2015 IL App (1st) 150171-U

FOURTH DIVISION
September 24, 2015

No. 1-15-0171

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

CLARA ABBAS,	)	Appeal from
	)	the Circuit Court
Plaintiff-Appellant,	)	of Cook County
	)	
v.	)	2011 L 7462
	)	
IVA WILLIAMS,	)	Honorable
	)	John H. Ehrlich,
Defendant-Appellee.	)	Judge Presiding

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Howse and Ellis concurred in the judgment.

ORDER

¶ 1 *Held*: Plaintiff's appeal dismissed, where she failed to comply with the Illinois Supreme Court Rules governing appellate procedure, and failed to provide a legal and factual basis to support her claims of error.

¶ 2 Plaintiff *pro se* Clara Abbas brought an action against Iva Williams, Sheila Finkel, Lieberman Management Services, Inc. (Lieberman), and a number of other defendants in connection with an allegedly "illegal eviction" from her home at 3950 North Lake Shore Drive in Chicago. In this appeal, plaintiff challenges the January 13, 2015, circuit court order which dismissed her action against Williams.

¶ 3 Plaintiff's action arose when she filed the following "statement" against Williams and Finkel in the circuit court on July 19, 2011: "I am filing this lawsuit for Five Hundred Thousand Dollars. An Illegal Eviction and game playing from both parties. *** Refusal to return property. In addition I lost a six figure salary job ***. Also, obstruction to make payment *** And using serious Violent Physical Assault on me. *** Retaliatory Eviction."

¶ 4 Plaintiff was allowed to amend her complaint on numerous occasions, and in her eventual fourth amended complaint, she included Lieberman and two other defendants, and alleged claims of "Common Law Fraud, Intentional Infliction of Emotional Distress, Conversion, Illegal and Unlawful Lockout and Violent Physical Assault."

¶ 5 Finkel and Lieberman filed a motion to dismiss plaintiff's claims or in the alternative, grant summary judgment in their favor. On April 18, 2014, the trial court granted their motion for summary judgment after a hearing, and "dismissed all of plaintiff's claims against Finkel and Lieberman * * * with prejudice" finding that they had done their job as they were instructed and authorized to do. The trial court made a finding that there was no just reason to delay the enforcement or appeal of the order as to Finkel and Lieberman, pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010), and plaintiff appealed that judgment.

¶ 6 The second division of this court dismissed plaintiff's appeal, determining that she had failed to comply with the Illinois Supreme Court Rules for appellate procedure, and that she had not presented fully developed arguments or provided the court with the necessary legal and factual support to review her claims of error. *Abbas v. Finkel*, 2015 IL App (1st) 141311-U, ¶ 16.[1]

[1] The second division also dismissed Finkel and Lieberman's cross-appeal from the circuit court's denial of their motion for sanctions for the same reason.

¶ 7 Meanwhile, the case proceeded as to Williams, and on October 14, 2014, Williams filed a "Motion to Bar Evidence and Dismiss," which outlined plaintiff's various failures and refusals to comply with discovery requests and Supreme Court Rules, and requested that the court impose discovery sanctions, including that she be barred from presenting evidence and that her claims be dismissed.

¶ 8 On January 13, 2015, the court entered the following order:

> "this cause coming before the court for ruling on Defendant Williams's Motion to Bar Evidence and Dismiss, the Court having reviewed all of the materials submitted, including the deposition transcript of Plaintiff and all briefs, pleadings and orders of the court since January of 2014, and the prior orders of Judge Kogan, IT IS ORDERED THAT *** Due to the Plaintiff's consistent disregard for discovery in this case, disrespect for court orders and the court[,] failure to provide written discovery and documents by dates certain set by this court, consistent and repeated delays and obfuscation in handling discovery in this matter the court finds that the plaintiff has not taken discovery seriously at any time in this case and Defendant Williams's motion is granted, and this case is hereby dismissed with prejudice."

¶ 9 Plaintiff filed a timely notice of appeal from that order, and in this court, she claims that the court erred "when it dismissed [her] complaint against Appellee-Defendants, Iva Williams, Sheila Finkel, and Lieberman Management Services" and that it "abused its discretion when it allowed testimony to be presented *** in the hearing on Appellee-Defendants [*sic*] Motion for Dismissal Judgment that would otherwise be inadmissible at trial." Williams responds that plaintiff has failed to comply with the Illinois Supreme Court Rules governing appellate

procedure, that her arguments are "conclusory" and "indecipherable," and that she appears to be attempting to relitigate her prior appeal against Finkel and Lieberman. Williams asks this court to affirm the order, or in the alternative, to strike plaintiff's brief and dismiss the appeal.

