2019 IL App (1st) 18-1645-U



THIRD DIVISION
March 20, 2019

No. 1-18-1645

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

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|---|---|---|
| 742 VASTA L.L.C., | ) | |
| | ) | Appeal from the Circuit Court |
| Plaintiff-Appellant, | ) | of Cook County, Illinois, |
| | ) | First Municipal District. |
| and LOUIS VASTA, | ) | |
| | ) | No. 06 M1 129255 |
| Third-Party Defendant-Appellant, | ) | |
| | ) | The Honorable |
| v. | ) | Catherine Schneider, |
| | ) | Judge Presiding. |
| ANDREA RAILA, PAULA RAILA, and RAILA & ASSOCIATES, | ) | |
| | ) | |
| | ) | |
| Defendants-Appellees. | ) | |

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court.

Justices Howse and Ellis concurred in the judgment.

**ORDER**

¶ 1 *Held*: The trial court properly granted summary judgment against the landlords and in favor of the tenants where the record established that the property at issues was a residential property governed by the Chicago Residential Tenant Landlord Ordinance (Chi., Ill. Mun. Code §5-12-010 *et al*. (2016)). The trial court did not abuse its discretion in awarding attorneys' fees to the tenants under the RLTO.

¶ 2 This cause of action stems from a breach of contract claim filed by the plaintiff-appellant,

742 Vasta L.L.C. (742 Vasta), seeking reimbursement of unpaid rents from the defendants-appellees, Andrea Raila (Andrea) and Paula (Paula) Raila d/b/a Raila & Associate (R&A). The defendants filed a counterclaim against 742 Vasta, and a third-party complaint against the appellant, Louis Vasta (Louis), individually, seeking the return of their security deposit and statutory damages stemming from both appellants' failure to pay them interest on that security deposit during their tenancy. The court granted summary judgment in favor of the defendants on the original complaint, and their counterclaim and third-party complaint, and awarded them damages in the amount of $4,500 plus $21,514.89 in attorneys' fees (of which $11,990 in fees and $1,674.01 in costs were entered individually against Louis). 742 Vasta and Louis, now appeal contending that summary judgment in favor of the defendants was improper because the tenancy was for a commercial rather than a residential property and was therefore not governed by the Chicago Residential Tenant Landlord Ordinance (RLTO) (Chi., Ill. Mun. Code §5-12-010 *et al*. (2016)). In addition, they assert that the trial court erred in awarding the defendants' attorneys' fees. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 From the outset we note that the record before us is muddled and insufficient, and does not contain any report of the proceedings below, nor any acceptable substitute such as a bystanders report, or an agreed statement of facts, as authorized under Illinois Supreme Court Rule 323 (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)). After a thorough review of the record, we have been able to glean only these pertinent facts and procedural history.

¶ 5 The appeal stems from a "Chicago Apartment Lease" (lease) entered between the defendants and Louis, on February 1, 2013, for the property located at 742 North LaSalle Street, Apartment No. 501 (the property). The lease was for a one year term, and required the defendants to pay a

security deposit equivalent to one month's rent, in the amount of $2,100. The lease states that it is a "Chicago [a]partment [l]ease" and attaches relevant provisions of the RLTO, including the provisions regarding the rate of interest on security deposits (Chi., Ill. Mun. Code §§ 5-12-170; 5-12-080; 5-12-081 (2016)). The lease further contains a provision titled "Tenant's Use Of Premises," which states in relevant part that, the "[t]enant will not allow [the] [p]remises to be used *** for any purpose other than for any residential [p]remises."

