

2019 IL App (1st) 182717-U

No. 1-18-2717

Order filed October 31, 2019

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

<i>In re</i> MARRIAGE OF)	Appeal from the
)	Circuit Court of
TANYA BONNER,)	Cook County
)	
Petitioner/Cross-Respondent-Appellee,)	
)	No. 14 D 1085
and)	
)	
ANTHONY BONNER,)	Honorable
)	Lionel Jean-Baptiste,
Respondent/Cross-Petitioner-Appellant.)	Judge presiding.

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

ORDER

¶ 1 *Held:* We affirm the circuit court's judgment dismissing respondent/cross-petitioner's motion to modify a final disposition of property related to a dissolution of marriage judgment where the court lacked subject-matter jurisdiction to entertain the claims therein and affirm the circuit court's judgment imposing sanctions against respondent/cross-petitioner for filing the motion as well as related filings where the court properly found the motion and related filings were frivolous and intended to harass petitioner/cross-respondent.

¶ 2 After respondent/cross-petitioner Anthony Bonner failed to appear when the circuit court held a hearing on petitioner/cross-respondent Tanya Bonner’s petition for dissolution of marriage and his cross-petition for dissolution of marriage, the court entered a default judgment dissolving their marriage and distributing their property, including allowing Tanya to keep a vehicle and a laptop computer. Two years later, Anthony filed a “Motion for Final Disposition of Marital and Joint Property” that was dismissed by the court on Tanya’s motion. Two years after Anthony’s motion, he filed a second “Motion for Final Disposition of Marital and Joint Property” that was also dismissed by the court on Tanya’s motion. This time, however, the court also imposed sanctions against Anthony under Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018) for filing the motion as well as other related documents. Anthony now appeals the circuit court’s judgments dismissing his motion and imposing sanctions against him. For the reasons that follow, we affirm the judgments of the circuit court.

¶ 3 I. BACKGROUND

¶ 4 In February 2014, Tanya Bonner filed a *pro se* petition for dissolution of marriage from Anthony Bonner. Tanya stated that they had no children from the marriage, and she listed irreconcilable differences and Anthony being guilty of mental cruelty as grounds for the dissolution. In addition to a judgment dissolving their marriage, Tanya sought that both parties be barred from receiving maintenance and they be awarded their non-marital property.

¶ 5 The following month, Anthony responded by filing a *pro se* cross-petition for dissolution of marriage and answer. In the filing, Anthony alleged that he had repeatedly asked Tanya to move out of his house and told her multiple times that he was “done” with their marriage. Anthony alleged that, after being repeatedly told this, Tanya inflicted at least \$500 of damage to his house and “falsely accused” him of domestic violence, which resulted in him being arrested.

Anthony asserted that the house belonged to him and his brother. Anthony listed as grounds for the dissolution of marriage: (1) irreconcilable differences; (2) mental cruelty inflicted by both parties; (3) theft of marital property by Tanya; (4) fraud and theft by Tanya related to a 2002 Mercedes; (5) assault and destruction of his house by Tanya; and (6) concealment of assets by Tanya and her failure to contribute financially to their marriage.

¶ 6 In his grounds for divorce based on the theft of marital property, Anthony claimed they had purchased a laptop computer during the marriage and argued the computer should be considered marital property. Anthony alleged that Tanya took the laptop, which had a value of \$650, when he “was wrongfully jailed based on her lies to [the] police” about domestic violence. In his grounds for divorce based on the theft of the Mercedes, Anthony stated that, during their marriage, they jointly purchased a 2002 Mercedes. Although the vehicle was supposed to be registered in his name, Anthony later contacted the Illinois Secretary of State’s Office and discovered that there was no record of the vehicle being registered to him. Because of this, Anthony believed that Tanya “stole and/or fraudulently obtained [his] interest” in the vehicle. Anthony asserted that Tanya later gave him “\$3000 to get to 50% ownership” of the Mercedes. In addition to a judgment dissolving their marriage, Anthony sought that both parties be barred from receiving maintenance, both parties be awarded their non-marital property, and Tanya be ordered to pay him \$325 for the laptop and \$4450 for the Mercedes.

¶ 7 In June 2014, the circuit court entered an order of continuance and noted that, if Anthony failed to appear at the subsequent court date, a default would be entered against him. The following month, Anthony failed to appear, and the court “held [him] in default.”