¶ 10 We first observe that our review is inhibited by plaintiff's failure to comply with Illinois Supreme Court Rules 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1, 2005). It is well established that a court of review is entitled to briefs that conform to the supreme court rules. *Schwartz v. Great Central Insurance Co.*, 188 Ill. App. 3d 264, 268 (1989) (appellants' briefs are to provide cohesive legal arguments in conformity with the supreme court rules). Plaintiff's *pro se* status does not excuse her from complying with the supreme court rules governing appellate procedure (*Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010)), and she is expected to meet a minimum standard before this court can adequately review the decision of the circuit court (*Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993)). This court may, in its discretion, strike a brief and dismiss an appeal based on the failure to comply with the applicable rules of appellate procedure. *Holzrichter v. Yorath,* 2013 IL App (1st) 110287, ¶ 77.

¶ 11 Although Illinois Supreme Court Rule 342 requires an appellant to include in its brief, among other things, a copy of the notice of appeal, the judgment appealed from, any findings of fact or opinions issued by the trial court and any relevant pleadings (Ill. Sup. Ct. Rule 342 (eff. Jan. 1, 2005)), plaintiff has failed to include any of those documents in her appellate brief. Compliance with Rule 342 is mandatory and a party's failure to comply justifies the dismissal of an appeal. *Fender v. Town of Cicero,* 347 Ill. App. 3d 46, 51–52 (2004). "On appeal all reasonable presumptions are in favor of the judgment of the trial court, and although the entire record is available, the reviewing court is not required to search the record to find reason to reverse." *Mitchell v. Toledo, Peoria & Western R.R. Co.,* 4 Ill. App. 3d 1, 3 (1972).

¶ 12 We also note that while plaintiff's second issue purports to challenge the introduction of certain testimony at the hearing on Williams's "Motion for Dismissal Judgment," this court has no way to determine what testimony was introduced at the hearing. Plaintiff has submitted only the common law record in this appeal, and she has not submitted a certified report of proceedings or acceptable substitute as provided by Illinois Supreme Court Rule 323. See Ill. S. Ct. R. 323(a) (eff. Dec. 13, 2005) (the report of proceedings shall include all the evidence pertinent to the issues on appeal; within the time for filing the docketing statement the appellant shall make a written request to the court reporting personnel to prepare a transcript of the proceedings that appellant wishes included in the report of proceedings); R. 323(c) (if a verbatim transcript of the proceedings is unobtainable, then the appellant may prepare a proposed bystander's report, serve the proposed report on all parties, receive the other parties' alternative versions, and present all proposals to the trial court for settlement, approval, and certification for inclusion in the record on appeal); R. 323(d) (in lieu of a transcript, the parties may stipulate to one agreed statement of facts material to the controversy and file it without certification). Without the benefit of a report of proceedings or acceptable substitute in this case, it is impossible for this court to review the introduction of any allegedly improper testimony.

¶ 13 Most importantly, however, plaintiff has failed to articulate a legal argument which would allow meaningful review of her claims. A reviewing court is entitled to have all the issues clearly defined, and be provided with meaningful, coherent argument and citation to pertinent authority. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013); *In re Estate of Kunz*, 7 Ill. App. 3d 760, 763 (1972) (appellants, not the court, bear the burden of research and argument). *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. This court "is not simply a depository into which a party may dump the burden of argument and research." *E.R.H.*

Enterprises, Inc., 2013 IL 115106, ¶ 56. Appellate briefs which do not satisfy Rule 341 "do not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009).