¶ 6 It is undisputed that although the lease expired on January 31, 2014, the defendants continued their tenancy on a month-to-month basis and regularly paid their rent to Louis up to and including May 1, 2016. On February 26, 2016, a foreclosure judgment was entered against Louis in case No. 2015 CH 1178, and in favor of Barrington Bank and Trust Company, N.A. (BBTC). A judicial sale of the property occurred on April 4, 2016, at which BBTC became the holder of the certificate of sale. On May 5, 2016, the court entered a confirmation of the judicial sale and a memorandum of judgment was entered against Louis in the amount of $185.397.64. On May 9, 2016, the judicial sale deed was executed transferring the property to BBTC. BBTC held the property until September 15, 2016, when it conveyed the property by quit claim deed to 742 Vasta.

¶ 7 On September 29, 2016, the defendants received a notice that they were to make all outstanding rent payments to Louis. On October 5, 2016, the defendants received notice that they were to make payment to BBTC for the rents owing on May, June, July, August and September, 2016, during which period BBTC had owned the property. After further clarification, BBTC acknowledged that it was not entitled to the May 2016 rent because that amount had already been paid to Louis.

¶ 8 On October 1, 2016, the defendants made their monthly rent payment to Louis in the amount

of $2,100. Their check was returned, with instructions to reissue it to the new titled owner, 742 Vasta. Shortly thereafter, 742 Vasta issued a five-day notice to the defendants, demanding payment of $10,500 for all back rent owed for the months of June through September 2016. The defendants reissued the October rent check to 742 Vasta, but that check was returned with a demand for $10,500.

¶ 9 On October 21, 2016, 742 Vasta filed a forcible entry and detainer action against the defendants. The defendants vacated the premises on October 23, 2016 and served their notice to quit on 742 Vasta the following day.

¶ 10 On November 7, 2016, 742 Vasta voluntarily dismissed the forcible entry and detainer action. Instead, on December 21, 2016, 742 Vasta filed a breach of contract action against them. In the contract claim, 742 Vasta alleged that the defendants had never used the property for residential purposes, but rather, had operated a business from there. The complaint further alleged that when the property was sold to BBTC pursuant to the foreclosure sale, the right to receive rent was transferred to BBTC. In respect to this position, the complaint noted that the legal description of the property includes the following language: "all other rights, royalties, and profits relating to the real property." In addition, the original lease specifically provides that "all covenants and conditions contained herein shall be binding upon and inure the benefits of the [l]andlord and [t]enant and their respective heirs, executors, administrators, assigns, and successors." The complaint further alleged that when the property was subsequently conveyed to 742 Vasta by quitclaim deed, the right to collect the rent from the defendants was transferred to 742 Vasta. As such, the complaint alleged that the defendants were obligated to pay all unpaid rent from prior months to 742 Vasta as the successor-in-interest of BBTC, in the sum of $10,500. The complaint further sought the payment of attorneys' fees.

¶ 11 On January 25, 2017, the defendants filed their answer and raised three affirmative defenses. First, they alleged that 742 Vasta was not party to the original lease, and was never assigned the lease by Louis. Second, the defendants alleged that they had received a request from BBTC for the same back rent payments for June through September 2016, which 742 Vasta was now requesting. The defendants affirmatively stated that they had placed those rental amounts in a separate account and were ready, willing and able to deposit the funds with the court, but have not done so only because neither BBTC nor Louis have provided them with an assignment of the lease to demonstrate entitlement to the funds. Third, the defendants alleged that under section 5-12-140(f) of the RLTO (Chi., Ill. Mun. Code §5-12-140(f) (2016)) they were not required to pay 742 Vasta's attorneys' fees.

¶ 12 On January 25, 2017, the defendants also filed a counterclaim against 742 Vasta, and a third party complaint against Louis, alleging that neither Louis, individually, nor 742 Vasta, ever paid them interest on their security deposit as was required under section 5-12-080 of the RLTO (Chi., Ill. Mun. Code §5-12-080 (2016)). They therefore sought statutory damages in the amount equal to double their security deposit, and the payment of their attorneys' fees.

¶ 13 In addition, the defendants filed a third-party declaratory judgment action against BBTC, seeking clarification as to: (1) whether BBTC held its security deposit during the period between May and September 2016 when it owned the property; and (2) whether they should pay the rents due and owing for those months to BBTC or to 742 Vasta.

