2015 IL App (1st) 142363-U

Nos. 1-14-2363 and 1-14-2399, Consolidated

Fourth Division
September 3, 2015

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

	)	Appeal from the
RIVERWOOD CONDO ASSOCATION,	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	Nos. 12M63218
	)	13M63730
CECIL MBOLELA, et al,	)	Honorable
Defendant-Appellant.	)	Camille E. Willis
	)	Judge, presiding.
	)	

JUSTICE COBBS delivered the judgment of the court.
Justices Fitzgerald Smith and Ellis concurred in the judgment.

O R D E R

¶ 1 *Held*: Notices of appeal in two consolidated cases were filed after 30 days from final judgment. Accordingly, the court lacked jurisdiction to hear the appeal.

¶ 2 Appellant, Shuntay Antonio Brown, filed an appeal in two separate cases, which this court consolidated on appeal. As best we can discern, in the first case, (No. 1-14-2339) he appeals the denial of his motion to set aside judgment of the court's award of possession to Cecil Mbolela of a condominium unit. In the second case (No. 1-14-2363), he appeals the denial of his motion to reconsider the trial court's award of possession of the same unit to Riverwood

Condominium Association (Riverwood) and the denial of his request for fees and costs. Brown claimed to be an "unknown occupant" and that the action violated the automatic stay imposed by his previously filed bankruptcy petition. We find that this court lacks jurisdiction to hear either appeal, as no notice of appeal or valid posttrial motion was filed within 30 days of final judgment in either of the two cases.

¶ 3 BACKGROUND

¶ 4 As an initial matter, we note that the appellant failed to provide any citations to the record, and fails to include a transcript of proceedings or a bystander's report. Thus, it was difficult for this court to discern with ease just what occurred at the trial court level. In any case, our review of the record provided reveals the following.

¶ 5 In the first case (the Mbolela case), on October 15, 2013, Cecil Mbolela filed a forcible entry and detainer action for possession of 13701 S. Stewart, Unit A2W, Riverdale, Illinois, naming Brown and any unknown occupants as defendants. Brown was served, and appeared in court on October 29, 2013, when the trial court set the case for a bench trial. The trial court found that Mbolela was entitled to possession of the subject unit and entered judgment on November 19, 2013. Nearly eight months later, on July 16, 2014, Brown filed a motion to set aside the judgment pursuant Section 2-1301 of the Illinois Code of Civil Procedure (the Code). 735 ILCS 5/2-1301 (West 2012). He subsequently filed a notice of appeal on August 6, 2014.

¶ 6 In the second case (the Riverwood case), Riverwood filed a forcible entry and detainer action on September 12, 2012, seeking an order of possession of the same unit against Cecil Mbolela, Kytrah Johnson, and unknown occupants. The Cook County Sherriff attempted service on the property twice, on September 9 and September 21 of 2012. However, the sheriff certified that no one answered at the residence. On October 3, 2012, the court entered an order permitting

service of process through a special process server. The process server was able to serve both Cecil Mbolela and Kytrah Johnson, but certified that it was unable to serve "unknown occupants" because the "[t]enant refuses to open door" on October 9, 10, and 13 of 2012. The court then granted Riverwood leave to issue an alias summons through posting on October 17, 2012. The Cook County Sherriff served the notice on October 30, 2012. The trial court entered an order of possession in favor of Riverwood on November 14, 2012.

¶ 7 On November 29, 2012, Brown filed a motion to dismiss, claiming that he was an "unknown occupant" and had a lease to the premises. In his motion, Brown asserted that he had filed a petition for Chapter 7 bankruptcy in the United States Bankruptcy Court on August 24, 2012. He argued, therefore, that the forcible entry and detainer action was in violation of the automatic stay provisions as set forth in 11 U.S.C. § 362(a)(1) and Federal Rule of Civil Procedure 60(b)(1)(2), and that he was entitled to costs and fees as a result.

¶ 8 On January 7, 2013, the trial court vacated the November 14, 2012, order granting possession to Riverwood, but denied Brown any costs or fees. Subsequently, on January 9, 2013, Brown filed a motion for reconsideration in which he sought to have the court vacate its order denying him costs and fees. On February 27, 2013, the court denied Brown's motion.

