2019 IL App (1st) 181253-U

No. 1-18-1253

Order filed April 12, 2019

Sixth Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

NATHALIE KOIVOGUI,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 17 M1 040671
	)	
KRISHA SALGADO,	)	Honorable
	)	Elizabeth A. Karkula,
Defendant-Appellee.	)	Judge, presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the trial court's dismissal order because plaintiff's brief was insufficient to ascertain her claims and she failed to furnish a sufficient record on appeal.

¶ 2 Plaintiff Nathalie Koivogui appeals *pro se* from the circuit court's order dismissing her action seeking unpaid rent from defendant Krisha Salgado. On appeal, plaintiff contends that the trial court failed to "rule" based on Illinois statutes and the "City of Chicago Code." Specifically, plaintiff contends that the court erred by "[f]abricating evidence which was not presented" and

deciding that defendant's "status was changed from tenant to guest" such that she "could not be held liable for rent." We affirm.

¶ 3 The limited record on appeal reveals that on December 20, 2017, plaintiff filed a *pro se* complaint alleging that defendant moved out of a rental unit owned by plaintiff while still owing rent. The complaint sought $3000 plus court costs. On February 1, 2018, the circuit court entered an order dismissing the case without prejudice. Plaintiff then filed a *pro se* motion for a "new trial" alleging that she presented all the proof which supported her claim, but that the trial court ruled against her evidence and believed defendant's unsupported "lies." On March 1, 2018, the trial court denied the motion for reconsideration and entered an order stating "This Matter is Denied with Prejudice. Wrong Defendant." On March 30, 2018, plaintiff filed a *pro se* motion to vacate the order and for a rehearing. On May 24, 2018, the court denied plaintiff's motion. On June 13, 2018, plaintiff filed a *pro se* notice of appeal.[1]

¶ 4 On appeal, plaintiff argues that the trial court erroneously "determined" that defendant was a guest rather than a tenant and therefore not liable for unpaid rent when there was "[n]o testimony or evidence" of this fact. She concludes that the court "fabricated" this evidence. Attached to plaintiff's *pro se* brief are a "summary of court proceedings," copies of the exhibits that were allegedly presented to the court, a transcript from *People v. Jimenez*, No. 17 MC1 121495, and copies of text messages and handwritten notes. None of these attachments are included in the record on appeal, nor has plaintiff provided this court with a report of proceedings from the trial court.

[1] We note that the common law record contains a *pro se* motion to "dismiss" the case filed in the circuit court on June 26, 2018, two weeks after plaintiff filed the notice of appeal in this case. However, the records of this court do not contain a motion to dismiss this appeal, and plaintiff filed her *pro se* appellate brief on November 14, 2018.

¶ 5 On March 4, 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, 133 (1976) (a reviewing court can decide the merits of the appeal where the record is simple and the claimed errors can be decided without the aid of an appellee's brief).

¶ 6 As a preliminary matter, we note that our review of plaintiff's appeal is hindered by her failure to fully comply with Supreme Court Rule 341 (eff. Nov. 1, 2017), which "governs the form and content of appellate briefs." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12. Although plaintiff is a *pro se* litigant, this status does not lessen her burden on appeal. "In Illinois, parties choosing to represent themselves without a lawyer must comply with the same rules and are held to the same standards as licensed attorneys." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 7.

¶ 7 Supreme Court Rule 341(h) provides that all briefs should contain a statement of "the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment" and an argument "which shall contain the contentions of the appellant and reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(6), (7) (eff. Nov. 1, 2017). Pursuant to the rule, a reviewing court is entitled to have issues clearly defined with "cohesive arguments" presented and pertinent authority cited. *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). "Arguments that do not comply with Rule 341(h)(7) do not merit consideration on appeal and may be rejected by this court for that reason alone." *Wells Fargo Bank, N.A. v. Sanders*, 2015 IL App (1st) 141272, ¶ 43. Plaintiff's brief meets none of these requirements.

¶ 8 Plaintiff's arguments rest on evidence and argument that was allegedly presented to, and disregarded by, the circuit court, but she does not cite to the pages of the record relied on. An appellant is required to cite to the pages and volume of the record on appeal upon which she relies "so that we are able to assess whether the facts which [the appellant] presents are accurate and a fair portrayal of the events in this case." *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 58. Nor does plaintiff cite to any pertinent legal authority to support her arguments on appeal. See *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991) ("A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research.").

¶ 9 Although plaintiff has attached certain documents to her brief, those documents are not contained in the record on appeal. It is well settled that the record on appeal cannot be supplemented by simply attaching documents to the appendix of a brief. *In re Parentage of Melton*, 321 Ill. App. 3d 823, 826 (2001). We cannot consider improperly appended documents not included in the record on appeal. *Id.* To the extent that plaintiff's brief fails to comply with Supreme Court Rule 341(h)(7), her arguments are forfeited.

¶ 10 Even if we were to attempt to review this appeal on the merits, the deficiencies in the record would prevent us from doing so. Plaintiff appeals from the circuit court's order dismissing the cause against defendant, and contends on appeal that the court rejected her proof and fabricated evidence. However, the record on appeal does not contain a transcript, report of proceedings, or acceptable substitute pursuant to Supreme Court Rule 323. See Ill. S. Ct. R. 323(a), (c) (eff. July 1, 2017). Accordingly, we have no way to determine what facts the trial court relied upon in making its determination or if erred in doing so.

¶ 11 On appeal, the appellant has the burden to provide a complete record for review in the appellate court to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). 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." *Id.* at 392. See also *In re Marriage of Abu-Hashim*, 2014 IL App (1st) 122997, ¶ 15 (all doubts and deficiencies arising from an insufficient record will be construed against the appellant). This is because, in order to determine whether there was actually an error, a reviewing court must have a record before it to review. *Foutch*, 99 Ill. 2d at 392.

¶ 12 Here, we do not have the benefit of transcripts, bystander's reports, or an agreed statement of facts, and the circuit court's order does not provide us with the court's reasoning. Thus, in the absence of a report of proceedings, we have no basis for disturbing the circuit court's judgment (*id.* at 391-92), and must presume that the court's order was entered in conformity with the law and had a sufficient factual basis (see *Illinois Neurospine Institute, P.C. v. Carson*, 2017 IL App (1st) 163386, ¶ 33).

¶ 13 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 14 Affirmed.