¶ 14 Louis was served with the third party complaint on April 7, 2017. He never filed an appearance nor responded to the third-party complaint. Instead, on May 2, 2017, 742 Vasta filed a motion to strike and dismiss the defendants' affirmative defenses and the counterclaim.

¶ 15 On May 3, 2017, the defendants filed a motion for summary judgment against 742 Vasta,

arguing that 742 Vasta was not entitled to rent or attorneys' fees because it did not own the property during the period for which it sought back rent payments. Further, the motion for summary judgment sought the return of the defendants' security deposit, interest and attorneys' fees. In support of the motion, the defendants' attached, *inter alia*: (1) an affidavit by Andrea; (2) an MLS listing of the property; (3) the original lease; (4) the judicial sale deed; and (5) the quit claim deed. In her affidavit, Andrea attested that the MLS listing for the property stated that the property was a residential apartment. She attested that the property has a bathroom, shower, washer and dryer, private bedroom, clothes closet and full kitchen. Andrea further attested that both she and Paula utilized the property for residential purposes often staying the night and having family members stay the night. She also attested that the property was taxed as a residential unit and that the lease has been submitted to the Cook County Assessor to demonstrate the fact that it was a residential unit.

¶ 16 On August 14, 2017, the defendants filed a motion for default judgment against BBTC asking the court to find that BBTC was not entitled to any rental amounts owed.

¶ 17 On August 24, 2017, the defendants filed a petition for attorneys' fees requesting that 742 Vasta pay them $13,127.50 in legal fees and $1,674.01 in costs.

¶ 18 On August 24, 2017, the trial court granted defendants' summary judgment motion as to 742 Vasta's breach of contract claim. In addition, the trial court granted the defendants' their summary judgment motion as to their counterclaim against 742 Vasta and their third-party complaint against Louis. The court entered judgment against 742 Vasta and Louis, individually, in the amount of $4,200 plus interest. The court also granted the defendants' default judgment against BBTC, and continued the matter to August 31, 2017, for the setting of attorneys' fees.

¶ 19 On August, 31, 2017, the trial court entered an order granting $11,990 in attorneys' fees and

$1,674.01 in costs in favor of the defendants and against both 742 Vasta and Louis, individually.

¶ 20 On September 25, 2017, 742 Vasta filed a motion to vacate the summary judgment orders entered against it on August 24, 2017. Louis did not join the motion. On October 4, 2017, the trial court entered an order granting the motion to vacate solely as to 742 Vasta.

¶ 21 On October 31, 2017, the defendants filed a motion to reconsider. On January 18, 2018, the trial court denied the motion to reconsider solely as to 742 Vasta. The court stated that the judgment order entered against Louis, individually, and BBTC was to stand. The court then set a briefing schedule on the defendants' motion for summary judgment filed in May.

¶ 22 On February 22, 2018, 742 Vasta filed its response to the defendants' motion for summary judgment, arguing that: (1) the judicial deed gave it the right to seek the rental payments; (2) the attorneys' fees provision in the lease applied; and (3) the RLTO did not apply because this was a commercial rather than a residential lease. The response asserted that contrary to the motion for summary judgment, the property was never used for residential purposes but rather solely for the operation of the defendants' two businesses, R&A and Traen, Inc.

¶ 23 In support, the response attached photographs of the property's front door during the defendants' tenancy, with the sign "R&A" on it and of the defendants' mailbox marked with "Traen, Inc." In addition, the response attached affidavits of Robert Block (Block) and Louis.

¶ 24 In his affidavit, Louis attested that when he entered into the lease agreement with the defendants, Andrea informed him that she would be using the space for her businesses because she had run out of room at her main office at 747 North LaSalle Street. Louis averred that he used the residential lease form because it was the only form he had in his office at the time. He

also stated that he never received a personal rent check from either Andrea or Paula, but that instead the rent was regularly paid by R&A.

