

No. 1-14-2383

**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

---

CITY OF CHICAGO, a Municipal Corporation,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 M1 669678
	)	
JAY F. SHACHTER,	)	Honorable
	)	Patrick W. O'Brien,
Defendant-Appellant.	)	Judge Presiding.

---

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.  
Justices Hall and Delort concurred in the judgment.

**O R D E R**

¶ 1 *Held:* In this proceeding to enforce a registered administrative judgment, we dismissed the appeal from the order denying defendant's motion to quash citation to discover assets for lack of appellate jurisdiction, but affirmed the order striking defendant's counterclaims as the counterclaims were not properly before the circuit court.

¶ 2 Defendant-appellant, Jay F. Shachter, appeals from an order denying his motion to quash a third-party citation to discover assets brought by plaintiff-appellee, the City of Chicago (City) and served on Citibank to collect an administrative judgment entered against Mr. Shachter, and an order striking his counterclaims against the City, Citibank, and a Citibank employee which were filed after the dismissal of the citation and after the administrative judgment was vacated in

No. 1-14-2383

other proceedings. We dismiss the appeal from the order denying the motion to quash the citation for lack of appellate jurisdiction. We affirm the order striking the counterclaims as there was no pending supplementary proceedings and the administrative judgment had been vacated at the time the counterclaims were filed.

¶ 3 On February 14, 2012, an administrative law officer (ALO) with the Department of Administrative Hearings (DOAH) entered a final administrative judgment (administrative judgment) which found that Mr. Shachter was in violation of section 7-28-120(a) of the Chicago Municipal Code (Chicago Municipal Code § 7-28-120(a) (amended July 28, 2010)), by having weeds greater than 10 inches in height on his property located at 6424 North Whipple Street in Chicago. The administrative judgment included an assessment of \$500 in fines and \$40 in administrative costs against Mr. Shachter, for a total monetary judgment of \$540.

¶ 4 In order to enforce the administrative judgment, pursuant to 65 ILCS 5/1-2.1-8 (West 2012)), the City filed a notice of registration of the administrative judgment in the Municipal Department of the circuit court of Cook County, First District. The notice included a copy of the February 14, 2012, administrative judgment.

¶ 5 On August 6, 2013, the City commenced supplementary proceedings to discover assets pursuant to section 2-1402 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1402 (West 2012)), and caused a third-party citation to discover assets (citation) to be issued on Citibank and served notice of the citation upon Mr. Shachter. The citation sought to discover whether Citibank was holding funds belonging to Mr. Shachter and stated that the amount of the assessment was then \$755.53, plus costs and interest. Citibank answered the citation, stating that Mr. Shachter held a checking account there and the balance was \$1,009.36.

No. 1-14-2383

¶ 6 On August 26, 2013, Mr. Shachter, filed a *pro se* motion to quash the citation to discover assets asserting, *inter alia*, that the funds in his checking account were exempt from enforcement of the administrative judgment. Mr. Shachter attached to his motion a letter dated August 19, 2013, from Citibank informing him that, pursuant to the citation, Citibank had frozen his funds and segregated \$1,009.36. On September 4, 2013, the circuit court denied Mr. Shachter's motion to quash the citation and continued the citation to October 17, 2013.

¶ 7 On September 25, 2013, Mr. Shachter filed a motion to reconsider the September 4, 2013, denial of his motion to quash the citation. The motion to reconsider and citation proceedings were continued to November 14, 2013. On November 14, 2013, the circuit court entered an order finding that Mr. Shachter's Citibank checking account was exempt from enforcement pursuant to section 12-1001 of the Code (735 ILCS 5/12-1001 (West 2012)), and dismissed the citation. The circuit court ordered Citibank to return Mr. Shachter's monies "within 48 hours of service or actual knowledge of this order."

¶ 8 Over seven months later, on July 3, 2014, Mr. Shachter filed an appearance, jury demand, answer, and six counterclaims, including claims for: actual and statutory damages; defamation; false arrest based on a violation of a child visitation order; tortious interference with his visitation rights; libel based on the City's enforcement of parking violations; property damage for the alleged removal of plants on his property; and punitive or exemplary damages.

¶ 9 On July 24, 2014, the City moved to vacate the registration of administrative judgment and to strike the answer and counterclaims. In its motion, the City asserted that the administrative judgment had been vacated and the matter had been remanded to the DOAH for a new hearing.

¶ 10 A stipulated report of proceedings from the July 24, 2014, hearing indicates Mr. Shachter and an attorney for the City, appeared before the circuit court. The attorney for the City explained that, in a separate administrative review proceeding, the administrative judgment had been vacated on appeal and the matter was remanded to the circuit court with directions to remand the ordinance violation prosecution to the DOAH for a new hearing. See *People v. Shachter*, 1-13-2150 (2014) (dispositional order). (This dispositional order was entered by this court on April 14, 2014.) The attorney for the City further stated that on June 30, 2014, the circuit court, in the administrative review case, had remanded the matter to the DOAH and a hearing was to be held on October 6, 2014.

¶ 11 On that same date, the circuit court entered an order granting the motion to vacate the registration of the administrative judgment and striking the counterclaims. The order directed the clerk of the circuit court to refund Mr. Shachter's appearance, jury demand, and counterclaim fees.

¶ 12 On July 31, 2014, Mr. Shachter filed a notice of appeal from the circuit court's September 4, 2013, order which denied his motion to quash the citation to discover assets and the circuit court's July 24, 2014, order dismissing his counterclaims.

¶ 13 On appeal, Mr. Shachter first contends the circuit court erred by denying his motion to quash the citation to discover assets. The City responds that Mr. Shachter's appeal from that order became moot when the circuit court subsequently dismissed the citation.

