

No. 1-10-2714

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 JUDICIAL DISTRICT

| | | |
|--------------------------------|---|--------------------|
| MATTHEW IKUMEN, |) | Appeal from the |
| |) | Circuit Court of |
| Plaintiff-Appellee, |) | Cook County. |
| |) | |
| v. |) | No. 10 M1 701685 |
| |) | |
| MARZETTA YOUNG and KYLE YOUNG, |) | Honorable |
| |) | Sheldon C. Garber, |
| Defendants-Appellants. |) | Judge Presiding. |

JUSTICE KARNEZIS delivered the judgment of the court.
Presiding Justice Hoffman and Justice Hall concurred in the judgment.

ORDER

¶ 1 *Held:* Where defendants failed to provide an adequate record on appeal, the trial court's judgment was affirmed.

¶ 2 Defendants Marzetta and Kyle Young, as tenants, appeal from a judgment of possession for plaintiff Matthew Ikumen, the landlord, in plaintiff's forcible entry and detainer action. On appeal, defendants *pro se* contend that the judgment should be vacated and the complaint dismissed with prejudice. Plaintiff has not filed a brief in response, but we may proceed under the principles set out in *First Capitol Mortgage Corp. v. Talandis Construction Co.*, 63 Ill. 2d 128, 133 (1976). We affirm.

¶ 3 The very limited record on appeal shows that on January 21, 2010, plaintiff filed a complaint seeking possession of Unit 406 at 5545 North Sheridan Road and alleging that defendants were unlawfully withholding possession from him. Plaintiff also alleged that defendants owed him \$829.25 in rent "plus current through possession."

¶ 4 On April 26, 2010, defendants filed a motion to dismiss pursuant to section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619(a)(9) (West 2010)) asserting, in pertinent part, that because plaintiff accepted rent payments after serving defendants with a five days' notice, he therefore waived his claim to defendants' forfeiture of the property. The record also appears to show that a trial occurred.

¶ 5 On August 12, 2010, the trial court entered an order of possession only in favor of plaintiff. The order expressly awarded no money. A notice of appeal was timely filed on September 10, 2010.

¶ 6 On appeal from the August 12, 2010, order, defendants contend that the judgment entered against them should be vacated and plaintiff's complaint dismissed with prejudice because plaintiff accepted rent payments after serving a five days' notice on them, and therefore inappropriately continued pursuing his action for possession.

¶ 7 However, the record on appeal does not include a transcript or appropriate substitute (Ill. S. Ct. R. 323 (eff. Dec. 13, 2005)) for the trial or the proceeding resulting in the order of possession. Defendants, as the appellants, were obligated to provide us a sufficiently complete record of the trial court proceedings to support their claims of error, and we must presume in the absence of such a record that the court's orders conformed to the law and had a sufficient factual basis. *In re Marriage of Gulla & Kanaval*, 234 Ill. 2d 414, 422 (2009); *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). That is particularly so for a trial, where we will not reverse the resulting judgment unless it was against the manifest weight of the evidence. *Rockford*

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Financial Systems, Inc. v. Borgetti, 403 Ill. App. 3d 321, 328 n.1 (2010). Without the arguments and evidence presented at trial, we cannot properly review the judgment and must presume it was not erroneous.

¶ 8 Furthermore, the documents appended to defendants' brief are outside the record on appeal and, therefore, cannot be considered. *Kensington's Wine Auctioneers & Brokers, Inc. v. John Hart Fine Wine, Ltd.*, 392 Ill. App. 3d 1, 14 (2009). Notably, defendants appended copies of checks that post-date the order on appeal and, thus, are not relevant to this appeal.

¶ 9 For the foregoing reasons, the judgment of the trial court is affirmed.

¶ 10 Affirmed.