¶ 8 On August 6, 2014, the circuit court held a hearing on the dissolution of marriage. Tanya appeared in court that day, but Anthony again did not. During the hearing, the court questioned

Tanya as to whether she properly served Anthony and she produced evidence to the court's satisfaction. Tanya testified to her work history, her debts and her assets, including her ownership of the Mercedes. She also testified that all of her assets were purchased before her marriage to Anthony and there were no joint marriage assets.

¶ 9 After the hearing, the circuit court entered an order finding Anthony in default and entered a default judgment for dissolution of marriage. In the judgment, after observing that Anthony had filed the cross-petition for dissolution of marriage yet failed to appear, the court found that Tanya proved the grounds for the dissolution of the marriage as irreconcilable differences and ordered both parties be barred from receiving maintenance. The court also found that neither party had any marital assets and awarded Tanya "her residence, her annuity[,] her vehicle," and her bank accounts. The court awarded Anthony "all property in his name."

¶ 10 In January 2015, Anthony filed a *pro se* combined motion for various relief, including: (1) a finding that Tanya was properly served with his cross-petition for dissolution of marriage; (2) a finding that she be barred from contesting any of the claims therein for her failure to respond to them; and (3) an order mandating that she pay him \$4775 for the Mercedes and laptop computer. In the motion, Anthony argued that the Mercedes did not belong to Tanya outright, but rather was a joint marital asset, and also that Tanya had stolen the laptop from him. Based on the circuit court's memorandum of orders, it appears that Tanya sought to strike the motion from the court call, and the court granted her request.

¶ 11 In August 2016, Anthony filed a *pro se* "Motion for Final Disposition of Marital and Joint Property," seeking a declaration that the Mercedes was jointly owned by the parties and not a gift, and that Tanya pay him for his share of the Mercedes and laptop computer. Anthony continued to rehash many of the alleged facts that he had alleged in his cross-petition for

dissolution of marriage and his January 2015 *pro se* motion. Anthony also alleged that he never received any other filings in the divorce proceedings beyond the initial petition filed by Tanya.

¶ 12 After multiple continuances, an attorney filed an appearance on behalf of Tanya and filed a motion to strike and dismiss Anthony's motion. In the motion, Tanya remarked that the circuit court had already entered a final disposition of their property when it entered the default judgment for dissolution of marriage in August 2014. Because of this, Tanya argued that Anthony's motion was barred by the prior judgment and the doctrine of *laches* also precluded his motion. Tanya also sought attorney fees for having to respond to Anthony's motion.

¶ 13 In January 2017, Anthony responded to Tanya's motion, making various claims about Tanya's personal life and claiming that both she and her lawyer had lied various times throughout the instant proceedings. He requested that the circuit court deny Tanya's motion to strike and dismiss, deny her request for attorney fees, and schedule a hearing on his claims. The circuit court subsequently set a status date for Tanya's motion.

¶ 14 In March 2017, the circuit court set a hearing on Tanya's motion, and in June 2017, that hearing was held, though there is no transcript included in the record. However, in a written order, the circuit court granted Tanya's motion to strike and dismiss without explanation. In the order, the court noted that Anthony was "absent" from the hearing.

¶ 15 In August 2018, Anthony filed another *pro se* "Motion for Final Disposition of Marital and Joint Property," continuing to raise the same allegations about Tanya that he did in previous filings to the circuit court. As well, Anthony continued to request compensation for Tanya allegedly stealing the Mercedes and the laptop computer. The next month, Anthony filed a *pro se* "Answer" to Tanya's "Anticipated Motion to Strike" and continued to raise similar allegations that he did in previous filings. Anthony also presented arguments in anticipation of Tanya's

invocation of the doctrine of *laches*, wherein he claimed that he waited only five months to file his motion seeking compensation for the property allegedly stolen by Tanya, apparently referring to his motion filed in January 2015 that was stricken from the court call for reasons unclear from the record. Anthony also filed a motion to anticipatorily deny Tanya's anticipated motion to strike based on the doctrine of *laches*.

¶ 16 In October 2018, Tanya responded to Anthony's various filings by filing another motion to strike and dismiss his motion. In the motion, Tanya once again remarked that there had already been a final disposition of property once in August 2014 and further noted that, in June 2017, the circuit court granted her motion to strike and dismiss his first "Motion for Final Disposition of Marital and Joint Property." Tanya again argued that his motion was barred by the court's prior judgments as well as the doctrine of *laches*.

