2016 IL App (1st) 142676-U

FIFTH DIVISION
September 23, 2016

No. 1-14-2676

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

ALLSTATE INSURANCE COMPANY, as subrogee of Stanislaw Antolec,	)	Appeal from the Circuit Court of Cook County.
Plaintiff-Appellee,	)	
	)	No. 13 M1 013019
v.	)	
	)	
WALLY'S AUTO REPAIR,	)	
	)	The Honorable
Defendant-Appellant.	)	Joseph D. Panarese,
	)	Judge Presiding.
	)	
	)	

JUSTICE HALL delivered the judgment of the court.

Presiding Justice Gordon and Justice Reyes concurred in the judgment

O R D E R

¶ 1 *Held*: Judgment for the plaintiff was affirmed. This court did not reach the merits of the defendant's argument that the evidence was insufficient to establish negligence on its part. There was no transcript of the bench trial, and there was no evidence in the record that a stipulation by the parties' attorneys to the facts and testimony was submitted to the trial court.

¶ 2 Following a bench trial, the trial court entered judgment in favor of the plaintiff, Allstate Insurance Company, and against the defendant, Wally's Auto Repair, in the amount of $8,053.50. On appeal from the judgment, the defendant contends that evidence was insufficient to establish that the loss of the plaintiff's insured's automobile was caused by the negligence of the defendant. We affirm the judgment of the trial court for the reasons set forth below.

¶ 3 BACKGROUND

¶ 4 The plaintiff, as subrogee to its insured, Stanislaw Antolec, filed a complaint against the defendant for damages from the theft and destruction of Mr. Antolec's 2005 Ford Cargo Van. Following an arbitration hearing, the arbitrators entered an award in the amount of $8,053.50 in favor of the plaintiff and against the defendant. The defendant rejected the award, and the case was reassigned for trial. On June 23, 2014, the trial court entered the following order:

> "This cause coming forth for a [jury][1] trial, the jury having been waived[.] Judgment in favor of the plaintiff(s) Allstate A/S/o Antolic [*sic*] and against the defendant(s) Wally's Auto Repair in the amount of $8053.50.
>
> Judgment is entered [on the verdict][2] in favor of the plaintiff(s) Allstate A/S/o Antolec v. defendant(s) Wally's Auto Repair in the amount of $8053.50 plus cost. Withdraw exhibits."[3]

[1]The word "jury" was crossed out in the original order.

¶ 5 On July 22, 2014, the defendant filed a motion for reconsideration. Attached to the motion was a document entitled "Stipulated Facts and Testimony" (stipulation). On August 7, 2014, the trial court denied the motion for reconsideration. On August 29, 2014, the defendant filed a notice of appeal from the August 7, 2014, order.

¶ 6 ANALYSIS

¶ 7 In this appeal, the defendant seeks reversal of the trial court's decision that the defendant was negligent and that its negligence was the cause of the loss of Mr. Antolec's Ford Cargo Van and the resulting damages. "A reviewing court will not set aside a judgment following a bench trial unless the judgment is against the manifest weight of the evidence." *In re Estate of Bennoon*, 2014 IL App (1st) 122224, ¶ 70. "A judgment is against the manifest weight of the evidence when the opposite conclusion is clearly evident or where the finding is unreasonable, arbitrary, or not based on the evidence presented." *Estate of Bennoon*, 2014 IL App (1st) 122224, ¶ 70.

¶ 8 It is well settled that the appellant bears the burden of presenting an adequate record for determination of the issues raised on appeal. *Compton v. County Mutual Insurance Co.*, 382 Ill. App. 3d 323, 330 (2008). "Where the issue on appeal relates to the conduct of a hearing or proceeding, this issue is not subject to review absent a report or record of proceeding." *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001). In this case, the record on appeal does not contain a transcript from the June 23, 2014, bench trial or from the August 7, 2014, proceeding in which the defendant's motion for reconsideration of the June 23, 2014, judgment was denied.

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[2] The words "on the verdict" were crossed out in the original order.

[3] A form order was used in which the parties or their attorneys filled in the blanks with the pertinent information.

¶ 9 The defendant asserts that the trial court decided the case on the basis of the stipulation and that the facts set forth in the stipulation were insufficient for a finding of negligence on the part of the defendant. In response, the plaintiff maintains that a fully executed copy of the stipulation was never presented to the trial court and that the defendant first submitted the stipulation to the trial court when it attached an unexecuted copy of the stipulation to its motion for reconsideration. The plaintiff asserts, therefore, the defendant failed to establish that the trial court made its finding based on the stipulation.

¶ 10 The only copy of the stipulation contained in the record is attached to the motion for reconsideration. The stipulation itself is not file-stamped, and while there is a place for the signatures of the parties' attorneys, the document is unsigned. We further note that the June 23, 2014, judgment order provides that the case "having come on to be heard for *** trial." There is no reference to the June 23, 2014, proceeding as a stipulated bench trial. While the order also refers to the withdrawal of exhibits, the record is silent as to what, if any, exhibits the parties presented in support of their respective positions. Moreover, in the absence of a transcript of the August 7, 2014, proceeding in which the defendant's motion for reconsideration was considered and denied, we cannot determine if the trial court acknowledged the validity of the stipulation attached to the motion or that the stipulation was presented at the June 23, 2014, bench trial and was the sole basis on which the court relied in rendering its finding in this case.

¶ 11 In the absence of a report of proceedings, we presume that the trial court's decision conforms to the law and the facts presented unless otherwise contradicted by the record. *Webster*, 195 Ill. 2d at 432-33. No such contradiction appears in the record on appeal.

¶ 12 Based on the record before this court, we conclude that the judgment in favor of the plaintiff and against the defendant was not against the manifest weight of the evidence.

¶ 13 CONCLUSION

¶ 14 The judgment of the trial court is affirmed.