¶ 25 In his affidavit, Louis further stated that, unless he was out of town on business, he was at his office, which was inside the same building as the defendants' rental property. In addition, he would often arrive early and occasionally stay the night. He attested that at no time did anyone ever use the R&A offices as sleeping quarters. The only people Louis ever saw inside the property were R&A employees, who were there during ordinary office hours, between 9 a.m. and 5 p.m. He attested that he never saw anyone there before or after Michael Rohrbeck (Rohrbeck), who was the manger of R&A and a principal of Traen, Inc. According to Louis's affidavit, during the defendants' tenancy the property was equipped with typical office furniture and machines, such as computers, copiers, fax and scanning equipment, files, multi-line phone systems, stationary and office supplies. Louis attested that the mailbox for the property read "Traen, Inc.," and that the entrance to the office had a sign reading "R & A."

¶ 26 In his affidavit, Block attested that he is an attorney with an office located in the same building and on the same floor as the defendants' rental property had been. According to Block, there was a sign reading "R&A" on the wall next to the entry door. Block stated that he knew Rohrbeck, who was R&A's administrative manager and Andrea's husband, because they had coffee on average two or three times per week inside the R&A office. Block stated that he saw Rohrbeck at the property virtually every day during normal business hours. He would also occasionally see other employees of R&A during the workday. Block never saw Rohrbeck, Andrea or anyone else at the property after 6 p.m.

¶ 27 According to Block, the space contained a large floor model copy machine, a

printer/scanner/fax, several monitors, and multiple phones. Rohrbeck had a desk and a large conference table. In addition, the property contained a reception area. The office telephone had an intercom feature that allowed direct communications with R&A's main office across the street at 747 N. LaSalle Street. Block attested that he often heard Rohrbeck using the intercom to discuss business matters with R&A personnel. Block also stated that at all times there were work files for R&A and Train, Inc. on Rohrbeck's desk and on the conference table.

¶ 28 According to Block's affidavit, Traen, Inc. is a lobbying and support company for the primary business of R&A and is owned by Rohrbeck and Andrea.

¶ 29 Block also stated that because during the defendants' tenancy, Rohrbeck did not have a key for the mailbox located in the building's lobby, Block would retrieve the mail on a daily basis and either bring it to Rohrbeck or leave it on a small table outside the R&A office. Block attested that every single piece of mail he carried was addressed either to Traen, Inc., or R&A. He never saw or delivered any personal mail of any kind.

¶ 30 On March 8, 2018, the defendants filed their reply, arguing that: (1) the quit claim deed did not give any rights under the lease; and (2) the RLTO applied because the evidence demonstrated that the property was a residential property.

¶ 31 On March 20, 2018, the trial court granted the defendants' motion for summary judgment against 742 Vasta, and entered judgment in favor of the defendants in the amount of $4,200. The court set the matter for a hearing on the defendants' petition for attorneys' fees for April 19, 2018.

¶ 32 On the same day that the trial court issued its ruling, Louis filed an appearance and a motion to vacate the default judgment entered against him in August 2017. The motion was set for presentment to the trial court on April 3, 2018. The record does not contain any evidence that the motion was ever presented to the trial court or ruled on.

¶ 33 On April 19, 2018, 742 Vasta filed a motion to reconsider the trial court's grant of summary judgment against it, for the first time arguing that the RLTO did not apply because the property was a single owner-occupied property and was therefore exempted under section 5-12-020(a) of the RLTO (Chi., Ill. Mun. Code §5-12-020(a) (2016)). The trial court denied the motion to reconsider on May 25, 2018. On June 22, 2028, the court entered an award for attorneys' fees and costs against 742 Vasta to the defendants in the amount of $21, 514.89. 742 Vasta and Louis now appeal.

