2011 IL App (1st) 102835-U

FIRST DIVISION
FILED: September 6, 2011

No. 1-10-2835

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

U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE ON BEHALF OF THE HOLDERS OF THE ASSET BACKED SECURITIES CORPORATION HOME EQUITY LOAN TRUST, SERIES AMQ 2006-HE7 ASSET BACKED PASS-THROUGH CERTIFICATES, SERIES AMQ 2006-HE7,	) APPEAL FROM THE) CIRCUIT COURT OF) COOK COUNTY
Plaintiff-Appellee	
v.	) No. 08 CH 17640
BRENDA MORAGNE DIFFAY	
Defendant-Appellant,	
and	
CHICAGO TITLE LAND TRUST COMPANY, AS TRUSTEE UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED THE 3rd DAY OF JULY, 1996 KNOWN AS TRUST NUMBER 119024, CURRENT SPOUSE, IF ANY, OF BRENDA MORAGNE DIFFAY, UNKNOWN OWNERS GENERALLY, AND NON-RECORD CLAIMANTS,	) HONORABLE) PAMELA HUGHES GILLESPIE,) JUDGE PRESIDING.
Defendants.	

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Hall and Justice Lampkin concurred in the judgment.

ORDER

¶ 1 *Held*: Appellant offered insufficient record to support contentions of error on appeal.

¶ 2 The defendant, Brenda Moragne Diffay, appeals from various circuit court orders regarding the foreclosure action commenced against her by the plaintiff, U.S. Bank. For the reasons that follow, we affirm the judgment of the circuit court.

¶ 3 In her brief on appeal, the defendant describes a course of litigation beginning with the plaintiff's May 2008 complaint to foreclose her mortgage. According to the parties' briefs, the circuit court entered various orders in the months to follow, and the defendant filed several notices of appeal following those orders. The record on appeal, however, contains only the common law filings from July 2010 until the notice of appeal in the instant case. Thus, we have a copy of the defendant's July 2010 counterclaims and response to the plaintiff's motion for summary judgment; an August 2010 order from the circuit court granting the plaintiff's motion for summary judgment, striking the defendant's counterclaims as being "filed without leave of Court in violation of the December 11, 2009," order, and scheduling the matter for a prove-up of damages and resolution of remaining motions in September 2010; various records and motions related to the plaintiff's seeking to recover its attorney's fees; September 17, 2010, orders defaulting the defendant and entering judgment for foreclosure; and the defendant's timely notice of appeal of the August and September orders.

¶ 4 On appeal, the defendant's chief arguments are that the circuit court lacked jurisdiction due to defects in the plaintiff's complaint (or due to the strength of the defendant's counterclaims), that the circuit court erred by restricting her ability to file pleadings without prior leave of court, that the circuit court improperly denied a motion for substitution of judge, that the circuit court erred in striking her counterclaims, and that the circuit court lacked jurisdiction because she had filed

previous interlocutory appeals. All of these contentions either challenge or are based on proceedings or documents that are not memorialized in the record on appeal.

¶ 5 It is well established that "an appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92, 459 N.E.2d 958 (1984). "Any doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Foutch*, 99 Ill. 2d at 392. Here, we have no record of any of the proceedings on which the defendant's claims of error are based. Under *Foutch*, we must construe this shortcoming in the record against the defendant and presume that the trial court's judgment is proper.

¶ 6 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 7 Affirmed.