¶ 9 In the meantime, Brown was properly served with notice of Riverwood's complaint for possession and on April 10, 2013, the trial court entered a second order of possession in favor of Riverwood. On April 30, 2013, Brown filed a motion to reconsider the trial court's order denying his January 9th motion to reconsider. The court denied this motion on May 3, 2013. On that same day, Brown filed another motion to reconsider, which was nearly identical to his other two previously filed motions to reconsider. The court did not rule on this, Brown's third motion,

until July 22, 2014, at which time, the motion was denied. Brown filed a notice of appeal the same day.

¶ 10 Brown appeals, arguing that the court improperly denied his motions for reconsideration and that he is entitled to attorney's fees and costs in defending the forcible entry and detainer action. Appellees did not file a brief in response. For the reasons with follow, we dismiss both appeals for lack of jurisdiction.

¶ 11 ANALYSIS

¶ 12 As we earlier indicated, Brown has not provided this court with either a transcript or a bystander's report of the proceedings in the trial court. Worse, Brown's arguments on appeal are largely incoherent. Supreme Court Rule 341(h)(7) requires appellants' brief to include "'[a]rgument, which shall contain the contentions of the appellant and the reasons therefore, with citation of the authorities and the pages of the record relied on.'" *Salgado v. Marquez*, 356 Ill. App. 3d 1072, 1074 (2005), quoting 210 Ill. 2d r. 341(h)(7). "A reviewing court is entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented; arguments inadequately presented on appeal are waived. [citations]." *Holmstrom v. Kunis*, 221 Ill. App. 3d 317, 325 (1991). A reviewing court is not obligated to be an advocate for a party to search the record for error. *Universal Public Transportation*, 2012 IL App (1st) 073303-B, ¶ 50 (citing *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). Nevertheless, in the interest of a possible resolution of this case on the merits, we have reviewed this record in its entirety. Even if Brown could somehow overcome forfeiture resulting from the significant deficiencies in presenting his appeals, he could not overcome the absence of this court's jurisdiction to consider his claims.

¶ 13 Illinois Supreme Court Rule 303(a) requires that a notice of appeal be filed with the clerk of the circuit court "within 30 days after the entry of the final judgment appealed from, or, if a timely posttrial motion directed against the judgment is filed, whether in a jury or a nonjury case, within 30 days after the entry of the order disposing of the last pending post judgment motion directed against that judgment or order." Ill. S. Ct. R. 303 (eff. June 4, 2008). Our review of the record reveals that Brown's notices of appeal were filed after the time for appeal had expired.

¶ 14 In the Mbolela case, Brown filed his posttrial motion to set aside the court's November 2013 judgment order in July 2014, nearly eight months after the court awarded possession to Mbolela. Thus, Brown's motion was untimely as Section 2-1301 requires that motions to set aside a final order or judgment be filed within 30 days of the final order or judgment. Brown's subsequent notice of appeal, filed in August of 2014, was well after the thirty day period allowed by Supreme Court Rule 303.

¶ 15 In the Riverwood case, the trial court denied Brown's first motion to reconsider on May 3, 2013. Although Brown filed an identical second motion to reconsider, on the same day as the court's order, the second filing did not extend the time by which he was required to file his appeal. "A second post-trial motion filed beyond the 30 days by the same party, attacking the same judgment" does not extend the time for filing an appeal. *City of DeKalb v. Anderson*, 22 Ill. App. 3d 40, 43 (1974) (citing *Deckard v. Joiner*, 44 Ill. 2d 412 (1970)). Brown's July 22, 2014, notice of appeal was filed more than 30 days after the trial court entered its final judgment and was, therefore, untimely.

¶ 16 CONCLUSION

¶ 17 For the reasons set forth above, we lack jurisdiction to consider the merits of either of the two cases presented. Thus, the appeals are dismissed. *Allabastro v. Wheaton National Bank*, 91 Ill. App. 3d 222, 224 (1980).

¶ 18 Appeals dismissed.