¶ 34 II. ARGUMENT

¶ 35 On appeal, 742 Vasta and Louis, first argue that the trial court erred in granting summary judgment in favor of the defendants both on 742 Vasta's original complaint and on the defendants' counterclaim and third party complaint against them. Summary judgment is proper where "the pleadings, depositions, and admissions on file, with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2014); see also *Seymour v. Collins*, 2015 IL 118432, ¶ 42; *Bruns v. City of Centralia*, 2014 IL 116998, ¶ 12. In reviewing a grant of summary judgment, a reviewing court must construe the pleadings and evidentiary material in the record in the light most favorable to the nonmoving party and strictly against the movants. *Schade v. Calusius*, 2016 IL App (1st) 143162, ¶ 17; see also *Happel v. Wal-Mart Stores, Inc.*, 199 Ill. 2d 179, 186 (2002). Our review of the trial court's entry of summary judgment is *de novo*. *Bruns*, 2014 IL 116998, ¶13.

¶ 36 In seeking to reverse the trial court's grant of summary judgment, 742 Vasta and Louis argue that the trial court erred in finding that the tenancy was a residential tenancy within the meaning of the RLTO, so as to trigger the application of the relevant provisions of that statute.

They assert that the property was not a residential unit, and was never used as a residential unit. In support, they point out that that the affidavits of Block and Louis establish that rent was always paid by R&A, that the property contained office and business equipment and was solely used to conduct business during regular office hours. In addition, they point out that the MLS listing attached by the defendants to their summary judgment motion, itself describes the property as a "unique, full floor, *mixed-use* condo," which "is great for work/live w/reception." In the very least, 742 Vasta and Louis contend, there remains a genuine issue of material fact as to whether the property was ever used as a residential unit so as to trigger the application of the RLTO. For the reasons that follow, we disagree.

¶ 37 The RLTO "applies to, regulates and determines rights, obligations and remedies under every rental agreement for a dwelling unit located within the City of Chicago," save for enumerated exceptions (Chi., Ill. Mun. Code § 5-12-010 (West 2016)). The RLTO defines a "dwelling unit" as "a structure or the part of a structure that is used as a home, residence or sleeping place by one or more persons who maintain a household." Chi., Ill. Mun. Code § 5-12-030(a) (2016). "Section 5-12-030(a)'s definition of a 'dwelling unit' has been interpreted to mean 'a part of a structure which can be used as a home, residence or sleeping place, regardless of whether it is being employed as such at the time a lease is signed.' " *VG Marina Management Corp. v. Winer*, 378 Ill. App. 3d 887, 891 (2008) (quoting *Meyer v. Cohen*, 260 Ill. App. 3d 351, 358 (1993)). Under this interpretation, actual use and occupancy is irrelevant, and a property will be considered a "dwelling unit" so long as it "*could be* used as a home, residence or sleeping place." (Emphasis in original.) *VG Marina Management Corp.*, 378 Ill. App. 3d at 891 (citing *Meyer*, 260 Ill. app. 3d at 358).

¶ 38 In the present case, construing the pleadings in the light most favorable to 742 Vasta and

Louis, we find that the trial court did not err in concluding that the property "could" be used as a residence and was therefore subject to the RLTO. First, the lease itself states that it is an apartment lease and governed by the RTLO, and attaches relevant sections of the RLTO. Second, the MLS listing advertizes that the condominium can be used as a residential space. More importantly, Andrea's affidavit states that the property has a kitchen, bedroom and bathroom, and that the real estate taxes indicate that the apartment is residential. 742 Vasta and Louis offered no evidence to disprove any of these facts. Block's and Louis's affidavits are irrelevant because they speak only to the actual use of the property by the defendants and provide no evidence that would disprove the fact that the property could be used as a residence. As such, the trial court properly concluded that the RLTO applied, and that the defendants were entitled to summary judgment both on 742 Vasta's complaint and on their counterclaim against it. For this same reason, the trial court properly concluded that the defendants were entitled to summary judgment on their third party complaint against Louis.

