

No. 1-15-1335

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

MEEZEUNG JO,)	Appeal from the
)	Circuit Court of
)	Cook County
Plaintiff-Appellant,)	
)	
v.)	No. 13 L 4093
)	
PRIVATE HOLDING GROUP, LLC, 1400 LAKE SHORE)	
CONDOMINIUM RESIDENCES LLC, and ALKO)	
CONSTRUCTION, INC.)	Honorable
)	Sheryl A. Pethers,
Defendants-Appellees.)	Judge Presiding.

JUSTICE REYES delivered the judgment of the court.
Presiding Justice Gordon and Justice Lampkin concurred in the judgment.

ORDER

¶ 1 *Held:* Affirming the judgment of the circuit court of Cook County dismissing claims as time-barred where the plaintiff was not "under a legal disability" for purposes of tolling the statute of limitations.

¶ 2 Meezeung Jo (Jo) appeals *pro se* from a circuit court order dismissing with prejudice her third amended complaint against defendants Private Holding Group, LLC (Private Holding), 1400 Lake Shore Drive Condominium Residences LLC (Condominium Residences), and Alko

Construction, Inc. (Alko). Jo's lawsuit was filed in 2013 and arose from injuries she allegedly sustained as a tenant residing in 1400 North Lake Shore Drive (building) in 2006 and 2007. The circuit court found that the applicable statute of limitations was not tolled because Jo was not "under a legal disability" pursuant to section 13-211 of the Code of Civil Procedure (Code) (735 ILCS 5/13-211 (West 2014)). Her claims were dismissed with prejudice as time-barred. For the reasons stated below, we affirm the judgment of the circuit court.

¶ 3

BACKGROUND

¶ 4 Jo filed a *pro se* complaint in the Law Division of the circuit court of Cook County in April 2013 against multiple defendants, seeking in excess of \$300,000. Two defendants were insurance companies, and the other defendants allegedly owned or managed the building.

¶ 5 According to the complaint, Jo resided in a unit in the building from July through September of 2006, and then moved to a second unit in the same building in October 2006. She alleged that the owners and managers of the building "exercised various enslavements, abuse, discrimination, and negligence" upon her "during their massive and cruel interior renovation construction." In fall 2007, she was "wrongfully and forcefully evicted" from the building. The complaint provided that "negligence were [*sic*] committed by their insurance companies in the years 2012 and 2013 as well." Jo alleged multiple injuries and ailments – including bug bites, orthopedic issues, hepatitis C, and "psychiatric conditions" – that purportedly resulted from the defendants' actions and/or unsafe or otherwise unacceptable building conditions.

¶ 6 After defendants filed a motion to dismiss pursuant to section 2-619(a) of the Code, the circuit court entered orders: dismissing the insurance company defendants with prejudice; dismissing Jo's human rights violation claims with prejudice and granting her time to file an amended complaint; and thereafter transferring the case from the Law Division to the Municipal

Division.

¶ 7 In November 2013, Jo filed a five-count amended complaint alleging, among other things: breach of the lease and deceptive practices; "attempted wrongful eviction processes"; negligence; "human right discrimination" and disability discrimination; and intentional infliction of emotional distress. Upon motion, the court entered an order dismissing certain defendants with prejudice. The order also dismissed certain counts of the amended complaint with prejudice and dismissed other counts with leave to amend.

¶ 8 Jo filed a *third* amended complaint in May 2014 against the three defendants-appellees herein: Private Holding, Condominium Residences, and Alko.¹ Jo alleged "injury incidences" relating to her residency in the two separate units in the building. Although it is named in the caption, the third amended complaint does not include any count specifically directed at Alko.

¶ 9 The third amended complaint stated, in part: "Pursuant to the facts in this 3rd Amended Complaint, the disability law pursuant to 735 ILCS 5/13-211, she is protected in this case because she is legally disabled since the year 2006." The attachments to the third amended complaint included select medical records and correspondence from medical professionals regarding Jo's conditions and treatments, *e.g.*, treatment for flea bites in August 2006 and a hepatitis C diagnosis in March 2007.