¶ 17 Tanya also brought a motion for sanctions pursuant to Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018) against Anthony, arguing that the filings by him were "virtually identical to his prior pleadings, which were dismissed" and his only purpose in filing them was to "harass" her. Tanya alleged that Anthony's "baseless and scurrilous pleadings" had caused her "needless increase" in costs, which already had included \$2000 in attorney fees. Tanya asserted that her attorney billed her at \$350 per hour and he would "be required to add additional hours" in defense of Anthony's frivolous filings. Tanya therefore requested that the circuit court sanction Anthony and award her \$2000 and her attorney \$2000.

¶ 18 Anthony responded to the motions and continued to raise the same allegations he had previously raised as well as contending that his legal arguments were all well-grounded in law and fact. He therefore requested that the circuit court deny her motion to strike and dismiss, and her motion for sanctions.

¶ 19 Ultimately, in November 2018, the circuit court entered a written order resolving the parties' various open motions.¹ Initially, the court determined that, under section 2-619(a)(4) of the Code of Civil Procedure (Code) (735 ILCS 5/2-619(a)(4) (West 2018)), Anthony's "Motion for Final Disposition of Marital and Joint Property" was barred by the August 2014 judgment dissolving the parties' marriage and disposing of their property. Furthermore, the court noted that, because Tanya had already given Anthony money toward the Mercedes, she "has already satisfied the claim he is making in regard to being entitled to some money for the" vehicle. Additionally, the court found that, under section 2-615 of the Code (735 ILCS 5/2-615 (West 2018)), Anthony's motion did not have a sufficient basis under the law because it focused on allegations that had no bearing on the merits of a property disposition. As a result, the court granted Tanya's motion to strike and dismiss Anthony's motion with prejudice.

¶ 20 Concerning Tanya's motion for sanctions, the circuit court found that Anthony's motion and other filings were "not well-grounded in fact or supported by law" and were intended to "harass[]" Tanya by forcing her "to revisit a dissolution action, in terms of both emotion and finances, which was settled more than four years ago." Specifically with respect to Tanya's motion for sanctions, the court found the doctrine of *laches* "at play" and noted:

"Anthony was personally served, filed an Appearance and Counter-Petition for Dissolution, received a court generated post-card and then failed to act for two years. Then two years after that, Anthony again tried to assert rights, and is now costing Tanya legal expenses over matters which have been settled for over four years."

¹ Judge Lionel Jean-Baptiste began presiding over this case in September 2018.

As a result, the court granted Tanya's motion for sanctions and ordered Anthony to pay \$1000 in attorney fees. Anthony timely appealed.

¶ 21

II. ANALYSIS

¶ 22

A. Motion to Strike and Dismiss

¶ 23 Anthony first contends that the circuit court improperly found that the doctrine of *laches* applied to bar the claims in his "Motion for Final Disposition of Marital and Joint Property."

¶ 24 *Laches* is an equitable doctrine that "bars recovery by a litigant whose unreasonable delay in bringing an action for relief prejudices the rights of the other party." *People ex rel. Daley v. Strayhorn*, 121 Ill. 2d 470, 482 (1988). In order for the doctrine to apply, "it must appear that a plaintiff's unreasonable delay in asserting his rights has prejudiced and misled the defendant, or caused him to pursue a course different from what he would have otherwise taken." *People ex rel. Casey v. Health & Hospitals Governing Comm'n of Illinois*, 69 Ill. 2d 108, 115 (1977). Because *laches* is an equitable doctrine, a court has discretion in determining whether to apply it in a particular case. *Finley v. Finley*, 81 Ill. 2d 317, 330 (1980).

¶ 25 Although Anthony devotes a significant portion of his brief to arguing that the circuit court erred in applying the doctrine of *laches*, he ignores that the court's discussion of *laches* was limited to its discussion of Tanya's motion for sanctions. Furthermore, the court's discussion of *laches* was not even the basis for imposing those sanctions, but rather supported its finding that sanctions were warranted. Critically, in no way did the court use *laches* as an independent basis for dismissing Anthony's motion. Instead, as Anthony overlooks, the court actually granted Tanya's motion to strike and dismiss, and thus dismiss all of the claims raised in his motion, based on his motion being barred by the August 2014 judgment dissolving the parties' marriage and based on his motion lacking a sufficient legal basis.

