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2019 IL App (3d) 170838-U

Order filed September 5, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

LICONG LI,)	Appeal from the Circuit Court
)	of the 12th Judicial Circuit,
Plaintiff-Appellant,)	Will County, Illinois.
)	
v.)	Appeal No. 3-17-0838
)	Circuit No. 16-L-923
DOUGLAS VASELAKOS,)	
)	The Honorable
Defendant-Appellee.)	Raymond E. Rossi,
)	Judge, presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Lytton and O'Brien concurred in the judgment.

ORDER

- ¶ 1 *Held:* The plaintiff's civil action against a court-ordered psychologist was barred by the doctrine of absolute privilege.
- ¶ 2 The plaintiff, Licong Li, filed a *pro se* civil complaint against the defendant, Dr. Douglas Vaselakos, a psychologist who had been court-ordered to provide an evaluation of Li in his ongoing divorce case. Dr. Vaselakos filed a motion to dismiss, which the circuit court granted. Li appealed the court's dismissal order. We affirm.

¶ 3

I. BACKGROUND

¶ 4

During the plaintiff's divorce case, on August 15, 2016, the circuit court appointed Dr. Vaselakos to serve as Li's counselor for individual counseling. Li was ordered to execute a release of information to authorize the guardian *ad litem* to speak with Dr. Vaselakos and to exchange records and information. In addition, the court ordered Dr. Vaselakos to compile a report for the guardian *ad litem* regarding the status of counseling and including any recommendations he may have.

¶ 5

After Dr. Vaselakos provided the court-ordered report, Li filed this civil action *pro se*. The complaint made several claims of malpractice, negligence, and "fabricating statements." In response, Dr. Vaselakos filed a combined motion to dismiss under sections 2-615 and 2-619 of the Code of Civil Procedure (the Code) (735 ILCS 5/2-615, 2-619 (West 2016)). The motion alleged that Li's complaint failed to state a claim upon which relief could be granted and that the civil action was barred by the doctrine of absolute privilege.

¶ 6

The initial hearing on the motion to dismiss ended in a continuance for Li to produce authority to counter the applicability of the doctrine of absolute privilege and to comply with the affidavit requirement of section 2-622 of the Code (735 ILCS 5/2-622 (West 2016)) for medical malpractice actions.

¶ 7

After the subsequent hearing, at which Li continued to state simply that Dr. Vaselakos had violated the Medical Patient Rights Act (410 ILCS 50/0.01 *et seq.* (West 2016)) by disclosing confidential information without obtaining a waiver first and by allegedly charging him for unexplained services, the circuit court granted Dr. Vaselakos' motion and dismissed the case with prejudice. Li appealed.

¶ 8

II. ANALYSIS

¶ 9 On appeal, Li argues that the circuit court erred when it dismissed his complaint. Notably, in his *pro se* brief, Li does not address the applicability of the doctrine of absolute privilege.

¶ 10 In relevant part, a motion to dismiss brought pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2016)) admits the legal sufficiency of a complaint but alleges that an affirmative matter operates to avoid or defeat the plaintiff's claim. *Vlastelica v. Brend*, 2011 IL App (1st) 102587, ¶ 17. "When deciding a section 2-619 motion, a court accepts all well-pleaded facts in the complaint as true and will grant the motion when it appears that no set of facts can be proved that would allow the plaintiff to recover." *Moon v. Rhode*, 2016 IL 119572, ¶ 15. We review the grant of a section 2-619 motion *de novo*. *Id.*

¶ 11 In *McNall v. Frus*, 336 Ill. App. 3d 904 (2002), this court explained the doctrine of absolute privilege as follows:

"It is well-established that witnesses enjoy absolute privilege from civil suit for statements made during judicial proceedings. [Citations.] The doctrine of absolute privilege rests upon the idea that conduct which would otherwise be actionable is permitted to escape liability because the defendant is acting in furtherance of some interest of social importance, which is entitled to protection even at the expense of uncompensated harm to an injured party. [Citations.] In the absence of such a privilege, a witness might be reluctant to come forward to testify, or, once on the stand, the witness's testimony might be distorted by fear of subsequent liability. [Citation.]" *Id.* at 906.

¶ 12 In addition, the United States Court of Appeals for the Seventh Circuit has stated:

“Guardians ad litem and court-appointed experts, including psychiatrists, are absolutely immune from liability for damages when they act at the court’s direction. [Citations.] They are arms of the court, much like special masters, and deserve protection from harassment by disappointed litigants, just as judges do.

Experts asked by the court to advise on what disposition will serve the best interests of a child in a custody proceeding need absolute immunity in order to be able to fulfill their obligations without the worry of intimidation and harassment from dissatisfied parents.

[Citation.]” (Internal quotation marks omitted.) *Cooney v. Rossiter*, 583 F. 3d 967, 970 (7th Cir. 2009).

Cooney’s rationale has been adopted by Illinois courts faced with questions regarding the doctrine of absolute privilege. See, e.g., *Vlastelica v. Brend*, 2011 IL App (1st) 102587, ¶ 23; *Heisterkamp v. Pacheco*, 2016 IL App (2d) 150229, ¶¶ 6, 11.

¶ 13 Our review of the record reveals that Dr. Vaselakos, as a court-appointed psychologist ordered to assist in a custody issue arising in Li’s divorce case, was clearly entitled to the protections inherent in the doctrine of absolute privilege. See *McNall*, 336 Ill. App. 3d at 906; *Vlastelica*, 2011 IL App (1st) 102587, ¶ 23; *Heisterkamp*, 2016 IL App (2d) 150229, ¶¶ 6, 11. Li has not advanced any argument to indicate that the doctrine of absolute privilege does not apply in this case. Absent a compelling argument to the contrary, we hold that the circuit court did not err when it dismissed Li’s civil action with prejudice.

¶ 14 Our ruling on this issue obviates the need to address Dr. Vaselakos' section 2-615 argument that Li's complaint failed to state a claim upon which relief could be granted.

¶ 15 III. CONCLUSION

¶ 16 The judgment of the circuit court of Will County is affirmed.

¶ 17 Affirmed.