¶ 10 Private Holding filed a section 2-619 motion to dismiss the third amended complaint, which was adopted by Condominium Residences and Alko. Private Holding asserted that the applicable statutes of limitations for negligence and landlord-tenant matters had run prior to the filing of Jo's initial complaint, and her claims were thus time-barred. Private Holding also

¹ As Jo filed another document captioned "complaint at law" in July 2013, she contends that the complaint at issue was correctly captioned as her *third* amended complaint. We need not resolve any inconsistency to decide the instant appeal.

argued that the statute of limitations could not be tolled pursuant to section 13-211 of the Code. The circuit court subsequently directed Jo to "present evidence of legal disability" and to "send documentation of legal disability to all parties."

¶ 11 A case was filed in the Probate Division of the circuit court of Cook County, captioned *Estate of Meezeung Jo, Alleged disabled adult* (Case Number 14 P 6588). It appears the probate proceedings were intended to address any issues regarding Jo's competency in the instant case. In the report prepared by a guardian *ad litem* (GAL) in the Probate Division case, the GAL discussed his conversations with Jo, her treating physician, and her "friend and 'live-in assistant,'" Terry Shaffer. The GAL also: (i) reviewed a report prepared by Dr. Daniel Evans based on his examination of Jo on October 1, 2014; (ii) spoke with Dr. Evans via telephone; and (iii) reviewed a letter dated January 26, 2015, from Jo's psychiatrist. According to the GAL, the physician's report indicated Jo "suffered traumatic brain injury in 2003 resulting in post-traumatic stress disorder, chronic severe headaches, severe depression, anxiety disorder, seizure disorder and chronic pain."

¶ 12 The GAL's report included the following conclusions and recommendations:

"Ms. Jo seemed to understand the concept of Guardianship and, although she did not object to Mr. Shaffer becoming her guardian at this point in time, she clearly wants to make her own decisions. Moreover, Mr. Shaffer acknowledges that Ms. Jo makes her own decisions and is capable of doing so. It seems the parties only seek relief in Probate court because of the suggestion of the Court in the Municipal case.

The [report] by Dr. Evans states that Ms. Jo is only partially capable of making financial decisions. However, Dr. Evans agreed that Ms. Jo is in need of

a companion to assist with calming her or doing daily tasks.

Ms. Jo demonstrated good short- and long-term memory. Although Ms. Jo can do all activities of daily living, he [*sic*] occasionally seeks assistance, reassurance or confirmation from her friends or companions. She is cognizant of her health issues and treatment, but needs minimal assistance in medicating, completing daily tasks and organizing.

I have considered the Report of Physician, my conversations with Mr. Shaffer and Dr. Evans and my conversation with and observations of Ms. Jo.

It is my opinion that Ms. Jo is not currently in need of a guardian of her person or estate."

The circuit court in the instant case entered an order on February 26, 2015, providing, in part: "On 2/19/15 the guardian ad litem filed a report regarding plaintiff's petition for appointment of a guardian, and the Probate Court found that plaintiff was competent to pursue this lawsuit, and dismissed plaintiff's petition for guardianship." After considering additional arguments submitted by the parties, the circuit court entered an order on April 9, 2015, granting the motion to dismiss and dismissing the defendants with prejudice on all claims. Jo filed this timely appeal.

¶ 13

ANALYSIS

¶ 14 In her notice of appeal, Jo appealed from the order entered by the circuit court on April 9, 2015.² In her appellate briefs, however, she raises contentions regarding other orders entered by the circuit court both before and after³ April 9, 2015. "Illinois courts have held that a

² A document captioned "Notice of Appeal" included in the appendix on appeal references various orders that Jo challenges in her appellate briefs. However, this document differs from the file-stamped notice of appeal included in the appellate record, which solely references the April 9, 2015, order. The reason for this discrepancy is unclear.