¶ 26 Although the circuit court found these two bases justified the dismissal of Anthony’s motion, we focus on another reason: the circuit court’s subject-matter jurisdiction. See *J & J Ventures Gaming, LLC v. Wild, Inc.*, 2015 IL App (5th) 140092, ¶ 33 (the appellate court has an independent duty to consider the subject-matter jurisdiction of the circuit court regardless if raised below). Anthony’s motion, though titled a “Motion for Final Disposition of Marital and Joint Property,” was essentially one seeking a modification of the original property disposition entered in conjunction with the court’s default judgment dissolving his marriage to Tanya.

¶ 27 Section 510(b) of the Illinois Marriage and Dissolution of Marriage Act prohibits the modification of a property disposition entered as part of a dissolution of marriage judgment “unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this State.” 750 ILCS 5/510(b) (West 2018). Illinois courts have interpreted this provision as encompassing the procedures to modify a judgment found in section 2-1203(a) and section 2-1401 of the Code (735 ILCS 5/2-1203(a); 2-1401 (West 2018)). *In re Marriage of O’Malley ex rel. Godfrey*, 2016 IL App (1st) 151118, ¶ 42; *In re Marriage of Hall*, 404 Ill. App. 3d 160, 164 (2010). Under 2-1203(a) of the Code, any party may file a motion to modify a judgment within 30 days of the entry of the judgment. 735 ILCS 5/2-1203(a) (West 2018). After those 30 days, under section 2-1401 of the Code, a party may seek relief from a judgment within two years of the entry of that judgment. 735 ILCS 5/2-1401 (West 2018). However, if a party is under a legal disability or duress, or the grounds for relief have been fraudulently concealed from the party seeking relief, then that time is excluded from the two-year time computation. *Id.*

¶ 28 Anthony’s “Motion for Final Disposition of Marital and Joint Property” was filed some four years after the judgment dissolving his and Tanya’s marriage and disposing of their property, and nowhere in his motion has he alleged he was under a legal disability or duress, or

the grounds for relief had been fraudulently concealed from him during those four years. As neither section 2-1203(a) nor section 2-1401 of the Code permits Anthony's motion to modify the August 2014 property disposition, the circuit court had no jurisdiction to entertain the claims therein. See *In re Marriage of Hall*, 404 Ill. App. 3d at 164. In turn, where the circuit court has no jurisdiction to entertain a party's claims, dismissal is proper. 735 ILCS 5/2-619(a)(1) (West 2018) (providing that a pleading may be dismissed on the grounds that "the court does not have jurisdiction of the subject matter of the action").

¶ 29 We briefly note that there are four additional circumstances in which a party may obtain relief from a final judgment more than 30 days after the entry of that judgment: (1) if the parties agree to modify the judgment; (2) under the reversion doctrine; (3) where the final judgment was void; and (4) where a *nunc pro tunc* order is appropriate. *In re Marriage of Miller*, 363 Ill. App. 3d 906, 914 (2006). However, none of those apply here. Tanya never agreed to modify the property disposition judgment, and she never asserted a position inconsistent with the merits of the property disposition judgment, making the reversion doctrine inapplicable. See *People v. Bailey*, 2014 IL 115459, ¶ 25. Anthony has not alleged, nor could he given the circumstances, that the property disposition judgment was void. See *LVNV Funding, LLC v. Trice*, 2015 IL 116129, ¶ 27 (a judgment is void if the circuit court lacks jurisdiction). Lastly, there was nothing about the property disposition judgment that needed to be corrected in order to accurately reflect the ruling of the circuit court, making a *nunc pro tunc* order inapplicable. See *Harreld v. Butler*, 2014 IL App (2d) 131065, ¶ 13. Because we can affirm the circuit court's dismissal on any basis supported by the record (*Donkle v. Lind*, 2018 IL App (1st) 171915, ¶ 29), we affirm the dismissal in this case based on its lacking subject-matter jurisdiction over Anthony's motion.

¶ 30

B. Motion for Sanctions

¶ 31 Anthony next contends that the circuit court erred in awarding attorney fees, arguing that his various filings were legitimate and only intended to support his ultimate request to be compensated for the Mercedes and laptop computer.

¶ 32 Under Illinois Supreme Court Rule 137 (eff. Jan. 1, 2018), a *pro se* litigant:

“shall sign his pleading, motion, or other document and state his address. *** The signature of [a] party constitutes a certificate by him that he has read the pleading, motion or other document; 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, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.”

