

THIRD DIVISION
April 15, 2015

No. 1-14-2111

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

BANK OF AMERICA,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 12 CH 40682
)	
MICHELLE GALLOWAY,)	Honorable
)	Pamela McLean Meyerson,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE PUCINSKI delivered the judgment of the court.
Justices Hyman and Mason concurred in the judgment.

O R D E R

¶ 1 *Held:* The order of the circuit court confirming the sale and possession of defendant's property is affirmed over her contentions that plaintiff failed to comply with "Governor's House Bill 56" and Illinois Supreme Court Rules 113 and 114.

¶ 2 In this mortgage foreclosure action, defendant, Michelle Galloway, appeals *pro se* from the circuit court's order confirming the sale and possession of her property. On appeal, defendant argues plaintiff, Bank of America, failed to comply with "Governor's House Bill 56" as well as Illinois Supreme Court Rules 113 and 114. Ill. S. Ct. Rs. 113, 114 (eff. May 1, 2013). For the following reasons, we affirm.

¶ 3 In November 2012, plaintiff filed a foreclosure complaint regarding property at 460 Victory Circle in Park Forest, Illinois, naming defendant, Victoria Place Homeowners Association, and unknown owners and non-record claimants as defendants.¹ In March 2013, plaintiff filed a motion for default judgment and a motion for judgment of foreclosure and sale after defendant failed to file an answer or other responsive pleading. Defendant filed no response. In May 2013, the circuit court entered an order of default against defendant and Victoria Place Homeowners Association and a judgment of foreclosure and sale.

¶ 4 The property was sold at a judicial sale in April 2014. Thereafter, plaintiff filed a motion for the entry of an order approving the report of sale and distribution and confirming the sale and order of possession. Defendant appeared at the May 2014 hearing on plaintiff's motion. The circuit court continued the matter over plaintiff's objection to May 21, 2014, "for status on loss mitigation." It also granted defendant leave to file an appearance *instanter*, which she did. On May 21, 2014, the court entered an order approving the sale and distribution. The order gave defendant 60 days to relinquish possession of her property. This appeal followed.

¶ 5 On appeal, defendant first asserts the circuit court erred by "granting" plaintiff's "Motion for Summary Judgment" because plaintiff scheduled a sale date "in violation of the Governor's House Bill 56." According to defendant, "Bill 56" prohibits a foreclosing lender from scheduling a sale date while a review for federal mortgage assistance is pending.

¶ 6 Initially, we note that defendant characterizes the circuit court as having granted a motion for summary judgment on May 21, 2014; thus, she contends our review is *de novo*. Defendant also devotes a significant portion of her brief to discussing the legal standards pertaining to motions to dismiss under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West

¹ On plaintiff's motion, the circuit court later dismissed the unknown owners and non-record claimants from the lawsuit.

2014)). Yet, the court never granted a motion for summary judgment or motion to dismiss in this case. Rather, it entered a judgment approving the sale of the subject property after previously granting plaintiff's motion for default judgment and judgment of foreclosure based on defendant's failure to respond or enter an appearance. The decision of a circuit court to confirm or reject a judicial sale is reviewed for an abuse of discretion. *Household Bank, FSB v. Lewis*, 229 Ill. 2d 173, 178 (2008). An abuse of discretion occurs only where the court's decision is unreasonable, fanciful or arbitrary, or where no reasonable person would agree with its view. *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009).

¶ 7 We conclude that defendant has forfeited review of her claim relating to "Governor's House Bill 56." Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013) requires a defendant's brief to contain argument with citation to authority and the pages of the record on which the defendant is relying. Failing to comply with the rule's requirements results in forfeiture. *People ex rel. Illinois Department of Labor v. E.R.H Enterprises, Inc.*, 2013 IL 115106, ¶ 56. Here, defendant has failed to provide any citation for "Governor's House Bill 56." Furthermore, even assuming "Bill 56" applied to defendant's case, defendant has failed to provide any facts, with corresponding citation to the record, supporting her claim that plaintiff violated such a bill. An issue included only as "a vague allegation of error" does not satisfy the requirements of Rule 341. (Internal quotation marks omitted.) *Lake County Grading Co., LLC v. Village of Antioch*, 2014 IL 115805, ¶ 36. In addition, the record does not show that defendant raised plaintiff's purported non-compliance with "Bill 56" in the proceedings below. Arguments not raised in the circuit court are generally forfeited and may not be raised for the first time on appeal. *Mabry v. Boler*, 2012 IL App (1st) 111464, ¶ 15. Based on all of the foregoing, we conclude defendant has forfeited review of her contention that plaintiff violated "Governor's House Bill 56."

¶ 8 Defendant next argues the circuit court's decision should be reversed because plaintiff violated Rules 113 and 114 by (1) filing an unverified complaint; (2) failing to include an affidavit under oath, affirmation, or "penalty of perjury;" and (3) failing to engage in loss mitigation efforts. As plaintiff correctly observes, however, these rules do not apply in this case.

¶ 9 Rule 113 now requires a plaintiff seeking a judgment of foreclosure to submit certain prove-up affidavits. Ill. S. Ct. R. 113 (eff. May 1, 2013). However, by its own terms, Rule 113 applies only to foreclosure actions filed after May 1, 2013. Ill. S. Ct. R. 113(a) (eff. May 1, 2013). Plaintiff filed the foreclosure action against defendant in November 2012. Accordingly, Rule 113 does not apply to defendant's case.

¶ 10 Rule 114 is equally inapplicable. It requires a plaintiff, in "all actions filed under the Illinois Mortgage Foreclosure Law, *and where a mortgagor has appeared or filed an answer or other responsive pleading,*" to comply with any applicable loss mitigation program before "moving for a judgment of foreclosure." Ill. S. Ct. R. 114(a) (eff. May 1, 2013). To document compliance with Rule 114(a), the plaintiff must submit an affidavit before or at the time of moving for a judgment of foreclosure. Ill. S. Ct. R. 114(b) (eff. May 1, 2013). In this case, defendant did not file an answer or other responsive pleading, and she filed her appearance only after the judgment of foreclosure was already entered. Accordingly, Rule 114 does not apply.

¶ 11 For the reasons stated, we affirm the circuit court's judgment.

¶ 12 Affirmed.