¶ 39 On appeal, 742 Vasta[1] next contends that the trial court abused its discretion in denying its motion to reconsider the grant of summary judgment because the property fell under the owner-occupied exemption articulated under section 5-12-020(d) of the RLTO (Chicago Municipal Ordinance § 5-12-020(d) (2016)). In that respect, 742 Vasta asserts that because it owned and occupied only one unit in the building located at 742 LaSalle Street, the property was owner-occupied and was exempted from the RLTO, as a "dwelling unit[] in owner-occupied buildings

[1] While it is unclear from the appellate brief whether this argument is also being raised on behalf of Louis as well as 742 Vasta, we note that only 749 Vasta raised it before the trial court after the grant of summary judgment against it on March 20, 2018. The order granting summary judgment against Louis, by default, was entered long before, on August 24, 2017, and Louis never filed a motion to reconsider that order, on this or any other basis. "It is well established that issues not raised in the trial court are forfeited and may not be raised for the first time on appeal." *Flood v. Wilk*, 2019 IL App (1st) 172792, ¶ 29 (citing *Susman v. North Start Tust, Co.*, 2015 IL App (1st) 142789 ¶ 41). Accordingly, we will address this argument only in the context of 742 Vasta.

containing six units or less ***." Chicago Municipal Ordinance § 5-12-020(d) (2016). For the reasons that follow, we disagree.

¶ 40 The purpose of a motion to reconsider is to bring to the trial court's attention: (1) newly discovered evidence not available at the time of the hearing; (2) changes in the law; or (3) errors in the court's previous application of existing law. *Simmons v. Reichardt*, 406 Ill. App. 3d 17, 324 (2010); see also *Stringer v. Packaging Corp. of America*, 351 Ill. App. 3d 1135, 1140 (2004). The decision to grant or deny a motion to reconsider lies within the trial court's discretion, and we will not disturb the court's ruling absent an abuse of discretion. *Id.*

¶ 41 At the outset, we note that 742 Vasta has failed to provide us with an adequate record of the proceedings themselves so as to permit a proper evaluation of this contention on appeal. Our supreme court has long recognized that to support a claim of error, the appellant has the burden to present a sufficiently complete record of the proceedings below. *In re Alexander R.*, 377 Ill. App. 3d 553, 557 (2007); see also *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). "From the very nature of an appeal it is evident that the court of review must have before it the record to review in order to determine whether there was the error claimed by the appellant." *Foutch*, 99 Ill. 2d at 39. Without an adequate record preserving the claimed error, the court of review must presume the circuit court's order had a sufficient factual basis and that it conforms with the law. *Corral*, 217 Ill. 2d at 157; *Webster*, 195 Ill. 2d at 432; *Foutch*, 99 Ill. 2d at 392. Accordingly, in the absence of a complete record supporting the appellant's claim of error, we will resolve "[a]ny doubts which may arise from the incompleteness of the record *** against the appellant." *Foutch*, 99 Ill. 2d at 392.

¶ 42 In the present case, without a transcript from the hearing on the motion to reconsider, we

have no way of knowing what the parties argued at that hearing, whether they presented any additional evidence, and on what basis the trial court denied 742 Vasta's motion to reconsider. This is especially true where the trial court did not articulate any basis for denying that motion in its written order.