³ For example, Jo raises challenges regarding circuit court orders entered in 2016 concerning the

notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts thereof specified in the notice of appeal." *People v. Smith*, 228 Ill. 2d 95, 104 (2008). See also Ill. S. Ct. R. 303(b)(2) (eff. Jan. 1, 2015). A notice of appeal is to be liberally construed. *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 22. Jurisdiction may be conferred even if an order was not expressly mentioned in the notice of appeal if that order was a step in the procedural progression leading to the judgment specified in the notice of appeal. *Id.*, ¶ 23. As the defendants observe, however, Jo "lists ten court hearings in her appellant brief that she has problems with, but none of those hearings, with the exception of the hearing that took place on April 9, 2015, have anything to do with why this case was dismissed with prejudice by the trial court." The notice of appeal herein cannot fairly be read to encompass the series of orders discussed in Jo's appellate briefs, and we thus limit our review to the April 9, 2015, order dismissing her claims with prejudice. Our review of a circuit court's order granting a motion for dismissal pursuant to section 2-619 of the Code is *de novo*. *Khan v. Deutsche Bank AG*, 2012 IL 112219, ¶ 18.

¶ 15 Despite the deficiencies in Jo's briefs (see Ill. S. Ct. R. 341 (eff. Jan. 1, 2016)), we are able to discern the crux of her argument: Jo contends that the trial court erred in concluding that she was not "under a legal disability" pursuant to section 13-211 of the Code for purposes of tolling the applicable statute of limitations. The circuit court action was "for damages for an injury to the person" and thus the statute of limitations is two years. 735 ILCS 5/13-202 (West 2014). Without tolling, the statute of limitations would have run by 2009 at the latest, whereas Jo's lawsuit was not filed until 2013. Even assuming *arguendo* that another statute of limitations applied, her claims would nevertheless be time-barred, absent tolling. See, *e.g.*, 735 ILCS 5/13-

preparation and content of bystander's reports.

205 (West 2014) (including "catch-all" five-year limitations period for "all civil actions not otherwise provided for"); *Landis v. Marc Realty, L.L.C.*, 235 Ill. 2d 1, 12 (2009) (holding that two-year limitations period applies to claims based on statutory penalties, including violations of the Chicago Residential Landlord and Tenant Ordinance). In the third amended complaint, however, Jo alleged "she is protected in this case because she is legally disabled since the year 2006," pursuant to section 13-211 of the Code. Although Jo's reply brief also cites section 13-214 of the Code – addressing "Construction – Design management and supervision" – she fails to set forth any substantive argument on appeal regarding the applicability of this statute or the tolling provision contained therein. 735 ILCS 5/13-214 (West 2014).

¶ 16 Section 13-211, entitled "Minors and persons under legal disability," provides:

"(a) If the person entitled to bring an action, specified in Sections 13-201 through 13-210 of this Code, at the time the cause of action accrued, is under the age of 18 years or in under a legal disability, then he or she may bring the action within 2 years after the person attains the age of 18 years, or the disability is removed.

(b) If the person entitled to bring an action specified under Sections 13-201 through 13-210 of this Code is not under a legal disability at the time the cause of action accrues, but becomes under a legal disability before the period of limitations otherwise runs, the period of limitations is stayed until the disability is removed. ***." 735 ILCS 5/13-211 (West 2014).

The defendants contend that the "trial court properly rejected plaintiff's claim that she was legally disabled, and found that plaintiff had offered no evidence of a legal disability so as to toll the statute of limitations."

¶ 17 "When a potential plaintiff has a legal disability, the statute of limitations is tolled until the plaintiff is no longer disabled." *Parks v. Kownacki*, 193 Ill. 2d 164, 178 (2000), citing 735 ILCS 5/13-211 (West 1998). "In a case where a legal disability is alleged, the record must contain sufficient allegations of fact from which one could conclude that the person seeking to be found legally disabled was incompetent or suffered from a serious mental disorder which made the person entirely without understanding or capacity to make or communicate decisions regarding his person and totally unable to manage his estate or financial affairs." *In re Doe*, 301 Ill. App. 3d 123, 127 (1998). "In a personal injury case, a person is not legally disabled if he or she can comprehend the nature of the injury and its implications." *Id.*; *Hochbaum v. Casiano*, 292 Ill. App. 3d 589, 595-96 (1997).

