that Robinson Township could enter upon and use the property at issue. *Id.* The court also directed the county treasurer to pay the Estate pursuant to section 10-5-90 of the Eminent Domain Act. *Id.* § 10-5-90. Finally, the trial court directed the Crawford County circuit clerk to record the order containing the legal description of the .7-acre parcel, now owned by Robinson Township, with the Crawford County recorder of deeds. *Id.* § 10-5-95.

¶ 24 We find that given the nature and scope of this case, and the statutory language of the Eminent Domain Act, the trial court’s order dated October 10, 2017, was not an alteration of the original judgment setting the Estate’s compensation per acre. The court’s order was consistent with the language of the Eminent Domain Act and served to finalize and enforce the judgment of compensation.

¶ 25 B. Sanctions

¶ 26 A trial court is allowed to award sanctions. Ill. S. Ct. R. 137(d) (eff. July 1, 2013). If a party is represented by an attorney, Illinois Supreme Court Rule 137 requires the attorney to sign each pleading before it is filed. Ill. S. Ct. R. 137(a) (eff. July 1, 2013). The attorney’s signature constitutes a certificate that he or she has read the pleading and that “to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.” *Id.* If a signed pleading violates Rule 137(a), the court may impose a monetary sanction. *Id.* “Where a sanction is imposed under this rule, the judge shall set forth with specificity the reasons and basis of any sanction so imposed either in the judgment order itself or in a separate written order.” Ill. S. Ct. R. 137(d) (eff. July 1, 2013). The party seeking sanctions has the burden of proof to establish that the opposing party made untrue or false pleadings without reasonable cause. *Technology Innovation Center, Inc. v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 243, 732 N.E.2d 1129, 1134 (2000) (citing *Yassin v. Certified Grocers of Illinois, Inc.*, 133 Ill. 2d 458, 467, 551 N.E.2d 1319, 1322-23 (1990)). A reviewing court will not reverse a trial court’s award of sanctions unless

the trial court abused its discretion. *Kotara, LLC v. Schneider*, 2018 IL App (3d) 160525, ¶ 20, 95 N.E.3d 47.

¶ 27 In light of our holding that the trial court retained jurisdiction to enforce the August 2012 judgment setting the compensation amount in this eminent domain case, we find that the trial court's order denying the Estate's request for attorney fees and costs was correct.

¶ 28 **CONCLUSION**

¶ 29 For the foregoing reasons, we affirm the judgment of the Crawford County circuit court.

¶ 30 Affirmed.