¶ 33 Rule 137 further provides that, if a party files “a pleading, motion or other document” in violation of the rule, the circuit court may impose sanctions upon the party, such as “the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee.” *Id.* The purpose of Rule 137 sanctions is to deter litigants from abusing the judicial process by penalizing litigants who file “vexatious and harassing” motions that are unsupported by law or fact. *Williams Montgomery & John Ltd. v. Broaddus*, 2017 IL App (1st) 161063, ¶ 41. The circuit court enjoys wide discretion in imposing Rule 137 sanctions, and we will not reverse its decision unless the court has abused its discretion. *Id.* ¶ 43. The court will only be found to have abused its discretion where its decision was unreasonable, arbitrary or unsupported by the evidence. *Seymour v. Collins*, 2015 IL 118432, ¶ 41. A motion for sanctions under Rule 137 “may be filed at any time during which the trial court has

jurisdiction, which extends 30 days past the date the last order or judgment was issued in the case.” *Gaynor v. Walsh*, 219 Ill. App. 3d 996, 1002 (1991).

¶ 34 Although we have found that the circuit court lacked jurisdiction to entertain Anthony’s “Motion for Final Disposition of Marital and Joint Property,” and the court must have jurisdiction to impose Rule 137 sanctions, we have treated Anthony’s motion as one for a modification of the property disposition entered in conjunction with the court’s dissolution of marriage judgment. Because when more than 30 days have passed since the court’s property disposition judgment, a party’s motion to modify the disposition must “be construed within the confines of section 2-1401 of the Code” (*In re Marriage of Hall*, 404 Ill. App. 3d at 164), Anthony’s motion was akin to an untimely section 2-1401 petition.

¶ 35 Section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2018)) is a comprehensive, statutory procedure that permits final judgments older than 30 days to be vacated or modified. *People v. Vincent*, 226 Ill. 2d 1, 7 (2007). Though section 2-1401 requires that the pleading be filed in the same proceeding in which the judgment being attacked was entered, it is not a continuation of the original action. *Id.* Instead, section 2-1401 petitions are “essentially complaints inviting responsive pleadings,” meaning proceedings under section 2-1401 are subject to the usual rules of civil practice. *Id.* at 8. As such, a motion for Rule 137 sanctions was proper. See Ill. S. Ct. R. 137 (eff. Jan. 1, 2018). That is to say, while Anthony’s motion was untimely and did not confer jurisdiction on the circuit court to modify the property disposition entered in conjunction with the dissolution of marriage judgment, the court still had jurisdiction to impose sanctions against Anthony based on his motion and related filings. See *Enbridge Pipeline (Illinois), LLC v. Hoke*, 2019 IL App (4th) 150544-B, ¶ 35 (observing that “Rule 137 applies to any document signed” and “submitted to the trial court”).

¶ 36 We now turn to the propriety of the circuit court’s imposition of sanctions against Anthony. Given that he filed his “Motion for Final Disposition of Marital and Joint Property” and other related filings that contained the same allegations about Tanya stealing a jointly owned Mercedes and laptop, the same personal attacks about Tanya’s character without raising legitimate means for relief, all after the court had entered multiple judgments in this case resolving the marriage and related property dispute, the court had an ample basis to find that Anthony’s instant motion and related filings were frivolous and his intent in filing them was purely to harass Tanya. In turn, the court properly found that Anthony’s frivolous and harassing filings caused Tanya to spend unnecessary expenses to defend against them. As such, the court’s decision to impose \$1000 worth of sanctions against Anthony in the form of attorney fees was not unreasonable, arbitrary or unsupported by the evidence. Accordingly, the court did not abuse its discretion in imposing the sanctions against Anthony. See *Seymour*, 2015 IL 118432, ¶ 41.

¶ 37 Lastly, in Anthony’s reply brief, he finds fault with the circuit court failing to transcribe or record several of the hearings in this case and argues that we should order the circuit court “to record important hearings via court reporter or tape recorder.” However, it is well-established that the appellant has the burden to present a sufficiently complete record of the circuit court proceedings (*In re Linda B.*, 2017 IL 119392, ¶ 43), and it goes without saying that only our supreme court has the power to amend its rules and mandate such recordation of hearings.

¶ 38

III. CONCLUSION

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

¶ 40 Affirmed.