¶ 18 In *In re Doe*, for example, the appellate court affirmed the dismissal of the plaintiff's lawsuit alleging childhood sexual abuse by a former teacher. *Doe*, 301 Ill. App. 3d at 128. In deciding that the plaintiff's autism did not constitute a legal disability, the circuit court considered evidence that, during the time the plaintiff alleged he was under a legal disability, he had applied to and graduated from college, consulted a physician regarding a potential medical issue, and enrolled in a master's degree program. *Id.* at 127. Although the appellate court recognized that "autism is considered a developmental disability," it concluded that the plaintiff could not be considered legally disabled for purposes of the statute of limitations. *Id.* at 128.

¶ 19 In *Sille v. McCann Construction Specialties Co.*, 265 Ill. App. 3d 1051, 1052-53 (1994), the plaintiff contended that his "active stage" alcoholism was a legal disability which tolled the statute of limitations, and thus his personal injury lawsuit – arising from a design defect in a piece of construction machinery – was not time-barred. In rejecting this contention, the appellate court noted that the plaintiff had operated construction machinery on a regular basis and had

contacted the defendant regarding the design defect during the period he was allegedly legally disabled. *Id.* at 1055. The appellate court concluded that, although he was an alcoholic, the plaintiff was "not so physically or mentally impaired that he could not comprehend the nature of his injury and its implications." *Id.*

¶ 20 As the defendants accurately observe, the third amended complaint includes multiple illustrations of Jo's capacity to make and communicate decisions regarding her person and to manage her affairs during the relevant time frame. For example, in 2006, she entered into a lease and moved into the first unit in the building. She subsequently attempted to negotiate a rent reduction based on her move to the second unit. After she stopped payment on a postdated rent check in the fall of 2006, she coordinated with the building's accounting department regarding mistakenly charged fees. Jo participated in court proceedings in 2007 and 2008 in connection with her eviction from the building. In 2009 and 2010, she sought medical treatment for hepatitis-C. Like the plaintiffs in *Doe* and *Sille*, she was able to make decisions regarding her person and affairs, and she understood the nature of her alleged injuries and their implications.

¶ 21 In her third amended complaint, Jo alleged "she is legally disabled since the year 2006." The record includes an order determining that Jo "was disabled as of November 19, 2003, under section 1614(a)(3)(A) of the Social Security Act."⁴ Such determination by the Social Security Administration, however, does not render her legally disabled for purposes of section 13-211. See, e.g., *Bloom v. Braun*, 317 Ill. App. 3d 720, 732 (2000) (concluding plaintiff was not legally disabled for purposes of section 13-212 of the Code despite the declaration of the Social Security

⁴ Section 1614(a)(3)(A) of the Social Security Act generally provides that "an individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." 42 U.S.C. § 1382c(a)(3)(A).

Administration that she was "psychiatrically disabled"). "[M]any impairments both physical and mental may be termed disabilities, but not all are legal disabilities." *Doe*, 301 Ill. App. 3d at 127.

¶ 22 While we recognize that a "formal legal adjudication" is not required to establish that a party is under a legal disability (*Estate of Riha v. Christ Hospital*, 187 Ill. App. 3d 752, 756 (1989)), we note that the GAL in Jo's probate proceedings opined that she was not in need of a guardian of her person or estate. Furthermore, to the extent that Jo is contending that she is currently legally disabled, her *pro se* participation in the trial court proceedings and the instant appeal belie her contention.

¶ 23 In conclusion, although Jo has certain physical and/or mental impairments, she failed to demonstrate that she is or was "under a legal disability" for purposes of section 13-211 of the Code. See *Parks*, 193 Ill. 2d at 181. The statute of limitations thus was not tolled, and dismissal of her claims with prejudice was proper under section 2-619 of the Code.

¶ 24 **CONCLUSION**

¶ 25 For the reasons stated above, the judgment of the circuit court of Cook County is affirmed in its entirety.

¶ 26 Affirmed.