¶ 14 Plaintiff's entire argument section for both issues is just over two pages long, and her arguments are incomprehensible—often using incomplete sentences. Plaintiff merely cites general propositions of law, makes conclusory legal statements, and lists a number of documents which she claims provides "overwhelming evidence *** [that] Finkel and Lieberman were acting in concert with *** Williams, to keep [plaintiff] out of her home." Plaintiff's argument fails to provide us with a legal and factual basis to support her claims of error. We also note that we have reviewed the appellate brief submitted by plaintiff in her previous appeal of the summary judgment order. See *People v. Henderson*, 171 Ill. 2d 124, 134 (1996) ("courts may take judicial notice of matters which are commonly known or, if not commonly known, are readily verifiable from sources of indisputable accuracy"); *People v. Mata*, 217 Ill. 2d 535, 539-40 (2005), as modified on denial of rehearing, (Jan. 23, 2006) (recognizing that a reviewing court may take judicial notice of public records). The brief plaintiff filed in this appeal is nearly identical to the one she filed in the prior case, except that she has now added Williams's name, and refers to the order appealed as a "dismissal" judgment, instead of "summary" judgment. The second division of this court found plaintiff's briefs in that case to be deficient and required dismissal, and we find no reason to conclude otherwise in this case.

¶ 15 Moreover, to the extent that this court can glean any sense from plaintiff's arguments, it appears that what she is attempting to challenge is the order granting summary judgment in favor of Finkel and Lieberman; as we have previously noted, plaintiff has generally reiterated the same arguments as she did in her prior appeal. In her first issue statement, plaintiff contends that the

trial court erred when it dismissed her complaint "against **** Iva Williams, *Sheila Finkel and Lieberman Management Services*." (emphasis added). The only authority plaintiff cites in the entire first issue, is the summary judgment statute (735 ILCS 5/2-1005 (West 2012)), and two summary judgment cases (*Purtill v. Hess*, 111 Ill. 2d 229, 240 (1986), and *Pecora v. County of Cook*, 323 Ill. App. 3d 917, 933 (2001)).

¶ 16 The order which plaintiff has appealed here, however, was not the order granting summary judgment in favor of Finkel and Lieberman, and those defendants are not parties to this appeal. The summary judgment granted in favor of Finkel and Lieberman was already the subject of a direct appeal, which was dismissed for plaintiff's failure to provide us with the necessary legal and factual support to review her claims of error. *Abbas*, 2015 IL App (1st) 141311-U, ¶ 16. Any attempt to challenge that judgment, and relitigate that issue in this appeal, is *res judicata*. *Wilson v. Edward Hospital*, 2012 IL 112898, ¶ 9.

¶ 17 Instead, the order that plaintiff appeals in this case is one that dismissed her claims against Williams based on her repeated violations of discovery rules under Illinois Supreme Court Rule 219. See Ill. Sup. Ct. R. 219 (eff. July 1, 2002), ("If a party *** unreasonably fails to comply with any provision of part E of article II of the rules of this court (Discovery, Requests for Admission, and Pretrial Procedure) or fails to comply with any order entered under these rules, the court, on motion, may enter, in addition to remedies elsewhere specifically provided, such orders as are just, including, *** That, as to claims or defenses asserted in any pleading to which that issue is material, *** that the offending party's action be dismissed with or without prejudice.") Rule 219 affords the circuit court broad discretion in fashioning a sanction appropriate under the specific circumstances, and the court's choice of sanction will not be

reversed absent an abuse of that discretion. *Cirrincione v. Westminster Gardens Ltd. Partnership*, 352 Ill. App. 3d 755, 761 (2004).

¶ 18 Nowhere in plaintiff's appellate brief does she acknowledge the trial court's stated reason for the dismissal: her "consistent disregard for discovery ***, disrespect for court orders and the court[,] failure to provide written discovery and documents by dates certain ***, [and] consistent and repeated delays and obfuscation in handling discovery." Plaintiff does not provide any pertinent authority regarding dismissals for failure to comply with discovery rules, or submit any argument about why such a discovery sanction would not be appropriate in this case. It is plaintiff's burden as the appellant to discuss the legal principles that governed the proceedings in the trial court and argue why those principles should lead us to reverse the rulings. Because she has failed to do so, we find that plaintiff has failed to meet the minimum standard required for meaningful review.

¶ 19 For the reasons outlined above, we find that plaintiff's brief is completely deficient and fails to comply with the Illinois Supreme Court Rules for appellate procedure. Although we seldom enter an order dismissing an appeal for failure to comply with supreme court rules, our sound discretion permits us to do so. *Holzrichter,* 2013 IL App (1st) 110287, ¶ 77. We therefore exercise that discretion to strike plaintiff's brief and dismiss the appeal.

¶ 20 Appeal dismissed.