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SIXTH DIVISION
June 7, 2013

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KYONNI OLAWUMI,)	Appeal from the
)	Circuit Court of
Third-Party Plaintiff-Appellee,)	Cook County
)	
v.)	
)	
LASHON HARRIS,)	No. 09 CH 21260
)	
Third-Party Defendant-Appellant,)	
)	
(Citimortgage, Inc.,)	The Honorable
)	Frank Castiglione,
Plaintiff).)	Judge Presiding.

PRESIDING JUSTICE LAMPKIN delivered the judgment of the court.
Justices Hall and Gordon concurred in the judgment.

ORDER

¶ 1 *HELD:* The trial court did not abuse its discretion in awarding attorney fees to third-party plaintiff pursuant to her counterclaim.

¶ 2 Third-party defendant, Lashon Harris, appeals the trial court's order awarding attorney fees and costs in favor of third-party plaintiff, Kyonni Olawumi. Harris contends the trial court

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abused its discretion in awarding fees when Olawumi failed to submit a detailed and supported petition and where the attorney fees were not reasonable. Based on the following, we affirm.

¶ 3

FACTS

¶ 4 On June 30, 2009, Citimortgage, Inc. (Citimortgage) instituted foreclosure proceedings pursuant to section 15-1504 of the Code of Civil Procedure (735 ILCS 5/15-1504 (West 2008)) against Olawumi and Harris for a property located on S. Green Street, in Chicago, Illinois. The mortgagor for the property was Olawumi. In the foreclosure complaint, Citimortgage asserted that Olawumi owed \$163,805.90 plus interest, costs, advances, and fees on the mortgage note. The foreclosure complaint listed Harris as the present owner of the property. On September 29, 2009, Olawumi filed an answer to the foreclosure complaint and a third-party counterclaim against Harris requesting damages in the amount of \$163,000 plus costs and fees. Harris did not file an answer to Citimortgage's foreclosure complaint and was found in default. On January 1, 2010, the trial court granted Citimortgage's motion for summary judgment and entered a judgment for foreclosure and sale.¹ The judgment provided that Citimortgage was due \$187,260.11, which included attorney fees and costs, and that Citimortgage had a valid subsisting lien on the property.

¶ 5 Then, after a lengthy series of procedural filings related to Olawumi's counterclaim, a trial was conducted between the parties here on appeal. On January 11, 2012, an "agreed order" was entered in favor of Olawumi and against Harris for attorney fees and costs of "this action." The

¹On June 28, 2010, the trial court entered an order approving the report of sale of the property, confirming the sale, and ordering possession of the property.

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"agreed order" provided that the attorney fee award was not to exceed \$19,101,97, "which [was] the sum of plaintiff's Exhibit 3 less the first two pages." Olawumi was ordered to submit an affidavit for attorney fees and costs. It appears from the record that prior to the court's January 11, 2012, order Olawumi's attorney submitted a petition for attorney fees requesting \$23,050. The petition provided that the hourly rates for Olawumi's attorney were \$300 for in office work and \$350 for out of office work and included entries beginning on January 16, 2009, and ending on January 11, 2012. The "first two pages" contained entries from January 16, 2009, until March 4, 2010. No affidavit or other document for attorney fees appears in the record.

¶ 6 On February 22, 2012, the trial court entered an order providing that a hearing was held during which Olawumi's attorney testified and the parties presented oral arguments. In the court's order, it found that: (1) the attorney's hourly rates were reasonable; (2) the time billed for filing was reasonable; (3) no costs were presented; (4) the time entries for March 4, 2010, March 17, 2011, May 17, 2011, June 1, 2011, and August 4, 2011, were not related; (5) time entries for case number 09 CH 21260 (the foreclosure action) were not related; and (6) the amount of attorney fees awarded was \$14,100.

¶ 7 On March 20, 2012, Harris filed a motion to reconsider the trial court's February 22, 2012, order, arguing that the trial court erred in awarding fees that were unreasonable and unnecessary where the time required for administrative tasks was inflated and where Olawumi should not have pursued her case against Harris because she did not sustain any damages related to the foreclosure action. Harris requested that the trial court reconsider its award for attorney fees to be, at the most, \$3,350. On June 5, 2012, the trial court entered an order stating that, after

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full briefing and oral arguments by the parties, the motion to reconsider was denied except as to two specified entries described in Harris' motion to reconsider as not having been related to the third-party counterclaim. As a result, the trial court reduced its award for attorney fees in favor of Olawumi and against Harris to \$12,575. This appeal followed.

¶ 8

DECISION

¶ 9 Harris contends the trial court abused its discretion in awarding attorney fees that were unsupported and unreasonable. We note that Olawumi has not filed an appellee's brief. On March 25, 2013, this court entered an order on its own motion taking the case on appellant's brief only. We, therefore, consider the merits of Harris' appeal pursuant to the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (1976) (a reviewing court should decide the merits of an appeal where the record and the errors claimed are such that a decision can be made easily without the aid of an appellee's brief).

"The decision whether to award attorney fees is within the sound discretion of the trial court and will not be disturbed absent an abuse of discretion. [Citation.] Usually parties are responsible for their own attorney fees; however, if expressly authorized by statute or by agreement, the court may award attorney fees so long as they are reasonable. [Citation.]" *Career Concepts, Inc. v. Synergy, Inc.*, 372 Ill. App. 3d 395, 405 (2007).

¶ 10 There was no issue presented regarding whether attorney fees could be awarded in this matter. Harris cites to *Kaiser v. MEPC American Properties, Inc.*, 164 Ill. App. 3d 978 (1987), for the standard required for attorney fees. We agree that it was Olawumi's burden to present

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sufficient evidence from which the trial court could determine the reasonableness of the requested fees and that the court was to award only those fees which were reasonable. *Id.* at 983.

¶ 11 The record does not contain any transcripts from the proceedings before the trial court, nor are there bystander's reports or agreed statements concerning the proceedings; however, the trial court's February 22, 2012, order and its June 5, 2012, order denying reconsideration of the initial order indicate that testimony was presented at the February 22, 2012, hearing and oral arguments were presented by both parties on both dates. As the appellant, Harris had the burden to present a sufficiently complete record to support his claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). To the extent there are any doubts arising from the incompleteness of the record, we resolve those doubts against the appellant and presume the trial court's order was in conformity with the law and had a sufficient factual basis. *Id.* at 392.

¶ 12 It is clear from the trial court's orders under review that the court considered the evidence to support the fees and the reasonableness of the requested attorney fees. In fact, the trial court's orders demonstrate that it repeatedly did so, ultimately finding that only \$12,575 of the \$23,050 requested by Olawumi's attorney was related to the third-party counterclaim and reasonable as described in the petition for fees. See *Kaiser*, 164 Ill. App. 3d at 984 ("[t]he petition for fees must specify the services performed, by whom they were performed, the time expended thereon and hourly rate charged therefor").

¶ 13 We, therefore, conclude based on the record before us that the trial court did not abuse its discretion in awarding Olawumi \$12,575 in attorney fees.

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¶ 14

CONCLUSION

¶ 15 We affirm the judgment of the trial court awarding Olawumi \$12,575 in attorney fees.

¶ 16 Affirmed.