¶ 14 Although not raised by the parties, we have an independent duty to consider the issue of our jurisdiction over the appeal from the order denying the motion to quash the citation. *Palmolive Tower Condominiums, LLC v. Simon*, 409 Ill. App. 3d 539, 542 (2011). An appeal

No. 1-14-2383

must be dismissed where our jurisdiction is lacking. *Id.* "Appellate jurisdiction is limited to review of final judgments unless an order falls within a statutory or supreme court exception." *Cole v. Hoogendoorn, Talbot, Godfrey and Milligan*, 325 Ill. App. 3d 1152, 1153 (2001) (citing *Pekin Insurance Co. v. Benson*, 306 Ill.App.3d 367, 375 (1999)). In order to be considered final, an order must dispose of the rights of the parties, either upon the entire controversy, or some definite and separate part of it. *In re Guardianship of J.D.*, 376 Ill. App. 3d 673, 676 (2007).

¶ 15 These proceedings began when the City sought to enforce its administrative judgment of February 14, 2012, which assessed fines and costs against Mr. Shachter. A home-rule unit, such as the City, may enforce a decision of a hearing officer " 'in the same manner as a judgment entered by a court of competent jurisdiction.' " *Village of Lake in the Hills v. Niklaus*, 2014 IL App (2d) 130654, ¶ 18 (citing 65 ILCS 5/1-2.1-8(b) (West 2012)). However, enforcement is allowed only "[a]fter expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation." *Niklaus*, 2014 IL App (2d) 130654, ¶ 17 (citing 65 ILCS 5/1-2.1-8(b) (West 2012)).<sup>1</sup> In order to enforce an administrative judgment, a municipality may "simply file a copy of the hearing officer's order in the circuit court and then commence collection proceedings as authorized by Illinois law." *Id.* ¶ 20 (citing Ill. S. Ct. R. 277(a) (eff. Jan. 4, 2013)). The " 'applicable law' relating to collections includes supplementary proceedings under the [Code] (735 ILCS 5/2-1402 (West 2012))." *Id.* ¶ 19.

---

<sup>1</sup> In that we find there is no appellate jurisdiction over the appeal from the order denying the motion to quash, we do not consider whether the City acted to enforce the administrative judgment prematurely.

No. 1-14-2383

¶ 16 An order denying a motion to quash a citation is interlocutory and not generally appealable. *Bank of Aspen v. Fox Cartage, Inc.*, 141 Ill. App 3d 369, 373 (1986). "An order in a section 2-1402 proceeding is said to be final when the citation petitioner is in a position to collect against the judgment debtor or a third party, or the citation petitioner has been ultimately foreclosed from doing so." *D'Agostino v. Lynch*, 382 Ill. App. 3d 639, 642 (2008). The November 14, 2013, order dismissing the citation on the grounds that the Citibank funds were exempt from enforcement was a final and appealable order.<sup>2</sup> Mr. Shachter failed to file a notice of appeal within 30 days of that order and, thus, we do not have appellate jurisdiction to consider the interlocutory order denying his motion to quash the citation, as a procedural step in the progression leading to this final order. See *Levaccare v. Levaccare*, 376 Ill. App. 3d 503, 511 (2007). Therefore, we must dismiss Mr. Shachter's appeal from the order denying his motion to quash the citation.

¶ 17 Mr. Shachter's remaining argument on appeal is that the circuit court should not have struck his counterclaims. Mr. Shachter asserts that section 2-608(a) of the Code (735 ILCS 5/2-608(a) (West 2012)), permits the filing of counterclaims that are unrelated to the claims in a case. The City responds that Mr. Shachter could not bring his counterclaims as part of the supplementary proceedings which are statutorily limited in nature.

¶ 18 The City's motion to strike the counterclaims was not labeled and, thus, we do not know whether it was presented under section 2-615 or 2-619 of the Code. 735 ILCS 5/2-615 (West 2012); 735 ILCS 5/2-619 (West 2012). However, the standard of review for dismissal of a

---

<sup>2</sup> Such orders are appealable, even if other supplementary proceedings or claims remained pending without a special finding. See Ill. S. Ct. Rule 304(b)(4) (eff. Feb. 26, 2010)).

No. 1-14-2383

counterclaim under either section is *de novo*. *Solaia Technology, LLC v. Specialty Pub. Co.*, 221 Ill. 2d 558, 579 (2006).

¶ 19 At the time Mr. Shachter filed his answer and counterclaims, the third-party citation had been dismissed for over seven months and, thus, no supplementary proceedings were then pending in the case. Further, prior to the filing of the counterclaims, the administrative judgment had been vacated by this court pursuant to separate administrative review proceedings and had been remanded by the circuit court to the DOAH for a new hearing. Therefore, there was no longer an enforceable administrative judgment. Thus, since there were no pending supplementary proceedings nor enforceable administrative judgment at the time Mr. Shachter filed his answer and counterclaims, the counterclaims were not properly before the circuit court. See *Sawyer v. Young*, 198 Ill. App. 3d 1047, 1053 (1990). Additionally, at the time the circuit court struck the counterclaims, the circuit court also vacated the notice of registration of the now vacated administrative judgment. Under these circumstances, we find that the circuit court did not err in striking the counterclaims. We need not decide whether Mr. Shachter could properly bring the counterclaims as part of the supplementary proceedings under section 2-608(a) of the Code.

¶ 20 Accordingly, we dismiss the appeal from the order denying Mr. Shachter's motion to quash the citation for lack of appellate jurisdiction; we affirm the order striking the counterclaims.

¶ 21 Dismissed in part; affirmed in part.