¶ 43 From a review of 742 Vasta's motion itself, we can discern only that its ownership and occupancy of only one unit in the building does not qualify as newly discovered evidence. When a party's motion for reconsideration is, as here, based on newly discovered evidence, it must provide a reasonable explanation as to why the evidence it newly presents was not available at the time of the original hearing. See *Simmons*, 406 Ill. App. 3d 317, 324 (2010), citing *Stringer*, 351 Ill. App. 3d 1135, 1140 (2004) ("[t]o present newly discovered evidence, a party must show that the newly discovered evidence existed before the initial hearing but had not yet been discovered or was otherwise unobtainable"); see also *Gardner v. Navistar International Transportation Corp*., 213 Ill. App. 3d 242, 248-49 (1991) (litigant cannot "stand mute, lose motion, and then frantically gather evidentiary material" to show court erred in its ruling). Nowhere in its motion to reconsider did 742 Vasta explain why it did not present in its response to the motion for summary judgment the new facts that it now alleged, namely that it owned and occupied only that one property inside the building. It is clear to us that this information most certainly was available to 742 Vasta at the time the trial court heard the defendants' motion for summary judgment. Moreover, since 742 Vasta provides no transcript of the hearing on his motion to reconsider, we must presume that the trial court's ruling had a sufficient factual basis and was in conformity with the law. See *Foutch*, 99 Ill. 2d at 393 (without transcript of proceedings or bystanders report, reviewing court must presume trial court's ruling was in

conformity with the law). We therefore find no abuse of discretion in the trial court's denial of 742 Vasta's motion to reconsider.

¶ 44 On appeal, Louis next argues that his motion to vacate the summary judgment order entered in default against him on August 24, 2017, should have been granted.

¶ 45 At the outset, we note that Louis does not point to, nor does the record contain, any order that disposes of his motion to vacate the summary judgment order. "The burden of calling for hearing any motion previously filed is on the party making the motion. If any such motion is not called for hearing within 90 days from the date it is filed, the court may enter an order overruling or denying the motion by reason of the delay." Cook Co. Cir. Ct. R. 2.3 (eff. July 1, 1976). In addition, Louis, as the appellant, had the duty of providing this court with a sufficiently complete record of the proceedings below to support his claim of error. *Midstate Siding & Window Co. v. Rogers*, 204 Ill. 2d 314, 319 (2003) (citing *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984)). Since the record before us is void of any transcripts from the proceedings below, or any acceptable substitute such as a bystanders report, or an agreed statement of facts (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)), we are unable to discern whether Louis's motion to vacate, which was file-stamped on March 20, 2018, seven months after the entry of the original summary judgment order, and was set for presentment on April 3, 2018, was ever presented to the trial court. The common law record before us contains no order entered on the date of presentment that reflects what happened with respect to this motion. Nor, for that matter, does it contain any order that even remotely mentions such a motion. Accordingly, under the record before us we are unable to review Louis's claim.

¶ 46 On appeal, 742 Vasta and Louis finally contend that the trial court abused its discretion in

awarding attorneys' fees to the defendants in the amount of $21,514,89 (of which $11,990 in fees and $1,674.01 in costs were entered individually against Louis). They contend that the RLTO authorizes fees and costs to be awarded only to "the prevailing plaintiff in any action arising out of *** the rights and remedies made available in this ordinance," but that numerous billings solely involving the defendants' defense of their contract action (and not their pursuit of the counterclaim and the third-party complaint) were improperly awarded even though they were not related to the RLTO. We disagree.

¶ 47 Whether an award of attorney fees was proper under the RLTO is reviewed *de novo*. *Shoreline Towers Condominium Association v. Gassman*, 404 Ill. App. 3d 1013, 1024 (2010) (matters of statutory interpretation are reviewed *de novo*.) Our review of a final fee award is reviewed for abuse of discretion. *Pitts v. Holt*, 304 Ill. App. 3d 871, 873 (1999).

¶ 48 We again reiterate that we are without a transcript from the proceedings below, or any suitable substitute, and are therefore unable to determine on what basis the trial court awarded the amount of attorneys' fees now being challenged. Accordingly, we must presume that the trial court's ruling had a sufficient factual basis and was in conformity with the law. See *Foutch*, 99 Ill. 2d at 393 (without transcript of proceedings or bystanders report, reviewing court must presume trial court's ruling was in conformity with the law). We therefore find no abuse of discretion in the trial court's award of the attorneys' fees.

¶ 49 III. CONCLUSION

¶ 50 For all of the aforementioned reasons, we affirm the judgment of the circuit court.

¶ 51 Affirmed.